



March 3, 2010

The Spanish EU Presidency

Ms. Elena Salgado Mendez
Vicepresidenta Segunda y Ministra de Economía y Hacienda
c/ Alaclá, 9
Madrid, Spain

Cc: Ms. Dolores Duran Bono

Dear Minister Salgado Mendez,

On behalf of the Emerging Markets Private Equity Association (EMPEA), I am writing to express our concerns regarding the Alternative Investment Fund Managers (AIFM) Directive and to highlight its potential negative impact on our members and more generally on economic development in emerging economies.

EMPEA is a non-profit, independent, global industry association whose mission is to promote the development of private equity and venture capital investment in the emerging markets of Africa, Asia, Europe, Latin America and the Middle East. EMPEA represents 280 fund managers and institutional investors headquartered in more than 40 developing countries, and its membership includes the most active European development banks that invest in private equity funds in developing markets.

Private equity investment is a critical driver of economic growth and job creation in developing countries, while simultaneously generating strong returns for investors. Since 2005, such funds have raised more than US\$200 billion for targeted investments into developing countries, providing a crucial source of capital for businesses in markets where private capital is very difficult to access.

EMPEA has profound concerns regarding the potential consequences that the proposed AIFM Directive will have on emerging economies. If adopted in its current form, AIFs in developing countries could lose access to funding from the EU market, and EU investors, including EU member development banks, would be limited in their ability to promote private sector growth in the world's poorest countries.

Specific provisions of the Directive would greatly restrict the possibilities for AIFs to be marketed in Member States by fund managers based in emerging markets ("Emerging Markets Fund Managers"). The third country and equivalency provisions contained in the draft Directive would make it either legally impossible or cost-prohibitive for Emerging Markets Fund Managers to raise capital in various EU markets, jeopardizing their ability to raise sufficient funds for investment and therefore to be viable as going concerns. EMPEA estimates that more than 90% of its fund manager members currently either market their funds to or have as investors entities from within the European Union. European funding for private equity and venture capital investments is critical for economic development in Africa and other emerging markets. By funding small businesses, private equity and venture capital investment spurs job creation, among many other benefits.

Likewise, investors (Limited Partners) from the EU, including European development banks, would be unable to invest in funds managed by Emerging Markets Fund Managers and would therefore be unable to meet their economic development and/or return objectives. European development banks have long recognized that investing in the private sector in developing economies is the most effective way to have an impact on poverty reduction, and doing so via specialized, local funds has the greatest potential to provide a developmental impact, in addition to an economic return.

The equivalency provisions are additionally of significant concern. Any requirement that may only allow funds to be marketed by Emerging Markets Fund Managers where appropriate cooperation arrangements are in place between the competent authority of that Member State and the competent authority of the AIFM is likely to frustrate fundraising by managers based in some of the least developed economies, where such arrangements are unlikely to be put in place. Indeed, such arrangements are likely to either force those Emerging Markets Fund Managers to cease soliciting investors in the EU or, for those who are able, force them to relocate their management activity from the least developed economies to those which are more developed, thereby undermining the growth of nascent fund management industries in such economies.

Further, even if a third country were able to meet the requirements of the equivalency test, the financial expenditure involved in complying with provisions related to an independent valuer, custody arrangements, disclosure, reporting requirements and other administrative requirements would be cost-prohibitive for funds that are generally small (US\$100-US\$500 million). We would note that the exemption applicable to AIFMs who manage portfolios of AIF below a threshold of EUR 100 million or EUR 500 million (subject to certain criteria) is only available to AIFMs in Member States. By not extending this exemption to AIFMs based outside of Member States, such non-EU AIFMs are placed at a significant disadvantage to their EU counterparts.

Our understanding is that the aim of the Directive is protection against systemic risk. We would submit that there is no systemic risk presented by such funds, and cannot understand why the EU would seek to prohibit funds managed by Emerging Markets Fund Managers from seeking investors or making presentations in the EU. At a minimum, the managers of such funds should be in a position to lawfully respond to inquiries from EU investors.

Therefore, on behalf our members, we are registering our concerns about the negative impact the draft Directive will have on this important source of development capital and request that the directive be amended to allow Emerging Market Fund Managers to market their funds in the EU under a regime similar to the private placement one now in place. We would be happy to discuss this issue with you in more detail and, if you are amenable, to outline our suggested amendments to the draft Directive.

Sincerely,



Sarah E. Alexander
President and Chief Executive Officer

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