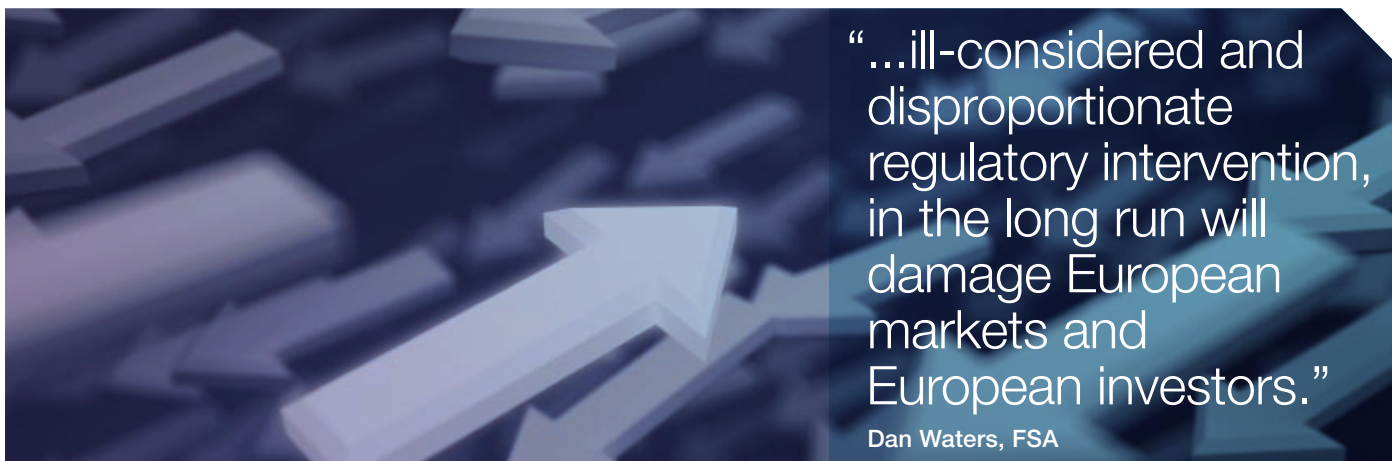


Update on the AIFM Directive



“...ill-considered and disproportionate regulatory intervention, in the long run will damage European markets and European investors.”

Dan Waters, FSA

The European parliament may have been in summer recess but this has not meant that discussion of the Alternative Investment Fund Managers Directive has lain dormant with it. As the issue develops, we thought it would be helpful to provide an update on the status quo.

→ The need for regulation

Early in July, Didier Millerot, deputy head of the asset management unit at the European Commission and the Directive's chief 'pen-holder' defended its speedy preparation and encompassing scope, while indicating that space remains for 'fine-tuning'. Soon after, Christine Lagarde, the French finance minister, presented an equally forthright defence in stating that: "It seems to me that it is essential to regulate these funds, because we cannot leave entire segments of the financial sector unregulated".

Poul Nyrup Rasmussen, a former Danish prime minister, now a member of the European Parliament, heads the socialist group in the parliament and is perhaps the fiercest proponent of the Directive. Nevertheless, Rasmussen feels the directive does not go far enough and called for a number of "loopholes" to be addressed including the de minimus threshold levels for regulation and insufficient transparency requirements.

Needless to say, counter arguments have also been raised. Most striking of those opposing comments came from Sweden, who assumed presidency of the EU in July. Finance minister Mats Odell's wasted little time in explicitly stating his concerns over the stigmatisation of the sector and the threat the new directive posed to the native hedge fund industry.

→ Concern across the European Union

Similar ruminations of concern are now also being heard in Germany where the implications of the proposed changes are finally beginning to seep into wider understanding. The German funds association, for example, have intimated that the sweeping approach of the directive would bring about significant drawbacks for German funds.

Back on the British Isles, the commercial real estate industry and pension industry have openly questioned the lack of a perceived benefit to investors and those comments have been echoed by Finance and Treasury departments on both sides of the Irish sea with representatives from the Irish Department of Finance and regulator branding the Directive unjustified, hasty and counterproductive to Ireland's interests. The FSA's Dan Waters was similarly outspoken in June when warning of a significant risk of "...ill-considered and disproportionate regulatory intervention, which in the long run will damage European markets and European investors."

Indeed, FSA followed up that announcement with another in August stating that an external agency had been commissioned to conduct a cost benefit analysis study "... to quantify the impact, the implications for markets and investors, the potential costs

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and benefits.” The results, due later in the year, are expected to provide valuable evidence and, indeed, ammunition, for those who hope to dilute some of the wide ranging measures.

→ Opposition support

The issue has also found prominence in national newspapers from across the political spectrum, with views expressed from such luminaries as Lord Myners, George Osborne and Boris Johnson. All have highlighted the misunderstandings surrounding the sector, and made protestations against the scope of the proposed draft and the implications it would have on wealth creation, jobs and investors.

A welcome trans-Atlantic boost for those opposed to the Directive can be seen in the shape of US treasury officials who, finally having awoken to the difficulties presented by the Directive to those US

managers who intend to continue doing business with the old world, arrived on European shores over the course of the summer to register their disquiet.

This swelling tide of opinion is seen as extremely positive by the likes of AIMA who, from the outset, have called for strategy in opposition to the Directive that included the range of interests within and without the industry and from all parts of the globe.

With the negotiation process within the European Council and the Parliament set to begin in earnest, it is an important time for opinions to be expressed and petitions made.

We will endeavour to keep you abreast of the very latest news but you may also like to know that AIMA have set up a Directive Centre on their website which is an extremely useful compendium of related information.

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