

## The information we need on AIFM depositary arrangements

Some prospective AIFMs have asked us what information we need on their depositary arrangements and when we need it. This note is intended primarily for firms seeking a Variation of Permission (VoP) but the same principles apply to a new applicant for authorisation to manage an AIF.

### Submitting a Variation of Permission (VoP) form

- Article 8(5) of the AIFMD does not require an applicant to provide information on their depositary arrangements for the application to be deemed complete.
- You can submit a VoP before the depositary arrangements for all your AIFs are finalised, but do not leave Section 9 (depositary arrangements) blank.
- Where depositary arrangements have not been finalised, you should complete Section 9 with the name of the intended depositary and details of when you expect to be able to finalise their contractual arrangements.
- If a depositary has not yet been selected, you should state that depositary arrangements are to follow.
- Include a brief description of the due diligence that you have or will undertake on that depositary.
- Ensure there will be enough time to conclude contractual terms with the chosen depositary before the anticipated date of authorisation.
- Consider the need for depositaries to do their own due diligence as part of this process, and the likelihood that they may need to also engage with a large number of clients.

### Applying for authorisation

We strongly encourage firms to consider depositary arrangements, or at least a shortlist of prospective depositaries, before applying for authorisation. Firms must have finalised arrangements with a depositary to be able to manage an AIF, once authorised as an AIFM.

### Missing information

Under Regulation 5 of HM Treasury's AIFM Regulations 2013, if certain information, including information relating to the depositary arrangements, is missing from a firm's application for authorisation, they cannot start managing the AIF in question until a month after they provide us with the missing information, even if we grant them authorisation in this period.

This is particularly important for firms already managing AIFs under the transitional arrangements, as the management of the transitioned AIF may need to be suspended between the date of authorisation and the date it can start under the AIFMD regime.

In relation to depositary arrangements, we would consider this 'missing information' as having been provided when:

- the AIFM tells us who the depositary is (e.g. there is no longer a short list),
- the depositary agrees to act for the AIFM and the AIFs in question (although the contract and agreement do not necessarily need to have started), and
- the AIFM has given us permission to contact the depositary to enquire about its provision of depositary services to the AIFM and AIF.

AIFMs operating under the transitional arrangements and using the deferment of determination option should provide any missing information to us no later than one month prior to the anticipated date of authorisation.

We may ask to see the finalised agreement in some cases.