The MiFID, UCITS and AIFMD licenses Compared and combined

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Plan

- The MiFID, UCITS and AIFMD license compared (…)

- (…) and combined
The MiFID, UCITS and AIFMD license compared (1/6)

- Portfolio Management
- Risk Management
- “Managing AIFs” (Art. 4.1.w AIFMD and Annex I)
- Administration
- Marketing
- Activities Related to the Assets of AIFs
- Additional activities (Annex I)
- Individual Discretionary Portfolio Management
- Investment Advice
- RTO
- Safekeeping and Administration

Member State option (art. 6.4)
The MiFID, UCITS and AIFMD license compared (2/6)

**Investment services (Annex I)**
- Portfolio Management
- Investment advice
- RTO
- Safekeeping

**Ancillary activities (Annex I)**
- Advice on Capital Structure
- Investment Research
- Services Related to Underwriting
The MiFID, UCITS and AIFMD license compared (3/6)

Compare the dual AIFMD regime

MiFID

Portfolio Management

Investment advice

RTO

Safekeeping

“Optional” under the AIFMD license

Advice on Capital Structure

Investment Research

Services Related to Underwriting

Ancillary activities (Annex I)

What about “marketing”, “administration”, “risk assessment”?

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The MiFID, UCITS and AIFMD license compared (4/6)

Art. 2.1.b UCITS IV (and Annex II)

UCITS

Investment Management  Administration  Marketing

Individual Discretionary Portfolio Management  Investment Advice  Safekeeping and Administration

Member State option (art. 6.3)
The MiFID, UCITS and AIFMD license compared (5/6)

- Investment Management
- Administration
- Marketing

“Additional activities” under the AIFMD license

- Individual Discretionary Portfolio Management
- Investment Advice
- Safekeeping and Administration

What about RTO?

Risk management?
Some questions (and tentative answers)

- Will (all?) Member States make use of the AIFMD option?
- Will there be a tendency amongst market participants to “surrender” the MiFID license in favour of an AIFM license?
- Will the AIFMD implementation cause Member States to review the implementation of UCITS III?

AMF Stakeholders Committee, July 2012

“Allow management companies authorised under both the AIFM and UCITS directives to offer reception and transmission of orders (RTO)”
Plan

- The MiFID, UCITS and AIFMD license compared (…)
- (…) and combined
The MiFID, UCITS and AIFMD license combined (1/6)

**Question 1**

Is dual registration possible?

**Question 2**

Is dual registration possible?

**Question 3**

Is triple registration possible?
Question 1: “Dual registration” under AIFMD and UCITS?

- Viewpoint of ESMA
- Market reaction
- Potential problems
  - “Double registration” burden?
  - Difference between art. 6.4 AIFMD and art. 6.3 UCITS
  - Additional issues if a Member State makes use of the UCITS option but not the AIFMD option?

*ESMA Consultation Paper*
19 December 2012, para 5

“The residual topics […] which are [not] covered […], are the following ones: […] iii) the treatment of UCITS management companies […] and (iv) the treatment of MiFID firms […]”

*ESMA Discussion Paper*
23 February 2012, para 51

“It will be possible for a single entity to hold both a UCITS and AIFMD authorisation”
Question 1 (Cont’d)

- An AIFM wishes to manage UCITS
  - Viewpoint of ESMA

- An existing UCITS wishes to provide services to AIFs
  - Viewpoint of ESMA

- Only if there is an AIFM appointed and there is a delegation agreement?

Art. 6.2 AIFMD

“Member States shall require that no external AIFM engage in activities other than those referred to in Annex I to this Directive and the additional management of UCITS subject to authorisation under [UCITS IV]”

ESMA Discussion Paper
23 February 2012, para 49

“It will also be possible for a UCITS management company to provide […] investment management services, to AIFs […]. In this case […] it will not need to seek authorisation under the AIFMD”
Question 2: “Dual registration” under AIFMD and MiFID?

- Viewpoint of ESMA:
  - MiFID firms can continue to provide services to AIFs under delegation
  - “The AIFMD allows dual authorisation only in the case of AIFMs and UCITS management companies” (paragraph 54)
- Market reaction
- Potential problems
  - Existing dual registration?

Art. 6.8 AIFMD

“Investment firms authorised under [MiFID] and credit institutions authorised under [the Banking Directive] shall not be required to obtain an authorisation under this Directive in order to provide investment services such as individual portfolio management in respect of AIFs”
Question 3: “Triple registration” under AIFMD, UCITS and MiFID?
Some practical conclusions

- What is the most appropriate license?
  - Convergence between the different licenses
  - But certain differences remain

- Proactive steps to be taken prior to July 2013?
  - Currently unregulated managers
  - Managers operating under a UCITS or MiFID license
  - Management company consolidation
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