

## **THE EUROPEAN AIFM DIRECTIVE AND EU PROCEDURE – BVCA UPDATE # 2**

**DATE: 5 November 2009**

Over the last few weeks, BVCA members (through the work of the Public Affairs Executive – PAE), have met with several dozen MEPs to raise concerns with the Directive, and explain what it would mean for their portfolio companies and their investors in particular. These were very constructive sessions and we are finding that our arguments are being heard and that setting them in the context of LPs and underlying investee companies is proving to be a powerful tool to demonstrate the legislation's impact.

A report is expected shortly from the main committee in the European Parliament focusing on the Directive (Economic & Monetary Affairs Committee – ECON) via the appointed rapporteur, MEP Jean-Paul Gauzes. There will then be an opportunity for amendments to be tabled which will allow for the Directive to be changed in both a positive and negative way. We are working hard to ensure the former, though there are of course many within the parliament who have already expressed a desire to see a more draconian set of provisions.

Earlier this week, we attended meetings with officials in HM Treasury and the FSA, who provided an update on the latest developments within the EU Council (the other institution which is currently looking at the Directive, alongside the European Parliament).

We are hopeful that progress is being made on a number of our key issues, including capital requirements, disclosure and independent valuers; however, nothing has been published here and we continue to push on all of our main concerns. We are aware there are still considerable debates over third country and depositary issues in particular.

One encouraging development in recent weeks came from the European Central Bank (ECB), which voiced its concerns over the proposals. While supporting the intention to provide a harmonised regulatory and supervisory framework, the ECB raised issues in the current draft, including: third country provisions; the lack of differentiation between forms alternative investment funds; the potential to create an uneven playing field on disclosure; and the need to focus reporting data on what is actually relevant to monitoring financial stability.

Elsewhere, initial meetings have been held in Madrid with those who will play key roles when in the Spanish take up the rotating presidency of the EU in January. Finally, the UK's House of Lords inquiry into the Directive continues to hear evidence from a number of parties, with the FSA and the Wellcome Trust giving evidence this week. Their report is expected next month.