Altmann's bill aims to free investment trusts from EU regulatory shackles

By John Foster 20th November 2023

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This Wednesday (22nd November) the Alternative Investment Fund Designation Bill will have its first reading in the House of Lords. The Bill is being sponsored by Baroness Ros Altmann, former pensions minister, and seeks to remove investment companies from the European Union's Alternative Investment Fund Managers Directive (AIFMD) regulation.

Altmann's Bill was selected in a ballot and its introduction has been warmly welcomed by much of the investment trust industry. The AIC (Association of Investment Trusts), the trade body for the investment trust, VCTs and closed-end funds industry's CEO, Richard Stone said: "We welcome Ros Altmann's Bill which is set to accelerate action on this crucial issue of investment company cost disclosure. Whilst AIFMD has a broader sweep, this bill provides a way to speed up the process of getting the issue of cost disclosures resolved and reaching a better place for investors and our members. We have been working hard lobbying the FCA and other policymakers on this issue and have called for emergency action as well as a root and branch review of cost disclosure."

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The Bill also received support from members of the 'Other House' (the House of Commons), including Conservative politician, John Baron, Member of Parliament for Basildon and Billericay, a vocal critic of the EU, who said as part of a question to the Chancellor of the Exchequer: "It is good the government is aware there is a serious problem with the way investment trusts are compelled to count their costs twice, in line with EU rules which even the EU has now abandoned. […] I […] hope the government will support Baroness Altmann's Private Members' Bill, which seeks to correct this overzealous regulation."

Burdensome and complex

Investment Trusts, which make up around one-third of the FTSE250 Index, have argued that they should not be classed as an investment fund under AIFMD, which regulates sophisticated investment vehicles such as private equity funds and hedge funds. Currently Investment Trusts are lumped-in with hedge funds and private equity vehicles and are compelled to appoint an Alternative Investment Fund Manager that is authorized and regulated by the Financial Conduct Authority (FCA); have in place a depositary that is responsible for the safekeeping of the fund's assets; prepare and publish annual reports and accounts; establish a system of internal controls and risk management; conduct due diligence on potential investments; comply with FCA Investment Trust rules; and provide investors with information about the fund, including its investment objectives, risks and charges.

Although these all seem to be sensible measures, Altmann and many in the Investment Trust sector, argue that complying with all the stipulations of AIFMD is complex and burdensome. Altmann said: "…Investment Trusts, Unit Trusts, REITS and other quoted Investment Companies have been categorised as 'Alternative Investment Funds'. This inaccurate classification dates back to 2013 and means the UK's Investment Companies are regulated under the AIFMD. In effect they have been lumped together with notoriously high-cost hedge funds and private equity funds which were often not disclosing all their costs to investors."

The Bill argues that AIFMD is not appropriate for investment trusts and has increased the costs of investing in investment trusts, which has made them less attractive to investors. It proposes taking Investment Trusts out of AIFMD; requiring Investment Trusts to disclose their costs more clearly, and giving Investment Trusts more flexibility how they invest their assets.

Making Investment Trusts more competitive

The AIC believes that if the proposals are implemented it would allow Investment Trusts to become more competitive, as it would reduce the costs of investing in Investment Trusts and Altmann argues that the Bill would make Investment Trusts more transparent in terms of costs and fees which she believes is a winner for investors. She also points out that due to AIFMD many specialist UK medium-sized and smaller Investment Companies, who stick to the rules, have been rendered uncompetitively expensive and lost investors on a false premise of being more expensive than others, including overseas-listed competitors who do not aggregate disclosed costs.

> Altmann said: “To promote fair competition, market integrity and international competitiveness, urgent FCA intervention is required.”

There have been some voices that have raised concerns about taking Investment Trusts out of AIMFD as it will remove protections from investors and will actually make them less transparent. AIFMD is an important part of the EU’s regulatory framework for financial markets.

Long road ahead

Wednesday’s reading of the Bill is the first step in a long road. The success rate of Private Members’ Bills in the House of Lords is relatively low. In recent years, only around five per cent of Private Members’ Bills introduced in the Lords have been enacted into law. This is due to several factors, including the limited amount of time that is available for debating Private Members’ Bills, the lack of government support, and the potential for opposition from vested interests.

That said, despite their low success rate, Private Members’ Bills can still have a significant impact on legislation. They can raise awareness of important issues and put pressure on the government to act. In some cases, Private Members’ Bills have even led to the introduction of government bills on the same topic, so Baroness Altmann’s bill has at the very least raised the issue of the treatment of Investment Trusts under current legislation.