

Update: Regulatory reporting by non-EU AIFMs to the UK's FCA under AIFMD (Annex IV reporting)

As the 31 January deadline for AIFMs to file their first Annex IV reports approaches, we look at who must make a report, what information they must report and how they report it.

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The 31 January deadline by which many alternative investment fund managers (AIFMs) must file reports (often referred to as 'Annex IV reports') to the UK's FCA in respect of Q4 2014, is fast approaching.

Although, this will be the first time that non-EU AIFMs have to provide Annex IV reports to the FCA, unfortunately, not all arrangements are yet in place to allow them to use the FCA's online reporting system, GABRIEL.

AIFMs should be aware that, on 20 January 2015, the FCA published Q&As entitled [Important GABRIEL information for AIFMD Annex IV Transparency Reporting](#).

This note serves as a reminder and update on:

- who has an obligation to report
- what, and when, they have to report, and
- how they report (including the current issues with GABRIEL).

Who has to report?

Non-EU AIFMs which have notified the FCA of an intention to market AIFs in the UK under the UK's national private placement regime are required to report information regularly to the FCA both on both the AIFM itself and on the AIF(s) being marketed.

What do you have to report?

Under the UK's reporting regime, the information to be reported is specified in two FCA forms:

- [AIF001](#) (which contains information about the AIFM), and
- [AIF002](#) (for information about the AIF(s) being marketed).

Some of the questions which need to be answered in AIF 001 and AIF002 can cause problems of interpretation – the financial services lawyers at Simmons & Simmons have built up considerable experience in dealing with many of these and for further information, please

contact one of the lawyers named above.

The frequency of reporting and the date of the AIFM's first report will depend on a number of factors:

- The frequency of reporting – this depends on the AUM being managed by the AIFM, calculated in accordance with the AIFMD. Note that (i) non-EU AIFMs need take into account only the AUM of AIFs marketed into the EU, rather than of all AIFs which they manage when determining their reporting frequency and (ii) assets acquired through the use of leverage need to be included when calculating AUM for these purposes. So:
 - AIFMs managing AIFs that are marketed in the EU with an aggregate AUM of over €1bn must report quarterly
 - AIFMs managing AIFs that are marketed in the EU that individually have an AUM of more than €500m must report for those AIFs quarterly.
 - Subject to the previous bullet point, AIFMs managing AIFs that are marketed in the EU with an aggregate AUM below Euro €1bn but above the AIFMD Article 3 thresholds, must report half yearly.
 - Other AIFMs must report annually.
- The date of the first report – AIFMs must report information from the first day of the reporting period which follows the date on which the AIFM gave the FCA notification of an intention to market the AIF in the UK (or, in the case of a UK AIFM, the date of its authorisation).

The report must be filed within one month of the end of the relevant reporting period. An additional 15 days is allowed in relation to filing AIF001 where the AIFM manages one or more funds of funds and in relation to filing AIF002 where the AIF is a fund of funds. So, where a quarterly reporting AIFM notified the FCA on or before 30 September 2014, its first quarterly reporting period would have started on 01 October 2014. The first quarterly reporting period ended on 31 December 2014 and so the first report is due one month later, ie, on or before 31 January 2015 (or 13 February 2015, where the AIF is a fund of funds).

However, where a quarterly reporting AIFM notified the FCA after 30 September but before 31 December 2014, its first quarterly reporting period would have started on 01 January 2015, so its first report would not be due until 30 April 2015.

How to report?

As mentioned above, the Annex IV reports should be submitted to the FCA online through its GABRIEL reporting system using forms AIF001 and AIF002. However, to use GABRIEL an AIFM needs to have FCA generated codes, identifying itself and each of the funds on which it is reporting (FRN and PRN codes respectively).

Because of internal IT issues, there has been a delay in sending these codes to AIFMs. The FCA hopes to have sent out a 'significant' number of codes by the end of this week and we understand that it will update firms soon about steps which they should be taking in the event that they do not receive codes in time. AIFMs should check [elexica](#) and the [FCA webpage](#) regularly for updated information.

AIFMs should also be aware that, although GABRIEL is available between 8 a.m. and 5 p.m. (GMT) on Saturday and Sundays, there is no technical support provided at weekends.

We would recommend, therefore, that AIFMs aim to submit their Annex IV reports by the close of business on Friday 30 January 2015.

Feeder funds

Non-EU AIFMs that market feeder funds in the UK are required to complete the forms AIF001 and AIF002 by reference to the assets and risk profile of these feeder funds, without looking through to the assets of the underlying master fund.

Furthermore, for non-EU AIFMs, the UK regime only requires information about the AIFs actually being marketed in the UK - where a feeder AIF is being marketed in the UK but its non-EU master AIF is not, the AIFM does not need to 'look through' the feeders or report information about the master AIF. (The position is different for UK authorised AIFMs.)

Completing forms AIF001 and AIF002 for a feeder fund is not an entirely intuitive exercise, as parts of the forms were not designed with such funds in mind.

We have been advising a large number of non-EU AIFMs on the completion of the AIF001 and AIF002 in relation to their feeder funds and have built up an extensive body of knowledge as to how these forms should be completed.

If you are a non-EU AIFM and you need any assistance with the completion of forms AIF001 or AIF002, please contact any of the individuals listed above.

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