

TRANSPOSITION OF DIRECTIVE (EU) 2024/927 (AIFMD II): NEW RULES FOR ALTERNATIVE INVESTMENT FUNDS AND UCITS

On 10 March 2026, the Italian Council of Ministers definitively approved the legislative decree transposing Directive (EU) 2024/927 of 13 March 2024 (the "**AIFMD II**", or the "**Directive**"), which amends Directives 2011/61/EU (AIFMD) and 2009/65/EC (UCITS) with regard to delegation arrangements, liquidity risk management, supervisory reporting, custody and depositary services and lending by alternative investment funds ("**FIA**"). The decree, which amends the Consolidated Law on Finance (Legislative Decree 58/1998, the "**TUF**"), will enter into force on 16 April 2026.

The reform is part of the Capital Markets Union package presented by the European Commission in November 2021 and addresses the need to harmonise the European framework for collective investment management, with a particular focus on loan-originating AIFs, a sector hitherto regulated in a fragmented manner at national level.

1. Key changes

1.1 Loan-originating AIFs

The most significant change is the introduction of a harmonised European framework for loan-originating AIFs ("**Loan-originating AIFs**"), whose investment strategy primarily consists of granting loans or whose notional value of loans represents at least 50% of the net asset value. The Italian legislator has adopted a broader notion of "investment in loans" than the Directive, also encompassing the purchase of loans on the secondary market.

The framework introduces leverage limits calculated using the commitment method: 175% of NAV for open-ended AIFs and 300% for closed-ended AIFs. The originate-to-distribute strategy is prohibited, i.e. the establishment of AIFs that invest in loans for the sole purpose of transferring them to third parties; in the event of a transfer, the fund must retain at least 5% of the notional value of the loans transferred. Lending to the AIFM itself, its personnel, the depositary and delegates is also prohibited, and a 20% concentration limit is introduced for exposures to financial undertakings, other AIFs or UCITS.

1.2 Liquidity risk management

The reform requires all managers of open-ended AIFs and UCITS to select at least two liquidity management tools ("**LMTs**") from the nine listed in the new annexes to the Directive (including: redemption suspensions, gates, swing pricing, dilution levy, redemptions in kind, side pockets) and to include them in the fund's constitutional documents. Managers must develop detailed policies for the activation and deactivation of LMTs and notify the competent authority without delay in the event of their use.

1.3 Delegation of functions

The AIFMD II extends the delegation framework to all ancillary services (including, for

AIFMs, loan servicing) and strengthens reporting obligations to authorities, which will receive detailed information on each delegate: name, domicile, links with the AIFM, full-time equivalent human resources employed by the manager for delegated functions, and percentage of assets subject to delegation. The stated objective is to counter the practice of so-called letterbox entities.

1.4 Cross-border depositary

The Directive allows Member States to authorise the appointment of an AIF depositary located in another Member State, provided that adequate depositary services are lacking in the domestic market and that aggregate assets held in custody do not exceed EUR 50 billion. Italy has not exercised this option for Italian AIFs; however, the decree introduces new paragraphs in Article 47 of the TUF to govern the scenario in which an Italian depositary is appointed by AIFs domiciled in Member States that have activated this option.

1.5 Supervisory reporting and transparency

The decree grants Consob and the Bank of Italy the powers to implement the expanded disclosure requirements under the AIFMD II. However, the provisions on enhanced reporting (Articles 1(12) and 2(7) of the Directive) have not yet been transposed: their application is contingent on ESMA's adoption of the relevant regulatory technical standards and is deferred to 16 April 2027. AIFMs will be required to provide investors, prior to investment, with additional information on the fund's name, the selected LMTs and, for loan-originating AIFs, all loan management costs.

2. Impact on the Italian market

The most significant area of impact concerns loan funds. Asset management companies (SGR) active in private debt will need to update their fund rules, revise their lending policies and verify compliance with the new leverage limits – which in some cases are less restrictive than those currently in force (the 300% limit for closed-ended AIFs exceeds the current 150% for reserved AIFs). Conversely, the prohibition on the originate-to-distribute strategy and the retention requirement will introduce new constraints for structures focused on loan disposals.

For the entire open-ended fund and UCITS industry, the obligation to select and include LMTs in constitutional documents will require a significant documentary and procedural adjustment effort. The strengthening of reporting obligations on delegations will also have material implications for the sub-advisory industry, which is particularly widespread in Italy.

3. Next steps

The new rules are expected to enter into force on 16 April 2026. The Bank of Italy and Consob will be required to issue implementing provisions by 16 October 2026. Enhanced supervisory reporting obligations will apply from 16 April 2027, subject to ESMA's adoption of the relevant RTS. The gap between the entry into force of the primary legislation and the issuance of secondary regulations will require market operators to adopt a prudential approach during the transitional phase; asset management companies active in

loan funds would be well advised to initiate a gap analysis against the new requirements without delay.

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3

Paolo Iemma, Partner
Email: paolo.iemma@grplex.com