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Financial Services Group London

European Parliament calls for legislation on hedge funds and private equity, as part of a wide review of EU financial regulation

On 23 September, the European Parliament voted in support of two reports calling for legislation to be proposed which would, if made into a directive, radically extend the scope of EU financial regulation to include hedge funds (HF) and private equity houses (PE).

The new legislation requested by MEPs would potentially consist of a directive to impose a "common standard of transparency and to tackle the issues" in relation to HF and PE. This directive would include measures such as:

- obligations on HFs and PEs to disclose and explain their investment policy and associated risks;
- rules to prevent "asset stripping" of companies and "misuse [of] financial power" by PE investors; and
- greater transparency on the voting by HFs in shareholder meetings.

The European Parliament also calls for the Commission to (i) investigate matters such as money laundering in the context of HFs and PEs; (ii) investigate the effects of securities lending and voting on borrowed shares, having regard to better principles of regulation; (iii) examine whether reporting requirements should also apply to cooperation agreements between several shareholders and to indirect acquisitions of voting rights via option arrangements; and (iv) generally review all existing financial market legislation with a view to identifying any gaps regarding HF and PE investors.

Various other requests of the Commission are also made by the European Parliament which may lead to a far-reaching review of EU financial regulation. Areas targeted by the European Parliament include:

- a general review of market concentration in the financial services industry;
- a review of the protections given to employees when businesses are transferred; and
- an examination of the issues of responsibility of banks when lending money to PE funds.

By voting to back the reports drawn up by two MEPs (Mr. Paul Rasmussen and Mr Klaus-Heiner Lehne), the European Parliament has formally requested the Commission to propose the new legislation by the end of 2008. Although the Commission has previously rejected proposals to regulate HFs and PEs, the current market and economic environment will incline the Commission to being more receptive to these motions from the European Parliament. The precise extent of any action the Commission will take cannot be ascertained at this stage.

It should be noted that the Commission has already consulted on some of the new proposals for regulation made by the European Parliament, such as on regulation and oversight of Credit Ratings Agencies and on aligning the interests of investors and loan originators, for example through imposing a mandatory retention. We are awaiting the Commission's next steps in that regard.

Relevant links:

Rasmussen Report: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A6-2008-0338+0+DOC+PDF+Vo//EN>

Lehne Report: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A6-2008-0296+0+DOC+PDF+Vo//EN>

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