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Changes on the Horizon for UK Alternative Investment Fund Management Regulation

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On 7 April 2025, HM Treasury published a consultation to overhaul the regulation of Alternative Investment Fund Managers ("**AIFMs**") in the United Kingdom ("**Consultation**"). The Financial Conduct Authority ("**FCA**") has published a call for input alongside the Consultation ("**Call for Input**"), which indicates its approach to regulating AIFMs within the framework proposed in the Consultation.

The objective of the Consultation is to explore whether the regulatory framework should be simplified. By removing elements from the legislative framework, the UK Government intends to enable the FCA to establish a more graduated and proportionate approach to regulation of AIFMs.

1. **HM Treasury's Policy Proposals to Streamline the Framework for AIFMs**

The Consultation outlines a number of policy proposals to streamline the regulatory framework:

a. **Amending the "full scope" AIFM Threshold:**

Currently, the rules applicable to managers of funds with professional investors are largely derived from the Alternative Investment Managers Directive (the "**AIFMD**"). The rules are dependent on certain assets under management ("**AUM**") thresholds with managers of funds above particular thresholds are classified as "full scope UK AIFMs".

The Consultation suggests eliminating fixed legislative thresholds that currently mandate that those managing assets above €100m - or €500m for funds that are unleveraged and without early redemption rights - adhere to what are known as the full-scope AIFMD requirements.

These fixed thresholds have not been updated since 2013, creating a “cliff-edge” effect where market fluctuations can suddenly trigger a steep increase in regulatory burdens for small registered AIFMs and small authorized AIFMs (the “Small Regimes”). Instead, HM Treasury envisions empowering the FCA to set and adjust thresholds dynamically, based on firm size, activities, and associated risk profiles, thus preventing abrupt increases in compliance costs.

b. **Additional Proposals for Refinement:**

The Consultation also includes some other areas in which HM Treasury intends to legislate as part of the new regulatory framework for AIFMs:

- *Revising Definitions and Perimeter Issues*
  Key definitions underpinning the regulatory perimeter would be transferred to the Regulated Activities Order to provide legal clarity and consistency.
- *Marketing Notification Adjustments*
  The current requirement for a 20-day FCA notification before marketing AIFs may be eased to reduce delays in launching new products.
- *Private Equity Notification Adjustments*
  The current requirement to disclose significant holdings in UK non-listed companies and issues to the FCA might be removed or the information may have to be notified elsewhere.
- *Reviewing External Valuation Liabilities:*
  HM Treasury has recognized concerns that the current approach of imposing direct liability on external valuers discourages market participation. This may be addressed by considering a shift to contractual liability, balancing effective risk management with improved market access.
- *No Changes to the National Private Placement Regime*
  It is important to note that no changes are proposed to the existing National Private Placement Regime, which will continue to govern the marketing of overseas AIFs in the UK.

2. **FCA’s Call for Input**

Complementing HM Treasury’s proposals, the FCA has published its own Call for Input, outlining how it intends to implement a revised regulatory regime. A key element of this new approach is the proposal to introduce a three-tiered approach to regulation of AIFMs.

a. **Making the rules clearer**

The FCA plans to group the AIFM regime into clearer, thematic categories that reflect different business activities and phases of the product cycle, as follows:

- Structure and operation of the firm;
- Pre-investment phase;
- During investment; and
- Change-related.

By structuring the rules in this way, the FCA hopes it would be easier to set clear requirements for firms of different sizes. The FCA's key proposal is that AIFMs will be classified in the following tiers:

- **Largest Firms (more than 5bn net asset value):** These firms will be regulated under a regime similar to the current full-scope AIFMD rules - with some burdensome, prescriptive requirements removed. These firms, which manage a significant share of market assets, will remain under rigorous oversight. However, even for these firms, the FCA may remove some elements of prescriptive detail.
- **Mid-Sized Firms (between £100m and £5bn net asset value):** These firms will be subject to a regulatory regime, covering all the same areas as the current regime, but without many of the prescriptive detailed requirements, to allow for greater flexibility. This tier is designed to give mid-sized managers the freedom to innovate without compromising necessary risk controls.
- **Small Firms (up to £100m net asset value)**: These firms will have to comply with core, baseline standards intended to minimize the regulatory burden and support market entry, thus encouraging growth in emerging and niche sectors.

The FCA proposes to calculate the thresholds on the basis of net asset value (assets minus liabilities) of the funds managed by the AIFM as opposed to the current approach to focus on the assets under management.

The FCA also plans to evaluate the adequacy and effectiveness of current AIFMD provisions in addressing risks from leverage in line with the forthcoming Financial Stability Board recommendations.

b. **Moving up to a higher category**

Firms would no longer be required to apply for a variation of permission when moving between size categories. Instead, they would notify the FCA of their classification, including any decision to opt into a higher category - potentially through a process similar to that used under the Senior Managers and Certification Regime (SM&CR). Firms will have the option, but not the obligation, to comply with the requirements applicable to larger firms (i.e. opting-up to a higher threshold regime).

c. **Sector-specific rules**

The FCA recognises that different types of alternative funds have distinct operating models and proposes bespoke measures tailored to these differences without compromising on investor protection.

The FCA provides some examples on how it might rewrite the rules in relation to risk management rules so that they apply accordingly and proportionally to different types of firms. By way of example, all firms would be required to document and annually review policies and procedures, but only AIFMs with significant leverage or liquidity mismatch would have to set risk limits.

The FCA is also considering a separate regime for venture capital and growth funds and plans to reform the rules or listed closed-ended investment companies.

d. **Other Areas of Review**

The Call for Input also highlights other areas for future consultation:

- *Depositary and Custody Requirements:* The FCA acknowledges industry concerns around the cost and inflexibility of depositary requirements, especially for private equity and real assets. The FCA is open to considering more flexible custody models, but no immediate changes are being proposed.
- *Remuneration*: The FCA will also review the operation and effectiveness of the remuneration rules for AIFMs, alongside the code for UCITS management companies and investment firms.
- *Regulatory Reporting and Prudential Requirements:* The FCA aims to review the prudential requirements and how they apply to different-sized firms. The FCA will also review the regulatory reporting rules to achieve a more effective reporting regime that is proportionate in its demands on firms and will consider how to achieve this.

- *Business Restrictions:* The FCA recognises that the current rules appear to create costs and inefficiencies, requiring firms to seek top-up permissions for some activities or create new legal entities once a firm passes the size threshold. The FCA will consider the business restriction when they consider how the conduct and prudential rules will apply to firms in the new regime.

3. **Next Steps**

The Consultation and the Call for Input are both open for responses until 9 June 2025. Subject to feedback, and to decisions by HM Treasury on the future regime, the FCA plans to consult on detailed rules in the first half of 2026. The FCA will also provide more details on the timeline for implementation. Broadly, the FCA intends to give firms time to adapt to the new regime, while removing unnecessary rules relatively quickly.

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