

Financial Services and Markets

Regulatory Urban Myths

We have been contacted by a number of clients over the last few days about two issues which are currently causing uncertainty and giving rise to a number of rumours and myths.

The Alternative Investment Fund Managers Directive

The negotiations between the Council, the European Parliament and the European Commission are clearly proving even more difficult than expected. There seems to be a general belief and acceptance that the vote in the European Parliament will not take place in July, as currently scheduled. This does not, however, mean that the Directive is dead. It simply means that the stakes are very high on a number of issues and that the negotiations are going to continue into the early autumn. It is therefore too early for firms to have a clear idea as to how the Directive will impact their business, this is particularly so when major areas remain unresolved, such as issues relating to the depositary requirement, and third country funds and fund managers. Even when the Directive is agreed, as we have noted before, there is a considerable amount of detail still to come in the secondary legislation to be made by the Commission.

The Financial Services Authority

The Financial Services Authority has not been abolished (yet). Even when the proposed restructuring of the regulatory architecture takes place and the Financial Services Authority ceases to exist in its current form, firms should expect that the rules which govern their business will be much the same as now, not least because a large number of them stem from the implementation of European Directives. It is therefore important that firms continue with "business as usual" with respect to the application of FSA Rules and their relationship with the FSA. Indeed, Hector Sants (FSA Chief Executive) emphasised at the FSA's recent Annual Public Meeting that "firms should recognise that our intensive supervisory approach will continue into the new organisational framework". As with the AIFMD, it is still too early to predict with any confidence what effect the regulatory restructuring will have on individual firms.

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