

# Brexit solutions for asset managers

*Des Fullam, of Carne Group, looks at some of the options available to investment managers who want to retain marketing rights into Europe post-Brexit*



**A**s the date for the UK's official 'divorce' from the European Union draws closer, hedge fund managers have to consider two significant problems. If they are relying on a passported UK AIFM to manage funds domiciled in Ireland, Luxembourg, or another EU27 jurisdiction they will need an EU27 AIFM in place to manage AIFs domiciled in those locations. If they rely on a UK-regulated entity to undertake marketing for these products they will also need an EU27 solution to continue to carry out this activity.

Such asset managers are increasingly concerned that when the UK



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leaves the EU on 29 March, their existing UK AIFM may no longer be able to act as the management company for funds domiciled in Europe. What's more, asset managers who have not already applied to the Central Bank of Ireland or to the Commission de Surveillance du Secteur Financier to set up their own AIFM in Ireland or Luxembourg, are now unlikely to have a solution in

place for 29 March 2019.

The result is that few options remain for UK asset managers who have yet to take action, but who want the certainty of knowing they will be able to continue to market their funds into Europe post-Brexit. It is therefore no surprise that we are seeing a steady increase in the number of asset managers requesting help in identifying the best solution for their circumstances. One option proving particularly popular with UK asset managers is to appoint a third-party AIFM to take on the role of AIFM. In this scenario Carne acts as the AIFM, retains the risk management function, and

delegates the investment function back to the asset manager. Such a solution allows the asset manager to continue to act as the investment manager of European-domiciled funds without interruption. In addition, a third-party AIFM allows asset managers who are still determining their strategy to adopt a holding position until the impact of Brexit becomes clearer. Once the outcome is clear, they still have the option to establish their own EU AIFM in the future.

### Other benefits of outsourcing

While the uncertainty of Brexit is resulting in more asset managers looking to outsource their fund management companies, the merits of doing so are wide-ranging. Establishing a fund management company in an unfamiliar jurisdiction can be complicated, time consuming and costly. Local knowledge and on the ground expertise are a prerequisite, as is the requirement to employ people locally and source directors for the management company's board. There is also the ongoing outlay of setting up and managing an office as well as the initial legal costs in attaining regulatory permission in the first place. Using a third-party AIFM can save time, money and other resources, while allowing the fund manager to keep their name over the door of the fund.

### Distribution solution

UK managers who want to continue to distribute products in the EU27 will also need an EU27 entity to undertake this activity. The case for outsourcing here is also compelling. One option emerging is a Mifid hosting solution. Employees from the investment manager could be seconded into that Mifid firm to distribute funds, or an entity could be appointed as a tied agent of the Mifid firm who can market funds using Mifid permissions. The advantage of the tied agent model is that asset managers can market funds using their own brand name. Under the secondment model, funds are distributed under the Mifid entity's brand name.

The need for asset managers to retain their own brand name when

doing business in Europe will depend on the scale of their activity and the strength of their existing client relationships. For example, an asset manager with limited activity and a well-established client base, may see the use of their brand name as less important than one who plans to actively market their funds and establish new relationships. The tied agent model is a game changer for such managers, many of whom will view the secondment model as something of a stop-gap.

## ***A 'hard' Brexit would still be preferable in that there would be an agreement and transition period in place during which further clarification could be sought***

### The 'Armageddon scenario'

The so-called 'Armageddon scenario' is one wherein there is no post-Brexit arrangement in place that allows the delegation of investment management back to the UK to continue. With 29 March 2019 fast approaching, many managers are wondering whether an arrangement will be implemented in time. At the time of writing Esma appear to be taking a positive stance, while also recognising the need to have Memorandums of Understanding in place, in the case of a 'soft', 'hard' or 'no-deal' Brexit in order to reduce the potential for systemic risk. Until those arrangements are actually in place, managers will inevitably

have it in the back of their minds that there is a very small possibility that delegation may not come to pass.

### A 'hard' Brexit versus a 'no-deal' Brexit

As stated, any form of Brexit which does not allow the delegation of investment management functions would create an extremely challenging scenario for asset managers and regulators and could give rise to systemic risks. However, having a Memorandum of Understanding in place could in practice mean there would be little difference between a 'hard' Brexit and a 'no-deal' Brexit. Of course, a 'hard' Brexit would still be preferable in that there would be an agreement and transition period in place during which further clarification could be sought.

### Areas of focus outside of Brexit

The uncertainty created by Brexit has been dominating the column inches, but asset managers have had plenty of other elements to contend with too in 2018. Aside from the escalating tensions between the US and China and increased market volatility, the industry has come under huge pressure to reduce fees, while trying to meet increasing regulatory demands.

Asset managers are focused on finding new ways to drive down fees and remove inefficiencies and associated costs from their regulatory functions. We are seeing first hand evidence of this at Carne with more and more asset managers looking to outsource non-core activity and Brexit may well prove to be a catalyst for this trend to accelerate. HEM

## About Carne

Carne provides a wide range of fund management solutions to some of the world's leading investment managers. We operate regulated AIF and Ucits Management companies in Ireland and Luxembourg, provide substance to many management companies including designated persons, compliance officers, MLRO and company secretarial and help investment managers meet their ongoing regulatory requirements through market leading technology.

To find out more about our fund management solutions email us today at [info@carnegroup.com](mailto:info@carnegroup.com) quoting this article.



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