

PRESS RELEASE

ESMA advises on extension of AIFMD passport to non-EU jurisdictions

The European Securities and Markets Authority (ESMA) has published its [Advice](#) in relation to the application of the AIFMD (Alternative Investment Fund Managers Directive) passport to non-EU Alternative Investment Fund Managers (AIFMs) and Alternative Investment Funds (AIFs) and its [Opinion](#) on the functioning of the passport for EU AIFMs and the national private placement regimes (NPPRs). The Advice and Opinion, required under AIFMD, will now be considered by the European Commission, Parliament and Council.

ESMA Advice – Extension of AIFMD Passport to non-EU AIFMs and AIFs

The Advice relates to the possible extension of the passport, currently only available to EU entities, to non-EU AIFMs and AIFs which are currently subject to EU NPPRs. ESMA conducted a country-by-country assessment, as this allowed it flexibility to take into account the different circumstances of each non-EU jurisdiction regarding the regulatory issues to be considered i.e. investor protection, competition, potential market disruption and the monitoring of systemic risk.

ESMA assessed six jurisdictions – Guernsey, Hong Kong, Jersey, Singapore, Switzerland and the United States of America (USA) – who were selected based on a number of factors including the amount of activity already being carried out by entities from these countries under the NPPRs, EU national authorities' knowledge and experience of dealing with their counterparts and the efforts by stakeholders from these countries to engage with ESMA's process.

The Advice concludes that no obstacles exist to the extension of the passport to Guernsey and Jersey, while Switzerland will remove any remaining obstacles with the enactment of pending legislation. No definitive view has been reached on the other three jurisdictions due to concerns related to competition, regulatory issues and a lack of sufficient evidence to properly assess the relevant criteria.

Next Steps

The Advice and Opinion have been sent to the Commission, Parliament and Council for their consideration on whether to activate the relevant provision in the AIFMD extending the passport through a Delegated Act.

However, the institutions may wish to consider waiting until ESMA has delivered positive advice on a sufficient number of non-EU countries, before introducing the passport in order to avoid any adverse market impact that a decision to extend the passport to only a few non-EU countries might have.

ESMA aims to finalise the assessments of Hong Kong, Singapore and the USA as soon as practicable and to assess further groups of non-EU countries until it has provided advice on all the non-EU countries that it considers should be included in the extension of the passport.

ESMA Opinion – Functioning of the EU AIFMD passport and NPPRs

The opinion on the functioning of the EU passport and the NPPRs contains ESMA's preliminary assessment of the operation of these two mechanisms. Its preliminary view is that, given the short time period that has elapsed since the implementation of the AIFMD in Member States, a definitive assessment of their functioning is difficult and would recommend preparing a further opinion after a longer period.

Notes for editors

1. [2015/1235 ESMA's Opinion on the functioning of the AIFMD EU passport and of the National Private Placement Regimes.](#)
2. [2015/1236 ESMA's Advice to the European Parliament, the Council and the Commission on the application of the AIFMD passport to non-EU AIFMs and AIFs.](#)
3. [2014/1340 Call for evidence on AIFMD passport and third country AIFMs](#) published on 7 November 2014.
4. ESMA Letters to the European Commission, Council and Parliament regarding its Advice and Opinion.
5. The following jurisdictions were identified as those which should be assessed under Article 67:

Australia, Bahamas, Bermuda, Brazil, British Virgin islands, Canada, Cayman Islands, Curacao, Guernsey, Hong Kong, Isle of Man, Japan, Jersey, Mexico, Mauritius, Singapore, South Africa, South Korea, Switzerland, Thailand, United States of America, and the US Virgin Islands.
6. ESMA is an independent EU Authority that was established on 1 January 2011 and works closely with the other European Supervisory Authorities responsible for banking (EBA), and insurance and occupational pensions (EIOPA), and the European Systemic Risk Board (ESRB).
7. ESMA's mission is to enhance the protection of investors and promote stable and well-functioning financial markets in the European Union (EU). As an independent institution, ESMA achieves this aim by building a single rule book for EU financial markets and ensuring its consistent application across the EU. ESMA contributes to the regulation of financial services firms with a pan-European reach, either through direct supervision or through the active co-ordination of national supervisory activity.

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