



FSMA_2013_11 of 2/07/2013

Directive 2011/61/EU on Alternative Investment Fund Managers: questions and answers on the transitional period

Scope:

This document applies to alternative investment funds as referred to in Article 2.1 of Directive 2011/61/EU on Alternative Investment Fund Managers (hereinafter, the 'AIFMD'), and to their managers.

Summary/Objectives:

This document contains a list of questions and answers relating to the transitional period provided for by the AIFMD.

This transitional period will commence on 22 July 2013 and end on 22 July 2014.

Dear Sir or Madam,

The objective of the AIFMD is to regulate the activities of alternative investment fund managers. It relates to self-managed alternative investment funds and AIFMs referred to as external, such as management companies which manage one or more AIFs.

When referring to alternative investment funds¹, the AIFMD refers to investment funds other than the undertakings for collective investment governed by the UCITS Directive.²

Article 66 of the AIFMD provides that "*By 22 July 2013, Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive*".

¹ See Article 4.1a) of the AIFMD which defines Alternative Investment Funds as follows: "*AIFs' means collective investment undertakings, including investment compartments thereof, which (i) raise capital from a number of investors, with a view to investing it in accordance with a defined investment policy for the benefit of those investors; and (ii) do not require authorization pursuant to Article 5 of Directive 2009/65/EC*";

² Directive 2009/65/EEC of 13 July 2009 on the co-ordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS).

Moreover, pursuant to Article 61 of the AIFMD, "*AIFMs performing activities under this Directive before 22 July 2013 shall take all necessary measures to comply with national law stemming from this Directive and shall submit an application for authorization within 1 year of that date.*"

Taking Articles 66 and 61 of the aforementioned Directive together, a transitional period emerges from 22 July 2013 to 22 July 2014. At the end of the same, all internal or external AIFMs of one or more AIFs will have to have submitted an application for authorization to permit them to perform the activities referred to in the AIFMD.

Since it is unlikely that this Directive will be transposed into Belgian law by 22 July 2013, the FSMA has considered it useful to provide answers to a certain number of questions associated with the transitional period, in the document enclosed.

The questions and answers contained in the annexe are among others based on the *European Commission answers to questions received in relation to the transposition of Directive 2011/61/EU on Alternative Investment Fund Managers*, which are available here:
<http://ec.europa.eu/yqol/index.cfm?fuseaction=legislation.show&lid=9>

The FSMA reserves the right to amend and add to the questions and answers contained in the document enclosed at any time.

Yours sincerely,

Jean-Paul Servais,
Chairman

Annex: [FSMA 2013 11-1 / Questions and answers on the transitional period provided for by Directive 2011/61/EU, and on the Belgian national provisions for transposing this Directive.](#)