AIFMD Update – British Virgin Islands

The Financial Services Commission of the British Virgin Islands has announced that it has entered into co-operation arrangements with the securities regulators of the 25 European countries listed below. This is welcome news as it means BVI funds can continue to be marketed to professional investors in these countries under national private placement regimes after 22 July 2013, the date the European Alternative Investment Fund Managers Directive ("AIFMD") is transposed into national laws of EU member states.

In addition to complying with the requirements of the applicable private placement regime, investment managers wishing to market BVI funds into these European countries after 22 July 2013 will also need to comply with the following requirements:

- For BVI managers of BVI funds, the manager must comply with the disclosure and transparency requirements of AIFMD;*
- For EU managers of BVI funds, the Manager must fully comply with AIFMD except for certain of the depositary requirements; and
- For managers of BVI funds that are not based in the BVI or the EU, marketing of BVI funds into the European countries below is only permitted if (a) there is also a cooperation arrangement in place between the regulators in the manager’s country of domicile and the relevant European country; and (b) the manager complies with the disclosure and transparency requirements of AIFMD.*

The European countries are:

Belgium  France  Lithuania  Slovak Republic
Bulgaria  Greece  Luxembourg  Sweden
Cyprus  Hungary  Malta  The Netherlands
Czech Republic  Iceland  Norway  United Kingdom
Denmark  Ireland  Poland
Estonia  Latvia  Portugal
Finland  Liechtenstein  Romania

*The manager must also comply with the rules in AIFMD relating to takeovers of non-listed companies and “asset stripping”. These rules are principally relevant to private equity managers.
This article is not intended to be a substitute for legal advice or a legal opinion. It deals in broad terms only and is intended to merely provide a brief overview and give general information.

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