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An extract from Rain or Shine? July 2009

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The AIFM is the EU's response to comments in the G20 Communiqué, which referred to the need for certain systemically important hedge funds to be regulated, and for financial regulators to have access to information necessary for the assessment of systemic risks and the tools necessary for effective macro-economic oversight. Macro-prudential risks associated with the use of leverage primarily relate to the activities of hedge funds. However, the Directive goes further, proposing the creation of a comprehensive regulatory environment for all alternative investment fund managers, including those managing private equity, commodity, real estate and infrastructure funds. In addition the Directive also has a key objective of ensuring a high level of consumer and investor protection. This will be achieved by specifying a detailed common framework for the authorisation and supervision of AIFM.

The Directive has the potential to be beneficial. There will be merits to a uniform platform of regulation and, certainly, a passport for funds and their managers in the AIF industry will

be an advantage. However, if enacted in its current form, the Directive risks imposing a disproportionate regulatory regime on the managers of all collective investment vehicles which are non-qualifying UCITS and which are intended only to be available to sophisticated investors, as well as seeking to achieve tax-related objectives which are inappropriate for a Directive intended to provide a framework for regulating managers. It also leaves the position of established funds that are already fully invested unclear.

The time for consultation on the Directive is likely to be very short. If political approval on the Commission's proposals is reached by the end of 2009, the Directive could come into force in 2011.

It is crucial that industry participants assess the potential impact of the proposed Directive immediately and act now, so that they can seek to influence the shape of the final Directive and its implementing regulations, and, to the extent necessary, start planning for the changes the Directive will require.

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