Jon Moulton's Diary

How the FCA could help the growth agenda — by getting rid of the AIFMD

Veteran financier Jon Moulton has been involved in buyouts, turnarounds and venture capital since 1979 with firms such as CVC, Permira, Apax, Alchemy and, most recently, Better Capital, where he has been the chair since 2009

The Financial Conduct Authority (FCA) does not generate much in the way of seasonal good cheer and indeed I only know one half-decent joke featuring it:

Q: Why did the FCA cross the road?
A: To file a consultation paper on the other side.

Under political pressure to deregulate and to encourage economic growth, the FCA is trying to respond in a new and positive way. One thing it proudly proclaims to have achieved in 2025 is to have stopped asking for data it did not need — clearly remarkable progress indeed.

Another promise for 2026 is to replace the EU-derived Alternative Investment Fund Managers (AIFM) regime with a UK version. The process is well afoot with consultations underway.

Politically driven

A bit of history: the AIFM came into effect in the UK in 2013 in a 392-page far-ranging and bizarre document. The implementation was to follow the EU directive enacted in the then recent memory of the financial crisis of 2008. Not that much of the content of the AIFMD had anything to do with the financial meltdown of 2008 — the actual implementation was politically driven to hurt the non-traditional financial industry.

The UK joined the regime because it had to implement the directive as an EU member. We aren't a member any more.

Essentially no one could (or can) remember the many targets the AIFMD had.

The EU's own assessment, prepared before the UK implemented the AIFMD, is the *Report on the Operation of the AIFMD*, which covers 492-pages. (The thick paper acts as a cushion that minimises bruising otherwise suffered when falling forwards dozing off while reading the paper.)

The report failed to show any compelling benefits of the directive. But that did not stop the relentless EU policy implementation. So, into the regime we went.

I cannot find any meaningful review of the overall cost/benefit of the AIFMD since the UK signed up to it in 2013, but I have a view on this.

Enforcement seems slight — the FCA's fines listing for 2025 shows no apparent sanctions for AIFMD issues.

Perhaps the FCA recognises the low utility of this regulatory heap. What is certain is that there are lots of good people engaged in complying with, or enforcing, the AIFM regulations.

Repeal not reform

I fear that the proposals to reform the AIFMD will do very little good and/or simply add complexity. There is another way.

Rather than fiddle around with this monster — abolish it. Things were not so bad before it existed.

Simply repeal AIFMD. It may be that some bits actually prove to be missed – in which case the FCA can reinstate the relevant rules under their ample powers.

The FCA is good at imposing regulation. But its turn towards focussing on growth should mean that the presumption is now "no regulation" rather than regulating on the suspicion that new rules might be useful, along with the certainty of added regulatory cost.

This abolition would increase the attractiveness of the UK as a location to do business and would release some capable souls to work more productively.

Growth should follow.

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The FCA should adopt a presumption of 'no regulation' rather than adding to the existing burdens of business

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'The report failed to show any compelling benefits of the [AIFM] directive. But that did not stop the relentless EU policy implementation'