

**ALERTS**

# Brexit and Marketing Notifications under AIFMD

**25 November 2020**

UK managers (“UK AIFMs”) that currently market their funds in Europe under the national private placement regimes implementing Article 36 of the Alternative Investment Fund Managers Directive (“AIFMD”) should be aware that their existing marketing notifications will lapse on 1 Jan. 2021.

Following the end of the Brexit transition period, the UK will be considered a “third-country” for the purposes of AIFMD and Article 36 will no longer apply. Instead, UK AIFMs will need to rely on the local regimes established under Article 42 of AIFMD to market their funds, as third-country AIFMs.

Subject to the necessary cooperation agreements being in place between the FCA and the relevant EEA member state regulators (which is expected to be the case following the end of the Brexit transition period), UK AIFMs will be required to make separate notifications under Article 42 in each relevant country if they wish to continue marketing their funds. UK AIFMs should be able to market in the same jurisdictions under Article 42, as currently under Article 36.

As third-country managers, UK AIFMs will also be required to submit Annex IV transparency reports on a country-by-country basis to the relevant member state regulators (in addition to continuing with their AIF001/002 reporting to the FCA).

UK AIFMs that wish to continue marketing their funds after 1 Jan. 2021 should prepare and submit their Article 42 notifications in the relevant EEA countries as soon as possible. No notifications are required if the UK AIFM no longer wishes to market its funds.

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If you have any questions concerning this *Alert*, please contact your attorney at Schulte Roth & Zabel or one of the authors.

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