Asian Investor

Asia alts managers voice regulatory concerns

By Georgina Lee

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A private equity COO fears rule tightening is too broad-brush and will inflate costs, while a fund-of-hedge-fund COO says clarity is needed over new reporting requirements.

Private equity and fund-of-hedge-fund managers in Asia point to growing fundraising difficulties outside the region amid a regulatory clampdown.

The alternative investment fund managers directive (AIFMD) comes into force in Europe as early as this June – reform that will reshape the way alt funds are marketed in the EU. No matter where they are domiciled, all non-Ucits funds are covered under the directive.

Thomas Hugger, COO for $57 million PE manager Leopard Capital, says having the same, broad-brushed regulatory principles governing private equity funds and hedge funds fails to take into account the customised nature of how PE sponsors put their money to work.

He notes that using a depository is a challenge for PE managers. Unlike hedge funds, PE sponsors do not always invest in a company's equity. Instead, they may invest by providing mezzanine capital, convertibles, loans or other structured products and derivatives.

"For private equity, each transaction is different," says Hugger. "We have up to 13 investments in Cambodia and none of these transactions have shown a similar investment structure."

Further, while alternative managers in the EU can market funds throughout member states, Asia-based managers, who hope to sell their capabilities to European investors but whose funds are not domiciled in the EU, might feel hard-pressed.

That’s because, to market funds in the EU under AIFMD, Asia-based managers with non EU-domiciled funds would likely opt for private placement – where fund marketing is subject to more stringent requirements.

Hugger notes that Leopard Capital recently talked to a European institution about investing into a Bangladesh PE fund it is raising money for. Leopard is raising capital for three funds this year, on top of three it already manages invested in frontier markets.

But the European institution said it would not invest in funds sited in offshore havens such as the Cayman Islands, where most of Leopard’s funds are domiciled. It requires that a fund be domiciled in an EU jurisdiction. “That means that we might have to re-domicile the fund to attract capital from these European investors,” notes Hugger.

He expects more Asia-registered funds to be re-domiciled in the EU in response to such demands from European investors.

On a separate note, Asia-based hedge fund managers registered with the Securities and Exchange Commission are looking into whether they need to register and report to the Commodities Futures Trading Commission (CFTC). Such a requirement is widely viewed as onerous operationally and costly.

Many hedge funds are regulated by CFTC as “commodity pools”, and CFTC moved last year to repeal certain registration exemptions that hedge funds had previously been granted.

Now they are required to provide additional quarterly reporting to investors; use a specific monthly return valuation method prescribed by CFTC, and have some staff fingerprinted and sit new exams.

Li Yan Yan, COO of Sail Advisors – a fund-of-hedge-funds firm that invests in multiple managers globally – says clarity is needed, including whether FoHF managers will be exempt from CFTC registration.

According to appendix A of its regulations, CFTC will grant exemption from registration if the aggregate initial margin and premium does not exceed 5% of a fund’s liquidation value.

“As things stand, we are waiting for certainty that FoHF managers will be able to rely on the exemptions set forth in Appendix A of the regulations based on either the 5% rule, or otherwise,” says Li.