

FOR IMMEDIATE RELEASE



## Bermuda fully committed to EU funds passport approval

### Jurisdiction promises continued collaborative resolve to align with ESMA's AIFMD criteria

**Hamilton, Bermuda, August 4, 2015** — Bermuda remains fully committed to the process of qualifying under rules set out by the European Union for third-country rights for Island-based alternative fund managers.

The European Securities Market Authority (ESMA) last week cleared the way for Guernsey, Jersey and Switzerland (pending passage of legislation by the latter) to be approved for extension of “passport” rights that would allow non-European Union fund managers to market their Alternative Investment Funds (AIFs) in EU member states on a cross-border basis. The recommendation would extend the same rights to approved non-EU entities that are currently available only to EU-based AIF managers (AIFMs).

In its first wave of assessments, ESMA considered a total of six jurisdictions based on volume of business and conducted detailed evaluations of each domicile’s compliance with key principles of the Alternative Investment Fund Managers Directive (AIFMD). The United States, Hong Kong and Singapore were also reviewed, but no immediate decision on their status was made. ESMA said it aims to finalise its advice on those jurisdictions and “assess further groups of non-EU countries” over the coming months.

Bermuda was included among jurisdictions identified as those which should be assessed, along with Australia, Bahamas, Brazil, British Virgin Islands, Canada, Cayman Islands, Curacao, Isle of Man, Japan, Mexico, Mauritius, South Africa, South Korea, Thailand, and the US Virgin Islands.



“As a premier jurisdiction with a highly respected reputation, we expect Bermuda will be favourably considered for passport rights in a subsequent stage of this assessment process,” said Sean Moran, the BDA’s Business Development Manager for the asset management sector. “This is an ongoing process and we are fully committed to seeing it through.”

Moran praised collaborative efforts by the Bermuda Monetary Authority (BMA), the Bermuda government and the Island’s asset management industry to develop new legislation that positions Bermuda to meet European standards set for alternative investment fund managers.

“We have made significant progress towards putting in place the necessary legislative framework to meet AIFMD criteria, and passage of that legislation is now well underway in our Parliament,” he said.

Amendments to Bermuda’s Investment Business Act (IBA) to provide for an AIFMD-compliant, opt-in regime were tabled in Bermuda’s Parliament July 17 and will be on the agenda for a second sitting of Parliament this month. The updates establish a regime in which the BMA will oversee locally-based managers who wish to market their alternative investment funds via the passport in Europe. The Island is home to almost 900 investment funds.

“Bermuda is on its journey towards equivalence under the AIFMD, having achieved some significant milestones over the past several months,” said a BMA spokesperson. “The Authority welcomes the fact ESMA has included Bermuda as one of the countries to be considered in its assessment as we refine the regulatory regime for alternative investment fund managers.”

Members of Bermuda’s asset management industry said ESMA’s announcement contained no surprises, and they remained cautiously optimistic for a favourable recommendation for the Island.

“We are pleased ESMA has begun the process of extending the EU passporting regime to non-EU alternative investment fund managers,” said Alison Dyer-Fagundo, Partner, Appleby, and leader of the BDA’s AIFMD sub-committee. “As stakeholders will be aware, draft legislation has been tabled in Bermuda’s Parliament, which is anticipated to assist ESMA in making a determination on extending passporting to Bermuda managers. This shows our strong commitment to ensuring Bermuda managers continue to be able to do business in Europe.”



Added Craig Bridgewater, Managing Director of KPMG Bermuda: “While it is still early stages, the milestone ESMA announcement provides some direction on the process ESMA has taken to date and will continue to follow. Although Bermuda has not been specifically recommended to receive the benefits of passporting at this time, given that it has Memoranda of Understanding with many EU member states and is already home to several AIFs and AIFMs, it is hoped Bermuda will be included in a future list of jurisdictions recommended for the extension of the AIFMD passport. This will enable our jurisdiction to continue to play a valuable role in global investing activity by Europeans.”

ESMA’s advice on the first batch of jurisdictions will now be considered by the European Commission, Parliament and Council. ESMA noted these institutions might decide to wait until positive advice has been delivered on a sufficient number of non-EU countries before introducing the passport so as to avoid any adverse market impact.

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#### **ABOUT BERMUDA BUSINESS DEVELOPMENT AGENCY (BDA)**

The BDA encourages direct investment and helps companies start up, re-locate or expand their operations in our premier jurisdiction. An independent, public-private partnership, we connect prospective companies to industry professionals, regulatory officials, and key contacts in the Bermuda Government to facilitate domicile decisions and make doing business in Bermuda straightforward and beneficial.

