

**Europäische Kommission**  
Generaldirektion Finanzstabilität,  
Finanzdienstleistungen und Kapitalmarktunion

SPA 2 – Pavillon Rue de Spa 2 / Spastraat 2

Belgien

Via E-Mail an: [fisma-aifmd-review@ec.europa.eu](mailto:fisma-aifmd-review@ec.europa.eu)

BEREICH Integrierte Aufsicht  
GZ FMA-LE0001.230/0003-INT/2021  
(bitte immer anführen!)

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WIEN, AM 27.01.2021

**EK-Konsultation: Public consultation on the review of the alternative investment fund managers directive (AIFMD)**

Sehr geehrte Damen und Herren,

bezugnehmend auf die öffentliche Konsultation der Europäischen Kommission zu einem

*„Review of the alternative investment fund managers directive (AIFMD)“*

erlauben wir uns Ihnen anbei die offizielle Stellungnahme der Österreichischen Finanzmarktaufsichtsbehörde (FMA) zukommen zu lassen.

Die Stellungnahme wurde zur leichteren Auswertung auch in das ECAS-EU-Survey-Tool unter Verwendung des Links auf der Seite <<https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12648-Alternative-Investment-Fund-Managers-review-of-EU-rules/public-consultation>> eingegeben.

Wir ersuchen höflich um Berücksichtigung unserer Anregungen und stehen für Rückfragen sehr gerne zur Verfügung.

Finanzmarktaufsichtsbehörde  
Bereich Integrierte Aufsicht

Für den Vorstand

MMag.a Dr.in Julia LEMONIA RAPTIS, LL.M LL.M

Dr. Christoph Seggermann

elektronisch gefertigt

<b>Signaturwert</b>	ICcBa2HdJbVm4qVn33G/OOL5+5LQ84KEHQTKR9R6t211nihgSRqt8w3kfzeaUt0UqKow0w2T65i9ptgVBHX5KeFrbe0mQx6AEHldjZo71ZE+yoZxlv8oekEz2FXHfffY/dVdDimJs5bomuo7XDlyrKrotP+jByrOLLZwQ33QgSrlxnkY5FTiEF2WyZeLkPSmJmxD7J8w0eAo3ViwJWJjkPThl2eczYu7a4remGuTPcEQYLmuis6muyJN7hBOPDfyD/Nq/sA3E5zkThrksOjmcU0jjh1cnmm8ne9PzeqW2T5ZdeP6PeG3gJBUsYFQ5AYMYNXjZ31yPeh2T3IyIHpH/Q==	
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	<b>Serien-Nr.</b>	532114608
	<b>Methode</b>	urn:pdfsigfilter:bka.gv.at:binaer:v1.1.0
<b>Prüfinformation</b>	Informationen zur Prüfung des elektronischen Siegels bzw. der elektronischen Signatur finden Sie unter: <a href="http://www.signaturpruefung.gv.at">http://www.signaturpruefung.gv.at</a>	
<b>Hinweis</b>	Dieses Dokument wurde amtssigniert. Auch ein Ausdruck dieses Dokuments hat gemäß § 20 E-Government-Gesetz die Beweiskraft einer öffentlichen Urkunde.	



**EUROPEAN COMMISSION**  
Directorate-General for Financial Stability, Financial Services and Capital Markets Union

## **CONSULTATION DOCUMENT**

### **PUBLIC CONSULTATION ON THE REVIEW OF THE ALTERNATIVE INVESTMENT FUND MANAGERS DIRECTIVE (AIFMD)**

#### **Disclaimer**

This document is a working document of the Commission services for consultation and does not prejudice the final decision that the Commission may take.

The views reflected on this consultation paper provide an indication on the approach the Commission services may take but do not constitute a final policy position or a formal proposal by the European Commission.

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You are invited to reply **by 29 January 2021** at the latest to the **online questionnaire** available on the following webpage:

[https://ec.europa.eu/info/publications/finance-consultations-2020-aifmd-review\\_en](https://ec.europa.eu/info/publications/finance-consultations-2020-aifmd-review_en)

Please note that in order to ensure a fair and transparent consultation process **only responses received through the online questionnaire will be taken into account and included in the report summarising the responses.**

This consultation follows the normal rules of the European Commission for public consultations. Responses will be published unless respondents indicate otherwise in the online questionnaire.

Responses authorised for publication will be published on the following webpage:  
[https://ec.europa.eu/info/publications/finance-consultations-2020-aifmd-review\\_en](https://ec.europa.eu/info/publications/finance-consultations-2020-aifmd-review_en)

## INTRODUCTION

In the European Union, alternative investment funds (AIFs) are collective investment funds that are not covered by [Directive 2009/65/EC on undertakings for collective investment in transferable securities \(UCITS\)](#). AIFs vary in terms of their investment strategies, markets, asset types and legal forms. Alternative investment fund managers (AIFMs) manage the AIFs, which are often established for saving or income generating purposes while supporting broader economic activity, include venture capital and private equity funds, real estate funds, hedge funds and fund of funds. The activities of AIFMs are governed by the [alternative investment fund managers Directive 2011/61/EU \(AIFMD\)](#).

The AIFMD aims to facilitate greater AIF market integration, improve coherence in the actions taken by supervisory authorities to address potential risks posed to the financial system while ensuring appropriate levels of investor protection. To this end, an AIFM is required to obtain licence from its home supervisor and adhere to the operational requirements laid down in the AIFMD and its supplementing [AIFMR](#), including taking measures to manage risks and to ensure the requisite transparency regarding the activities of their managed AIFs.

On 10 June 2020, the European Commission submitted its [report to the European Parliament and the Council on the scope and the application of the AIFMD](#). The report concludes that while the AIFMD has contributed to the creation of the EU AIF market, provided a high-level protection to investors and facilitated monitoring of risks to financial stability, there are a number of areas where the legal framework could be improved. Given the European Commission's ongoing efforts to develop the capital markets union (CMU), this consultation seeks the views of stakeholders on how to achieve a more effective and efficient functioning of the EU AIF market as part of the overall financial system.

### Structure of the public consultation

First, this public consultation focuses on improving the utility of the AIFM passport and the overall competitiveness of the EU AIF industry. The analysed data indicates that the appropriate and balanced regulation of financial markets benefits investors as well as the overall economy. The questions in the section on **authorisation/scope** seek views from stakeholders on the scope of the AIFM licence, its potential extension to smaller AIFMs and level playing field concerns in relation to the regulation of other financial intermediaries, like MiFID firms, credit institutions or UCITS managers that provide similar services.

The **investor protection** section raises questions on investor access that take into account the differences between retail and professional investors. The same consideration is raised in the questions on a potential EU law pre-calibration of an AIF that would be suitable for marketing to retail. Adequacy of disclosure requirements are covered including the specific requirements that could be added, changed or removed from the current rulebook. Other questions address the alleged ambiguities in the depositary regime and the lack of the depositary passport. Stakeholders are also invited to comment on potential improvements to the AIFMD rules on valuation.

The issue of a level playing field is also covered in the section dedicated to **international issues**. Views are sought on how best to achieve the equitable treatment of non-EU AIFs and securing a wider choice of AIFs for investors while at the same time ensuring that EU AIFMs are not exposed to unfair competition or are otherwise disadvantaged.

The section dedicated to **financial stability** seeks stakeholder views on how to ensure NCAs and AIFMs have the tools necessary to effectively mitigate and deal with systemic risks. Specific input regarding improvements to the supervisory reporting template provided in the AIFMR is requested with a particular focus on the increased activities of AIFs in the credit market. The consultation suggests the potential for more centralised supervisory reporting and improved information sharing among the relevant supervisors. A revised supervisory setup and

cooperation measures among the competent authorities are another focus of this consultation.

The rules on **investment in private companies** are examined with a view to potential improvements and comments are sought on the effectiveness of the current rules and their potential enhancement.

The **sustainability** related section seeks input on how the alternative investment sector can participate effectively in the areas of responsible investing and the preservation of our planet.

Questions are posed as regards the treatment of **UCITS**, particularly where a more coherent approach may be warranted. This includes the question of a single licence for AIF and UCITS managers, harmonised metrics for leverage calculation and reporting on the use of liquidity management tools.

Finally, stakeholders are welcome to raise other AIFMD related issues and submit proposals on how to otherwise improve the AIFMD legal framework with regard to any issues not directly addressed in the consultation.

Given the broad nature of the questions, well-substantiated, evidence/data backed answers and proposals will be particularly instructive. Clearly linking responses to the contributions already received in the [public consultation reviewing MiFID II](#), informing digital strategy of the EU or any other relevant consultations would be particularly useful.

This public consultation aims to gather views from all interested parties, in particular collective investment fund managers and investment firms, AIF distributors, industry representatives, investors and investor protection associations. The questions 1, 2 and 3 as well as the section Investor protection, except for part (b) thereof, are available in all the EU official languages to gather citizens' views on these matters.

The consultation will be open for fourteen weeks.

## Consultation questions

### CHOOSE YOUR QUESTIONNAIRE

Please indicate whether you wish to respond to the citizens' version (3 general questions and 14 investor protection questions) or full version (102 questions) of the questionnaire.

The short version only covers the general aspects of the AIFMD regime and investor protection matters under the AIFMD.

The full version contains 85 additional questions addressing more technical features of the AIFMD regulatory regime.

Note that only the questions that are part of the short version are also available in all EU languages.

- I want to respond only to the short version of the questionnaire (3 + 14 questions)
- I want to respond to the full version of the questionnaire (102 questions)

## I. FUNCTIONING OF THE AIFMD REGULATORY FRAMEWORK, SCOPE AND AUTHORISATION REQUIREMENTS

The central pillar of the AIFMD regulatory regime is a European licence or a so-called AIFM passport. EU AIFMs are able to manage and market EU AIFs to professional investors across the Union with a single authorisation. This section seeks to gather views on potential improvements to the AIFMD legal framework to facilitate further integration of the EU AIF market. The objective is to look at the specific regulatory aspects where their potential refining could enhance utility of the AIFM passport, gathering data on concrete costs and benefits of the suggested improvements, at the same time ensuring that the investor and financial stability interests are served in the best way. A number of questions focus on the level playing field between AIFMs and other financial intermediaries.

**Question 1. What is your overall experience with the functioning of the AIFMD legal framework?**

- Very satisfied
- Satisfied
- Neutral
- Unsatisfied
- Very unsatisfied
- Don't know / no opinion / not relevant

**Question 2. Do you believe that the effectiveness of the AIFMD is impaired by national legislation or existing market practices?**

- Fully agree
- Somewhat agree
- Neutral
- Somewhat disagree
- Fully disagree
- Don't know / no opinion / not relevant

**Question 2.1 Please explain your answer to question 2, providing concrete examples and data to substantiate it:**

The AIFMD managed to include a significant proportion of financial market participants into a clear and comprehensive regulatory framework within the European Union. Having supervisory oversight of asset managers and alternative investment funds allows effective monitoring of this specific market sector that has impact on the financial market as a whole. While acknowledging areas that require improvement, the AIFMD (as first regulatory rulebook for asset managers) managed to establish a strong framework that yet leaves flexibility to the AIFMs to adapt their own strategies and structural setups. Overall, our experience with the application of the AIFMD as supervisory authority is positive, which is complemented by the feedback we received from our stakeholders. National legislation or existing market practises were adapted to correspond with the requirements of the AIFMD. However, several shortcomings still remain and areas where clear clarification (in particular of the Level I scope) are sought. There is an issue of inconsistent transposition of the AIFMD across the MS that seems to be in the scope of the regulatory framework itself. Therefore, we welcome this review to clarify certain open points.

*5000 character(s) maximum*  
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 3. Please specify to what extent you agree with the statements below:**

**The AIFMD has been successful in achieving its objectives as follows:**

	1 (fully disagree)	2 (somewhat disagree)	3 (neutral)	4 (somewhat agree)	5 (fully agree)	Don't know - No opinion - Not applicable
creating internal market for AIFs	Ⓒ	Ⓒ	Ⓒ	Ⓒ	X	Ⓒ

enabling monitoring risks to the financial stability	©	©	©	X	©	©
providing high level investor protection	©	©	©	X	©	©

**Other statements:**

	1 (fully disagree)	2 (somewhat disagree)	3 (neutral)	4 (somewhat agree)	5 (fully agree)	Don't know - No opinion - Not applicable
The scope of the AIFM license is clear and appropriate	Ⓒ	Ⓒ	Ⓒ	X	Ⓒ	Ⓒ
The AIFMD costs and benefits are balanced (in particular regarding the regulatory and administrative burden)	Ⓒ	Ⓒ	Ⓒ	Ⓒ	Ⓒ	X

The different components of the AIFMD legal framework operate well together to achieve the AIFMD objectives	©	©	©	©	X	©
The AIFMD objectives correspond to the needs and problems in EU asset management and financial markets	©	©	©	X	©	©
The AIFMD has provided EU AIFs and AIFMs added Value	©	©	©	X	©	©

**Question 3.1 Please explain your answer to question 3, providing quantitative and qualitative reasons to substantiate it:**

**As mentioned above, the AIFMD provides for effective means of regulatory oversight of AIFM and AIF across the Union. For market participants, AIF and AIFM are by now established labels that create value to the managers as well. In order to progress and enhance the standing of Europe as a high-quality financial service provider hub, the AIFMD will still need to incorporate certain new developments and adapt to challenges that arose in the application until now.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 4. Is the coverage of the AIFM licence appropriate?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 4.1 What other functions would you suggest adding to the AIFM licence?**

**Please explain your choice also considering related safeguards and requirements, such as protecting against potential conflicts of interest, where appropriate, disadvantages and benefits of the proposed approach:**

**In general, the license of an AIFM is clear and provides for a robust label to be used across the EU and is well accepted outside the Union as well. Considering certain business set-ups of entities, a clear understanding of what is considered to be within or outside the scope of the AIFMD would be beneficial. In particular, project financing between crowdfunding, operational purposes and asset management can be tricky. Facilitating the acquisition of capital under the AIFMD should be one of the main tasks in the interest of a clear and unambiguous scope.**

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including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 5. Should AIFMs be permitted to invest on own account?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 5.1 If yes, what methods and limitations to this possibility should be imposed?**

**Please explain your proposition in terms of conflicts of interest, benefits and disadvantages as well as costs, where possible:**

**If allowed, stringent management of potential conflicts of interest between AIFM and other investors must be assured.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 5.1 Please explain your answer to question 5:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 6. Are securitisation vehicles effectively excluded from the scope of the AIFMD?**

- Yes  
 No  
 Don't know / no opinion / not relevant

**Please explain:**

**Securitisation vehicles are (only) excluded from the scope of the AIFMD if they correspond to securitisation vehicles within the scope of the STS Securitisation Regulation (Regulation (EU) 2017/2402 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation, and amending Directives 2009/65/EC, 2009/138/EC and 2011/61/EU and Regulations (EC) No 1060/2009 and (EU) No 648/2012).**

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including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 6.1. What elements would you suggest introducing into the AIFMD to exclude securitisation vehicles from the scope of the AIFMD more effectively and reducing regulatory arbitrage possibilities?**

**Please explain:**

**As practical experience is limited in this regard, no suggestions can be provided with a reliable sound basis.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 7. Is the AIFMD provision providing that it does not apply to employee participation schemes or employee savings schemes effective?**

- Yes  
 No  
 Don't know / no opinion / not relevant

**Question 7.1 Please explain your answer to question 7:**

**We have not encountered any issues with applying this exception in practice.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 8. Should the AIFM capital requirements be made more risk-sensitive and proportionate to the risk-profile of the managed AIFs?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 8.1 Please explain your answer to question 8, presenting benefits and disadvantages of your approach as well as potential costs:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 9. Are the own funds requirements of the AIFMD appropriate given the existing initial capital limit of EUR 10 million although not less than one quarter of the preceding year's fixed overheads?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 9.1 Please explain your answer to question 9, detailing any suggestion of an alternative policy option, and presenting benefits and disadvantages of the entertained options as well as costs:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 10. Would the AIFMD benefit from further clarification or harmonisation of the requirements concerning AIFM authorisation to provide ancillary services under Article 6 of the AIFMD?**

- Fully agree
- Somewhat agree

- Neutral
- Somewhat disagree
- Fully disagree
- Don't know / no opinion / not relevant

**Question 10.1 Please explain your answer to question 10, presenting benefits and disadvantages of the entertained options as well as costs:**

**Considering that not all AIF invest in financial instruments covered by MiFID II/MiFIR, the services provided by AIFM may specialise in ancillary services outside the traditional scope, such as risk management services for non-financial assets. The AIFMD does not specify the requirements for such ancillary services, yet.**

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including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 11. Should the capital requirements for AIFMs authorised to carry out ancillary services under Article 6 of the AIFMD be calculated in a more risk-sensitive manner?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 11.1 Please explain your answer to question 11, presenting benefits and disadvantages of your suggested approach as well as potential costs of the change, where possible:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 12. Should the capital requirements established for AIFMs carrying out ancillary services under Article 6 of the AIFMD correspond to the capital requirements applicable to the investment firms carrying out identical services?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 12.1 Please explain your answer to question 12, presenting benefits and disadvantages of your suggested approach as well as potential costs of the change, where possible:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 13. What are the changes to the AIFMD legal framework needed to ensure a level playing field between investment firms and AIFMs providing competing services?**

**Please present benefits and disadvantages of your suggested approach as well as potential costs of the change, where possible:**

**Particular requirements for ancillary investment services provided by AIFMs do not appear appropriate. The same requirements pursuant to MiFID II should apply for the same services.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 14. Would you see value in introducing in the AIFMD a Supervisory Review and Evaluation Process (SREP) similar to that applicable to the credit institutions?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 14.1 Please explain your answer to question 14, presenting benefits and disadvantages of your suggested approach as well as potential costs of the change, where possible:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 15. Is a professional indemnity insurance option available under the AIFMD useful?**

- Yes

- No
- Don't know / no opinion / not relevant

**Question 15.1 Please explain your answer to question 15, presenting benefits and disadvantages of your suggested approach as well as potential costs of the change, where possible:**

**We have not encountered any issues with this question in practice.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 16. Are the assets under management thresholds laid down in Article 3 of the AIFMD appropriate?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 16.1 If not, please suggest different thresholds and explain your choice, including benefits and disadvantages of your suggested approach as well as potential costs of the change, where possible:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 17. Does the lack of an EU passport for the sub-threshold AIFMs impede capital raising in other Member States?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 17.1 Please further detail your answer to question 17, substantiating it, also with examples of the alleged barriers:**

**Sub-threshold AIFMs do not adhere to the minimum safeguards provided by the AIFMD. While MS have the option to allow the registration of such entities on a national basis, any cross-border participation on the basis of a passport has to fulfill with the requirements under the AIFMD, foremost the appointment of a depositary. Entities consciously decide whether to offer their services across the Single Market or remain focused on their home MS. Thus, opening up the passport regime to sub-threshold AIFMs would come to the detriment of investors.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 18. Is it necessary to provide an EU level passport for subthreshold AIFMs?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 18.1 If yes, should the regulation of the sub-threshold AIFM differ from the regulation of the full-scope AIFMs under the AIFMD and in which way?**

**Please explain your proposition, including costs/benefits of the proposed approach:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 18.1 Please explain your answer to question 18:**

**Please, refer to question 17.1 above.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 19. What are the reasons for EuVECA managers to opt in the AIFMD regime instead of accessing investors across the EU with the EuVECA label?**

**Please explain your answer:**

In our experience, it is often simpler to establish an AIF that follows similar strategies like an EuVECA but without being bound by the requirements of the EuVECA-R in addition. While having authorised a handful of EuVECA, most inquiries are not followed by a corresponding application under the EuVECA framework but rather shift into the standard AIFMD regime. It has to be noted, that the main advantage of being able to market EuVECA to retail customers in other MS (which is significantly more complicated to a 'normal' AIF) does not seem to have been very successful. EuVECA's are generally more suitable for professional investors due to the limited redemption possibilities and high initial investment.

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 20. Can the AIFM passport be improved to enhance cross-border marketing and investor access?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 20.1 If so, what specific measures would you suggest?**

**Please explain your suggestions, presenting benefits and disadvantages as well as potential costs thereof, where possible:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 20.1 Please explain your answer to question 20:**

**We have not encountered any issues with this question in practice. The passport for AIFM is working fine and cooperation between NCAs is satisfactory.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

## **II. Investor protection**

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The AIFMD aims to protect investors by requiring AIFMs to act with the requisite transparency before and

after investors commit capital to a particular AIF. Conflicts of interest must be managed in the best interest of the investors in the AIF. AIFMs must also ensure that the AIF's assets are valued in accordance with appropriate and consistent valuation procedures established for an each AIF. The AIF assets are then placed in safekeeping with an appointed depository that also oversees AIF's cash flows and ensures regulatory compliance.

Questions in this section cover the topic of investor categorisation referencing to MiFID II, stopping short of repeating the same questions that have been raised in its [recent public consultation on MiFID II](#), rather inviting comments on the most appropriate way forward. Views are also sought on the conditions that would make it possible to open up the AIF universe to a larger pool of investors while considering their varying degrees of financial literacy and risk awareness. Examples of redundant or insufficient investor disclosures are invited.

Greater clarity on stakeholders' views of the AIFMD rules on depositaries is sought in particular where such rules may require clarification or amending. The introduction of the depository passport is desirable from an internal market point of view, but stakeholders are invited to propose other potential legal solutions, if any, that could address the issue of the short supply and concentration of depository services in smaller markets.

### **a) Investor classification and investor access**

**Question 21. Do you agree that the AIFMD should cross-refer to the client categories as defined in the MIFID II (Article 4(1)(ag) of the AIFMD)?**

- Yes
- No
- Don't know / no opinion / not relevant

**If no, how could the investor classification under the AIFMD be improved? Please give examples where possible and present benefits and disadvantages of your suggested approach as well as potential costs of the change:**

*5000 character(s) maximum*  
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 21.1 Please explain your answer to question 21:**

**In the interest of consistency between the frameworks for financial market participants in the Union, the terminology should be standardised as far as possible in order to facilitate the operations of entities on the Single Market. The MiFID II framework applies clear and consistent definitions of client categories, which could be directly transposed into the AIFMD framework for a comprehensive system.**

*5000 character(s) maximum*  
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 22. How AIFM access to retail investors can be improved?**

**Please give examples where possible and present benefits and disadvantages of your suggested approach as well as potential costs of the change:**

MS created individual systems of AIF marketing to retail investors. This is in line with providing an option in the AIFMD to allow retail marketing. We do not see any particular issues of retail marketing by AIFMs besides the need to adhere to different systems in MS. These differences can create complications to AIFMs, but at the same time, they guarantee that an AIFM establishes efficient and appropriate safeguards optimally adopted to the consumer behavior, which are in the interest of investor protection and promoting consumer confidence. However, such safeguards irrespective of harmonised or not harmonised ought to be more appropriate to the particular investment strategy of the AIF type than similar safeguards like in the UCITS regime due to the less regulated and more illiquid AIF markets compared to the UCITS market.

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 23. Is there a need to structure an AIF under the EU law that could be marketed to retail investors with a passport?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 23.1 If yes, what are the requirements that should be imposed on such AIFs?**

**Please give examples where possible and present benefits and disadvantages of your suggested approach as well as potential costs of the change:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 23.1 Please explain your answer to question 23:**

**Most MS provide for the possibility of AIFs being marketed directly to retail investors. However, there are significant differences in the traditional instruments falling under the AIFMD that have been marketed to retail customers across the MS. In a first step of this review, it should be assessed whether there was a shift of instruments retail customers, who now invest in order to cater for their needs and preferences. We strongly suggest that the impact on retail AIFs by the different AIFMD transpositions is analysed before designing a generic AIF / pursuing further investments.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

### **b) depositary regime**

**Question 24. What difficulties, if any, the depositaries face in exercising their functions in accordance with the AIFMD?**

**Please provide your answer by giving concrete examples identifying any barriers and associated costs.**

**The depositary regime for AIF investing in securities works well. Difficulties arise for AIFs investing in non-securitised assets, where existing depositaries, (especially credit institutions) will not step in and where safekeeping of assets is not advanced.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 25. Is it necessary and appropriate to explicitly define in the AIFMD tri-party collateral management services?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 25.1 Please explain your answer to question 25:**

**We suggest clarifying the oversight function.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 26. Should there be more specific rules for the delegation process, where the assets are in the custody of tri-party collateral managers?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 26.1 Please explain your answer to question 26, presenting benefits and disadvantages of your suggested approach as well as potential costs of the change, where possible:**

**The requirement of due diligence processes needs to be clarified, for both, the AIFM and the depositary.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 27. Where AIFMs use tri-party collateral managers' services, which of the aspects should be explicitly regulated by the AIFMD?**

Please select as many answers as you like

- the obligation for the asset manager to provide the depositary with the contract it has concluded with the tri-party collateral manager
- the flow of information between the tri-party collateral manager and the depositary
- the frequency at which the tri-party collateral manager should transmit the positions on a fund-by-fund basis to the depositary in order to enable it to record the movements in the financial instruments accounts opened in its books

no additional rules are necessary, the current regulation is appropriate

other

**Please explain why you think the obligation for the asset manager to provide the depositary with the contract it has concluded with the tri-party collateral manager should be explicitly regulated by the AIFMD.**

**Please present benefits and disadvantages of this approach as well as potential costs of the change, where possible:**

**The depositary needs the information to fulfill the oversight function and in order to properly analyse potential risks. In the current situation, the depositary has no clear legal standing to receive details about the contract between asset manager and tri-party collateral manager.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Please explain why you think the flow of information between the tri-party collateral manager and the depositary should be explicitly regulated by the AIFMD.**

**Please present benefits and disadvantages of this approach as well as potential costs of the change, where possible:**

**The minimum requirements for the flow of information should be clarified in the AIFMD in order to assure a level playing field.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Please explain why you think the frequency at which the tri-party collateral manager should transmit the positions on a fund-by-fund basis to the depositary in order to enable it to record the movements in the financial instruments accounts opened in its books should be explicitly regulated by the AIFMD.**

**Please present benefits and disadvantages of this approach as well as potential costs of the change, where possible:**

**The AIFMD should define a minimum frequency for the information flow. In our view, this minimum frequency should be set as on a daily basis.**

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Please specify what are the other aspect(s) that should be explicitly regulated by the AIFMD.**

**Please present benefits and disadvantages of this/these approach(es) as well as potential costs of the change, where possible:**

**The AIFMD should clarify, that the use of tri-party collateral managers falls within the delegation rules for the portfolio management function. Therefore, the same minimum requirements should be applicable (e.g. authorised entities subject to supervision). The reuse of collateral needs to be aligned with the individual AIF rules, which should be clarified in the contract between asset manager and tri-party collateral managers.**

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 28. Are the AIFMD rules on the prime brokers clear?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 28.1 Please explain your answer to question 28, providing concrete examples of ambiguities and where available suggesting improvements:**

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 29. Where applicable, are there any difficulties faced by depositaries in obtaining the required reporting from prime brokers?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 29.1 Please explain your answer to question 29, providing concrete examples and suggesting improvements to the current rules and presenting benefits and disadvantages of the potential changes as well as**

**costs:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 30. What additional measures are necessary at EU level to address the difficulties identified in the response to the preceding question?**

**Please explain your answer providing concrete examples:**

**No suggestions.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 31. Does the lack of the depositary passport inhibit efficient functioning of the EU AIF market?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 31.1 Please explain your answer to question 31:**

**Considering the possibilities of AIFMs to offer their services across all MS of the EU, AIFMs can choose their domicile freely. Should it be the case that an entity cannot find a depositary in one jurisdiction, the entity can establish itself (or a subsidiary) in another MS as AIFM. However, opening up the passport regime to depositaries may come with significant detriments to efficient supervision by splitting up the relevant NCAs for AIFMs and depositaries. Down the road, a depositary passport will not open up competition of depositaries but rather limit the number of entities offering depositary services. This will come to the detriment of investors of AIFs.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 32. What would be the potential benefits and risks associated with the introduction of the depositary passport?**

**Please explain your position, presenting benefits and disadvantages of your suggested approach as well as potential costs of the change, where possible:**

**The biggest risk arises from the centralisation of depositary services to a small number of players in few Member States since difficulties to supervise cross-border will increase. The concentration on a small number of depositaries will add to systemic risk (creating players too big to fail).**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 33. What barriers are precluding introducing the depositary passport?**

**Please explain your position providing concrete examples and evidence, where available, of the existing impediments:**

**The most important points concern concentration risk and cross-border supervision (please, refer to question 32 above).**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 34. Are there other options that could address the lack of supply of depositary services in smaller markets?**

**Please explain your position presenting benefits and disadvantages of your suggested approach as well as potential costs of the change:**

**Authorisation and direct supervision of depositaries acting with a passport could be transferred to ESMA.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 35. Should the investor CSDs be treated as delegates of the depositary?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 35.1 Please explain your answer to question 35, providing**

**concrete examples and suggesting improvements to the current rules and presenting benefits and disadvantages as well as costs:**

**We do not see any reasons for CSDs performing depositary tasks to not comply with the depositary rules under the AIFMD. The ESMA guidance on this point (Q&As were issued) specifies that the scope of the CSDR does not cover the same function. Therefore, the exemption for CSDs should only be applicable in relation to issuer CSDs. For all other services (in particular for investor CSDs), the CSD should adhere to the depositary requirements under the AIFMD framework. This should be clarified in the AIFMD.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**c) transparency and conflicts of interest**

**Question 36. Are the mandatory disclosures under the AIFMD sufficient for investors to make informed investment decisions?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 36.1 If not, what elements of the mandatory disclosures under the AIFMD could be amended?**

**Please explain your position presenting benefits and disadvantages of the potential changes as well as costs:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 37. What elements of mandatory disclosure requirements, if any, should differ depending on the type of investor?**

**Please explain your position, presenting benefits and disadvantages of the potential changes as well as costs:**

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 38. Are there any additional disclosures that AIFMs could be obliged to make on an interim basis to the investors other than those required in the annual report?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 38.1 Please explain your answer to question 38, presenting benefits and disadvantages of the potential changes as well as costs:**

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 39. Are the AIFMD rules on conflicts of interest appropriate and proportionate?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 39.1 If not, how could the AIFMD rules on conflicts of interest be amended?**

**Please provide your suggestions, presenting benefits and disadvantages of the potential changes as well as costs:**

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 40. Are the AIFMD rules on valuation appropriate?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 40.1 Please explain your answer to question 40, presenting**

**benefits and disadvantages of the potential changes as well as costs:**

**A clarification on the negligence of external valuers (Art 19(10) AIFMD) should be provided.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 41. Should the AIFMD legal framework be improved further given the experience with asset valuation during the recent pandemic?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 41.1 Please explain your answer to question 41, presenting benefits and disadvantages of the potential changes as well as costs:**

**Additional valuation models have to be in place and tested so that a switch under stressed conditions is possible.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 42. Are the AIFMD rules on valuation clear?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 42.1 Please explain your answer to question 42:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 43. Are the AIFMD rules on valuation sufficient?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 43.1 Please explain your answer to question 43, explaining what rules on valuation are desirable to be included in the AIFMD legal**

**framework:**

**In general, the rules are adequate; however, some improvements with regard to the areas covered above would be advisable.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 44. Do you consider that it should be possible in the asset valuation process to combine input from internal and external valuers?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 44.1 Please substantiate your answer to question 44, also in terms of benefits, disadvantages and costs:**

**Sub-delegation of certain valuation tasks should be possible. However, this needs a clear distinction between the responsibilities and liabilities of the different players.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 45. In your experience, which specific aspect(s) trigger liability of a valuer?**

**Please provide concrete examples, presenting costs linked to the described occurrence:**

**In our experience, only gross negligence triggers liability of external valuers. In our supervisory activity, we found that most contracts of AIFMs with external valuers exclude any other level of negligence.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 46. In your experience, what measures are taken to mitigate/offset the liability of valuers in the jurisdiction of your choice?**

**Please provide concrete examples, presenting benefits and disadvantages as well as costs of the described approach:**

**Contractual arrangements, coverage by insurance and detailed description of tasks are preferred in order to mitigate rather than offset the liability of valuers.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

### **III. International relations**

Considering the global nature of financial services, the AIFMD interacts with the third country regulatory regimes. By adopting the AIFMD the EU co-legislators sought to put in place a legal framework for tackling risks emanating from AIF activities that may impact the EU financial stability, market integrity and investor protection. The questions below are seeking views on where to strike the balance of having a functioning, efficient AIF market and ensuring that it operates under the conditions of a fair competition without undermining financial stability. Besides posing general questions on the competitiveness of the EU AIF market, this section seeks views on how the EU market could interact with international partners in the area governed by the AIFMD. The focus is on the appropriateness of the AIFMD third country passport regime and delegation rules.

**Question 47. Which elements of the AIFMD regulatory framework support the competitiveness of the EU AIF industry?**

**Please explain providing concrete examples and referring to data where available:**

**It is our perception that the AIFMD framework provides for a label for European asset managers that is recognised throughout the industry. Striving for a level-playing-field for asset managers with clear and robust regulation in the interest of investor protection helps to support the competitiveness of the EU AIF industry. In particular, the common ground for the managers without restricting the establishment of AIF or the development of new investment strategies helped creating a market for AIFs that is comparable between MS and trusted by the investors. Specifically, the safeguards provided by the AIFMD framework, such as clear obligations on the depositary, the valuation of assets and robust risk management requirements, are significant advantages to stand out as trustworthy participants in the financial market.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 48. Which elements of the AIFMD regulatory framework could be altered to enhance competitiveness of the EU AIF industry?**

**Please explain providing concrete examples and referring to data where available:**

The AIFMD established a sound regulatory framework for entities that were not regulated prior to the entry into force of the legal act. Therefore, this review should carefully assess whether competitiveness of the EU AIF industry is rooted in regulatory shortcomings before hastily amending the requirements for AIFMs and AIFs. On one hand, it is crucial to allow AIFMs to act flexibly and swiftly and recognise that the AIF sector traditionally targets professional investors (although this is not equally the case for all AIF types). On the other hand, the safeguards of the AIFMD are equally important to guarantee investor protection and to maintain the trust of investors in this sector. Deregulation alone will drive us further away from competitiveness as well as hamper the development of an even stronger AIF sector in the EU.

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 49. Do you believe that national private placement regimes create an uneven playing field between EU and non-EU AIFMs?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 49.1 If you believe there is an uneven playing field between EU and non-EU AIFMs, which action would you suggest to address the issue?**

**Please explain your choice, presenting benefits and disadvantages of the potential changes to the AIFMD as well as potential costs associated with your preferred option:**

**National private placement regimes are the residue of the AIFMD scope, as the cross-border-rules of the AIFMD focus on the marketing of AIFs in different MS. AIFMs are free to passport their services into other MS according to the AIFMD. The AIFMD achieved this goal. However, creating Union-wide rules for private placement regimes bears the risk of overregulating this market sector. It is our position that this review should rather focus on improving the situation for entities regulated in the EU.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 50. Are the delegation rules sufficiently clear to prevent creation of letter-box entities in the EU?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 50.1 Please explain your answer to question 50:**

**In our experience, a vast proportion of AIFMs rely on significant and substantial delegation arrangements. While this may have its advantages and justifications, it is crucial to maintain core services within the AIFM as regulated entity. The review should therefore clarify the relation of core services, i.e. portfolio management and risk management, and the permissibility of outsourcing/delegation in the interest of establishing a common understanding within the EU.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 51. Are the delegation rules under the AIFMD/AIFMR appropriate to ensure effective risk management?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 51.1 Please explain your answer to question 51, presenting benefits and disadvantages of the current rules and where available providing concrete examples substantiating your answer:**

**Delegation to non-authorised entities should be clarified, especially for AIFs not investing in securities.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 52. Should the AIFMD/AIFMR delegation rules, and in particular Article 82 of the Commission Delegated Regulation (EU) No 231/2013, be complemented?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 52.1 Should the delegation rules be complemented with:**

Please select as many answers as you like

- quantitative criteria
- a list of core or critical functions that would be always performed internally and may not be delegated to third parties
- other requirements

**Please explain why you think the AIFMD/AIFMR delegation rules should be complemented with quantitative criteria, presenting benefits and disadvantages of the potential changes as well as costs:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Please explain why you think the AIFMD/AIFMR delegation rules should be complemented with a list of core or critical functions, presenting benefits and disadvantages of the potential changes as well as costs:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Please explain with what other requirements the AIFMD/AIFMR delegation rules should be complemented, presenting benefits and disadvantages of**

**the potential changes as well as costs:**

**Regulation of both, the delegation of operational tasks (IT) as well as marketing and distribution need clarification.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 53. Should the AIFMD standards apply regardless of the location of a third party, to which AIFM has delegated the collective portfolio management functions, in order to ensure investor protection and to prevent regulatory arbitrage?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 53.1 Please explain your answer to question 53:**

**In order to maintain a level-playing-field in the interest of investor protection, we consider it to be crucial that the location of a third party does not come into play with regard to complying with the AIFMD standards and safeguards.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 54. Do you consider that a consistent enforcement of the delegation rules throughout the EU should be improved?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 54.1 Please explain your answer to question 54, presenting benefits and disadvantages of the current rules and where available providing concrete examples substantiating your answer:**

**In order to maintain a level-playing-field in the interest of investor protection, we consider it to be crucial that the location of a third party does not come into play with regard to complying with the AIFMD standards and safeguards. One major element in this regard is to ensure consistent enforcement.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 55. Which elements of the AIFMR delegation rules could be applied to UCITS?**

**Please explain your position, presenting benefits and disadvantages of the potential changes as well as costs:**

**Rules regarding delegation of operational tasks (IT), marketing and distribution may be applied due to the lack of clarification within the AIFM Framework.**

**Delegation rules in the AIFMD and UCITS framework ought to be consistent where feasible. Thus, the detailed rules of the UCITS framework should be introduced to the AIFMD as well. Please refer to our answers to questions 51 and 52.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

## **IV. Financial stability**

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One of the main objectives of the AIFMD is to enable supervisors to appreciate and mitigate systemic risks building up in financial markets from different sources. To this end, AIFMs are subject to periodic reporting obligations and supervisors are equipped with certain market intervention powers to mitigate negative effects to the financial stability that may arise from the activities on the AIF market.

The section below invites opinions whether the intervention powers and a tool-kit available to the relevant supervisors are sufficient in times of severe market disruptions. Shared views on the adequacy of the AIFMR supervisory reporting template will be important in rethinking the AIFM supervisory reporting obligations. According to the FSB report, markets for leveraged loans and CLOs have grown significantly in recent years exceeding pre-crisis levels ([FSB, Vulnerabilities associated with leveraged loans and collateralised loan obligations \(CLOs\), PLEN/2019/91 -REV, 22 November 2019](#)). While most leveraged loans are originated and held by banks, investment funds are also exposed to the leveraged loan and CLO markets. In order to assess risks to the financial stability and regulatory implications associated with leveraged loans and CLOs it would be commendable to continue collecting the relevant data and monitoring the market. The stakeholders are invited to cast their views on the matter.

With particular regard to the loan originating AIFs, suggestions on the optimal harmonisation of the rules that could apply to these collective investment vehicles are welcome. Finally, questions are raised whether

leverage calculation methods could benefit from further standardisation of metrics across the AIF market and potentially also across the UCITS for the supervisors to have a complete picture of the level of leverage engaged by the collective investment funds.

### **a) macroprudential tools**

**Question 56. Should the AIFMD framework be further enhanced for more effectively addressing macroprudential concerns?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 56.1 If yes, which of the following amendments to the AIFMD legal framework would you suggest?**

Please select as many answers as you like

- Improving supervisory reporting requirements
- harmonising availability of liquidity risk management tools for AIFMs across the EU
- further detailing cooperation of the NCAs in case of activating liquidity risk management tools, in particular in situations with cross-border implications
- further clarifying grounds for supervisory intervention when applying macroprudential tools
- defining an inherently liquid/illiquid asset
- granting ESMA strong and binding coordination powers in market stress situations
- other

**Please explain why you would suggest improving supervisory reporting requirements.**

**Please present benefits and disadvantages of the potential changes as well as costs:**

In general, EU level supervisory reporting requirements such as the AIFMD reporting (Article 24 AIFMD) has contributed significantly to improving the analysis of systemic risks (Article 25 AIFMD). It enables competent authorities to identify the extent to which the use of leverage contributes to the build-up of systemic risk in the financial system, risks of disorderly markets or risks to the long-term growth of the economy. Most of the reporting requirements are relevant for the purposes of supervision. However, there is room for improvement with respect to specific reporting information included in the AIFMD reporting requirements.

Further, supervisory reporting requirements in similar fields of supervision have not been harmonised to the same extent (e.g. UCITS Directive and AIFMD). While AIFMD-reporting is harmonised on the EU level, regulatory reporting requirements for investment funds under the UCITS Directive currently remain within the discretion of NCAs. The introduction of harmonised UCITS reporting (arguably, simpler than AIFMD reporting) for supervisory and systemic risk analysis might contribute to a market wide risk analysis of the European investment fund sector (as recommended by the ESRB, see <https://www.esrb.europa.eu/news/pr/date/2018/html/esrb.pr180214.en.html>).

*5000 character(s) maximum*  
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Please explain why you would suggest harmonising availability of liquidity risk management tools for AIFMs across the EU.**

*5000 character(s) maximum*  
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Please present benefits and disadvantages of the potential changes as well as costs:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Please explain why you would suggest further detailing cooperation of the NCAs in case of activating liquidity risk management tools, in particular in situations with cross-border implications.**

**Please present benefits and disadvantages of the potential changes as well as costs:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Please explain why you would suggest further clarifying grounds for supervisory intervention when applying macroprudential tools.**

**Please present benefits and disadvantages of the potential changes as well as costs:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Please explain why you would suggest defining an inherently liquid/illiquid asset.**

**Please present benefits and disadvantages of the potential changes as well as costs:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Please explain why you would suggest granting ESMA strong and binding coordination powers in market stress situations.**

**Please present benefits and disadvantages of the potential changes as well as costs:**

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Please explain what other amendments to the AIFMD legal framework you would suggest.**

**Please present benefits and disadvantages of the potential changes as well as costs:**

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 56.1 Please explain your answer to question 56:**

In general, EU level supervisory reporting requirements such as the AIFMD reporting (Article 24 AIFMD) has contributed significantly to improving the analysis of systemic risks (Article 25 AIFMD). It enables competent authorities to identify the extent to which the use of leverage contributes to the build-up of systemic risk in the financial system, risks of disorderly markets or risks to the long-term growth of the economy. Most of the reporting requirements are relevant for the purposes of supervision. However, there is room for improvement with respect to specific reporting information included in the AIFMD reporting requirements.

Further, supervisory reporting requirements in similar fields of supervision have not been harmonised to the same extent (e.g. UCITS Directive and AIFMD). While AIFMD-reporting is harmonised on the EU level, regulatory reporting requirements for investment funds under the UCITS Directive currently remain within the discretion of NCAs. The introduction of harmonised UCITS reporting (arguably, simpler than AIFMD reporting) for supervisory and systemic risk analysis might contribute to a market wide risk analysis of the European investment fund sector (as recommended by the ESRB, see <https://www.esrb.europa.eu/news/pr/date/2018/html/esrb.pr180214.en.html>).

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 57. Is there a need to clarify in the AIFMD that the NCAs' right**

**to require the suspension of the issue, repurchase or redemption of units in the public interest includes financial stability reasons?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 57.1 Please explain your answer to question 57, presenting benefits and disadvantages of the potential changes to the existing rules and processes as well as costs:**

**In our understanding, the public interest includes financial stability reasons.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 58. Which data fields should be included in a template for NCAs to report relevant and timely data to ESMA during the period of the stressed market conditions?**

**Please provide your suggestions, presenting benefits and disadvantages of the potential changes as well as costs:**

**No suggestions.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 59. Should AIFMs be required to report to the relevant supervisory authorities when they activate liquidity risk management tools?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 59.1 Please explain your answer to question 59, providing costs, benefits and disadvantages of the advocated approach:**

The supervision of liquidity risks is an important task for supervisors, in particular during times of market stress. For this purpose, NCAs need to know when funds activate any liquidity risk management tools. The requirement to report to NCAs when AIFM activate liquidity management tools would only be of a minor burden for AIFMs but would greatly improve the information necessary for supervisors. In fact, in the (current) COVID-19 situation in the course of 2020, ESMA implemented an ad-hoc reporting framework with NCAs on the activation of liquidity risk management tools of funds, which has been an important source of information for supervision and market oversight.

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 60. Should the AIFMD rules on remuneration be adjusted to provide for the de minimis thresholds?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 60.1 Please explain your answer to question 60, suggesting thresholds and justification thereof, if applicable:**

In line with banking regulation, and the corresponding de minimis thresholds therewithin, we support AIFMD rules on remuneration to provide for de minimis thresholds in order to clarify and facilitate the application of such requirements. The FMA already published a circular to provide details on how to engage in respect to AIFM remuneration policies and boni falling under the de minimis thresholds (the circular is available only in German: <https://www.fma.gv.at/download.php?d=2179>).

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

#### **b) supervisory reporting requirements**

**Question 61. Are the supervisory reporting requirements as provided in the AIFMD and AIFMR's Annex IV appropriate?**

- Fully agree
- Somewhat agree
- Neutral

- Somewhat disagree
- Fully disagree
- Don't know / no opinion / not relevant

**Question 61.1 Please explain your answer to question 61:**

Most of the reporting requirements are relevant for the purposes of supervision. However, there is room for improvement with respect to specific reporting information included in the AIFMD reporting requirements. These are:

- Key figures include data on leverage and liquidity of AIFs. However, the correct calculation of gross and commitment leverage and Assets under Management (AuM) figures appears to be complex for many reporting entities. They should be explicitly defined and consistent with each other. Explanations of the differences in the calculations and relations among AuM, Net Asset Value (NAV), Gross and Commitment leverage might be helpful to lead to a common approach. In this context, the ratio AuM/NAV might be considered as a proxy for leverage from an economic point of view.
- The calculation of the risk measures in the risk profile section (Annex IV Delegated Regulation (EU) 231/2013) of the AIFMD reporting (e.g., Net Equity Delta, Net DV01, Net CS01, VaR) is not standardised and varies from Member State to Member State. A common EU risk analysis may not be achieved without a standardised risk measure calculation, and AIFMs have to calculate them differently for different NCAs in the reporting, which is burdensome and costly for AIFMs.
- Stress test scenario results might only be of limited use in the current form. For the purpose of risk analysis, standardised stress scenarios with quantitative results to be reported instead of open text questions would be preferred.
- For the purpose of systemic risk analysis, further country breakdowns (at least domestic vs. non-domestic) could be introduced to better assess systemic risks within a jurisdiction.
- The majority of AIFs (mostly equity and bond funds) is reported as AIF type „other“. It might be meaningful to reconsider the AIF type categories.

- The different reporting frequencies and reporting information for AIFMs and AIFs (quarterly/half-yearly/yearly) appear to be complex and burdensome to monitor and might be reconsidered. Currently, a full market analysis can be conducted only on annual data while most AIFMs/AIFs report quarterly or half-annually.
- The calculations for “commitment leverage” (AIFMD framework) and “commitment method” (UCITS framework) are different, whereby the similar terminology leads to misunderstandings.
- The instruments traded and individual exposures should also account for crypto assets.

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 61.1 If you disagree that the supervisory reporting requirements as provided in the AIFMD and AIFMR’s Annex IV appropriate, it is because of:**

Please select as many answers as you like

- overlaps with other EU laws
- the reporting coverage is insufficient
- the reporting coverage is superfluous
- other

**Please detail as much as possible your answer providing examples of the overlaps.**

**Where possible, please provide concrete examples and where relevant information on costs and benefits in changing the currently applicable reporting requirements:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Please detail as much as possible your answer providing examples of the insufficient reporting coverage.**

**Where possible, please provide concrete examples and where relevant information on costs and benefits in changing the currently applicable**

**reporting requirements:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Please detail as much as possible your answer providing examples of the superfluous reporting coverage.**

**Where possible, please provide concrete examples and where relevant information on costs and benefits in changing the currently applicable reporting requirements:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Please specify for what other reason the supervisory reporting requirements as provided in the AIFMD and AIFMR's Annex IV are not appropriate.**

**Where possible, please provide concrete examples and where relevant information on costs and benefits in changing the currently applicable reporting requirements:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 62. Should the AIFMR supervisory reporting template provide a more comprehensive portfolio breakdown?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 62.1 If yes, the more detailed portfolio reporting should be achieved by:**

Please select as many answers as you like

- a full portfolio reporting by relevant identifier as provided for statistical

purposes

- a more granular geographical breakdown of exposures (e.g. at country level) by asset classes, investors, counterparties, and sponsorship arrangements
- requiring more details on leverage
- requiring more details on liquidity
- requiring more details on sustainability-related information, e.g. risk exposure and/or impacts
- other

**Please explain why you think the more detailed portfolio reporting should be achieved by a full portfolio reporting by relevant identifier as provided for statistical purposes.**

**Please include concrete examples and, where possible, provide information on the benefits, disadvantages and costs of implementing this proposition:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Please explain why you think the more detailed portfolio reporting should be achieved by more granular geographical breakdown of exposures by asset classes, investors, counterparties, and sponsorship arrangements.**

**Please include concrete examples and, where possible, provide information on the benefits, disadvantages and costs of implementing this proposition:**

**For the purpose of systemic risk analysis, further country breakdowns (at least domestic vs. non-domestic) could be introduced to better assess systemic risks within a jurisdiction. However, a complete analysis can only be attained by a full list of individual exposures.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Please explain why you think the more detailed portfolio reporting should be achieved by requiring more details on leverage.**

**Please include concrete examples and, where possible, provide information on the benefits, disadvantages and costs of implementing this proposition:**

*5000 character(s) maximum*  
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Please explain why you think the more detailed portfolio reporting should be achieved by requiring more details on liquidity.**

**Please include concrete examples and, where possible, provide information on the benefits, disadvantages and costs of implementing this proposition:**

*5000 character(s) maximum*  
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Please explain why you think the more detailed portfolio reporting should be achieved by requiring more details on sustainability-related information.**

**Please include concrete examples and, where possible, provide information on the benefits, disadvantages and costs of implementing this proposition:**

*5000 character(s) maximum*  
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Please explain by what other ways you think the more detailed portfolio reporting should be achieved.**

**Please include concrete examples and, where possible, provide information on the benefits, disadvantages and costs of implementing this proposition:**

*5000 character(s) maximum*  
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 63. Should the identification of an AIF with a LEI identifier be mandatory?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 63.1 Please explain your answer to question 63, presenting benefits and disadvantages as well as costs associated with introducing such a requirement:**

**For the purpose of analysis, LEI is necessary to identify AIF.**

**In order to enable cross linking of various reporting regimes (e.g. AIFMD reporting and EMIR) and following the industry concerns for more streamlining across reporting regimes it would be necessary to use the same identifier in all upcoming regimes or where there is a review ongoing. As EMIR is already in place since 2014 and already uses mandatory LEI for the reporting counterparties (in the context at hand the funds are counterparties to the trade pursuant to EMIR definitions) it would be beneficial if AIFMD reporting is carried out using this identifier.**

**In addition, the ESRB recommended that Union legislation, which imposes an obligation on legal entities to report financial information, should state an obligation to identify by using the means of a LEI (cf. Recommendation of the European Systemic Risk Board of 24 September 2020 on identifying legal entities (ESRB/2020/12), OJ C 403, 26.11.2020, p. 1).**

*5000 character(s) maximum*

*including spaces and line breaks, i.e. stricter than the MS Word characters counting method.*

**Question 64. Should the identification of an AIFM with a LEI identifier be mandatory?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 64.1 Please explain your answer to question 64, presenting benefits and disadvantages as well as costs associated with introducing such a requirement:**

For the purpose of analysis, LEI is necessary to identify AIFMs.

In order to enable cross linking of various reporting regimes (e.g. AIFMD reporting and EMIR) and following the industry concerns for more streamlining across reporting regimes, it would be necessary to use the same identifier in all upcoming regimes or where there is a review ongoing. As fund managing companies are currently identified i. e. in financial instrument reference data pursuant to Article 27 of MiFIR (FIRDS), it would be beneficial to use this identifier and enable users to combine various data sources.

In addition, the ESRB recommended that Union legislation, which imposes an obligation on legal entities to report financial information, should state an obligation to identify by using the means of a LEI (cf. Recommendation of the European Systemic Risk Board of 24 September 2020 on identifying legal entities (ESRB/2020/12), OJ C 403, 26.11.2020, p. 1).

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 65. Should the use of an LEI identifier for the purposes of identifying the counterparties and issuers of securities in an AIF's portfolio be mandatory for the Annex IV reporting of AIFMR?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 65.1 Please explain your answer to question 65, presenting benefits and disadvantages as well as costs associated with introducing such a requirement:**

For the purpose of analysis, LEI is necessary to identify counterparties.

As outlined in our answer to question 64, currently management companies that issue instruments listed on European Trading Venues are already identified with LEIs. As outlined in our answer to question 63, counterparties to a derivative contract reportable pursuant to Article 9 of EMIR or to a transaction reportable pursuant to Article 26 of MiFIR are already identified with LEIs. Following the general desire to streamline various reporting regimes we support to use the established identifier, namely the LEI.

**In addition, the ESRB recommended that Union legislation, which imposes an obligation on legal entities to report financial information, should state an obligation to identify by using the means of a LEI (cf. Recommendation of the European Systemic Risk Board of 24 September 2020 on identifying legal entities (ESRB/2020/12), OJ C 403, 26.11.2020, p. 1).**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 66. Does the reporting data adequately cover activities of loan originating AIFs?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 66.1 Please explain your answer to question 66:**

**In general, the reporting data cover any form of investment strategy.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 66.1. If not, what data fields should be added to the supervisory reporting template:**

Please select as many answers as you like

- loans originated by AIFs
- leveraged loans originated by AIFs
- other

**Please explain why you think loans originated by AIFs should be added as a data fields to the supervisory reporting template, providing information on the benefits, disadvantages and costs of implementation:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Please explain why you think leveraged loans originated by AIFs should be added as a data fields to the supervisory reporting template, providing information on the benefits, disadvantages and costs of implementation:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Please explain what other data field(s) should be added to the supervisory reporting template, providing information on the benefits, disadvantages and costs of implementation:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 67. Should the supervisory reporting by AIFMs be submitted to a single central authority?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 67.1 Please explain your answer to question 67:**

**Based on our experience, maintaining a close relationship with reporting entities is important in order to achieve high data quality.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 67.1 If yes, which one:**

- ESMA
- other options

**Please explain your choice, particularly substantiating 'other options', and provide information, where available, on the benefits, disadvantages and costs of implementing each proposition:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 68. Should access to the AIFMD supervisory reporting data be granted to other relevant national and/or EU institutions with responsibilities in the area of financial stability?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 68.1 Please explain your answer to question 68:**

**As the competent authority of the AIFM's home Member State, Article 23 AIFMG (Alternatives Investmentfonds Manager-Gesetz, Austrian transposition of the AIFMD) states that the Austrian FMA is required to forward the information collected in accordance with Article 22 of the AIFMG to the Austrian National Bank (OeNB). Furthermore, Article 23 of the AIFMG (similar to Article 25 of the AIFMD) includes the provision of collected information to ESMA and ESRB. Providing data to other EU institutions has to be based on reasonable justification. Against this backdrop, no change of the current situation is warranted.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 68.1 If yes, please specify which one:**

- ESRB
- ECB
- NCBs
- National macro-prudential authorities
- Other

**Please specify to which other relevant national and/or EU institutions the access to the AIFMD supervisory reporting data should be granted:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 68.2 Please explain your answer to question 68.1:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 69. Does the AIFMR template effectively capture links between financial institutions?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 69.1 If not, what additional reporting should be required to better capture inter-linkages between AIFMs and other financial intermediaries?**

**Please provide your suggestion(s) providing information on the costs, benefits and disadvantages of each additional reporting:**

**In most cases, only the main exposures are to be reported. A complete link can only be attained by a full list of individual exposures.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 69.1 Please explain your answer to question 69:**

**Please, see above.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 70. Should the fund classification under the AIFMR supervisory reporting template be improved to better identify the type of AIF?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 70.1 If yes, the AIF classification could be improved by:**

Please select as many answers as you like

- permitting multiple choice of investment strategies in the AIFMR template
- adding additional investment strategies
- other
- it cannot be improved, however, if a portfolio breakdown is provided to the supervisors this can be inferred

**Please explain why you think the AIF classification could be improved by**

**per mitting multiple choice of investment strategies in the AIFMR template, providing information, where available, on the costs, benefits and disadvantages of this option:**

*5000 character(s) maximum*  
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Please explain why you think the AIF classification could be improved by adding additional investment strategies, providing information, where available, on the costs, benefits and disadvantages of this option:**

**The majority of AIFs (mostly equity and bond funds) are reported as AIF type „other“. It might be beneficial to reconsider the AIF type categories.**

*5000 character(s) maximum*  
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Please explain by what other ways the AIF classification could be improved, providing information, where available, on the costs, benefits and disadvantages of this option:**

*5000 character(s) maximum*  
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Please explain why you think the AIF classification cannot be improved unless a portfolio breakdown is provided to the supervisors. Please provide information, where available, on the costs, benefits and disadvantages of this option:**

*5000 character(s) maximum*  
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 70.1 Please explain your answer to question 70:**

*5000 character(s) maximum*  
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 71. What additional data fields should be added to the AIFMR supervisory reporting template to improve capturing risks to financial stability:**

- value at Risk (VaR)
- additional details used for calculating leverage
- additional details on the liquidity profile of the fund's portfolio
- details on initial margin and variation margin
- the geographical focus expressed in monetary values
- the extent of hedging through long/short positions by an AIFM/AIF expressed as a percentage
- liquidity risk management tools that are available to AIFMs
- data on non-EU master AIFs that are not marketed into the EU, but which have an EU feeder AIF or a non-EU feeder marketed into the EU if managed by the same AIFM
- the role of external credit ratings in investment mandates
- LEIs of all counterparties to provide detail on exposures
- sustainability-related data, in particular on exposure to climate and environmental risks, including physical and transition risks (e.g. shares of assets for which sustainability risks are assessed; types and magnitudes of risks; forward-looking, scenario-based data)
- other

**Please explain why value at Risk (VaR) should be added to the AIFMR supervisory reporting template, providing as much detail as possible and relevant examples as well as the costs, benefits and disadvantages of this option:**

**While the reporting of VaR is already recommended by ESMA Opinion 2013/1340, VaR is not mandatory for each AIF offered (VaR might not be relevant for some fund classes such as Private Equity funds and Real Estate funds). VaR is an important key risk indicator for market oversight and the supervision of risk exposures.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Please explain why additional details on the liquidity profile of the fund's portfolio should be added to the AIFMR supervisory reporting template, providing as much detail as possible and relevant examples as well as the costs, benefits and disadvantages of this option:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Please explain why details on initial margin and variation margin should be added to the AIFMR supervisory reporting template, providing as much detail as possible and relevant examples as well as the costs, benefits and disadvantages of this option:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Please explain why the geographical focus expressed in monetary values should be added to the AIFMR supervisory reporting template, providing as much detail as possible and relevant examples as well as the costs, benefits and disadvantages of this option:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Please explain why the extent of hedging through long/short positions by an AIFM/AIF expressed as a percentage should be added to the AIFMR supervisory reporting template, providing as much detail as possible and relevant examples as well as the costs, benefits and disadvantages of this option:**

**Additional details used for calculating leverage and the extent of hedging through long/short positions by an AIFM/AIF expressed as a percentage would be of great value for supervisors. This is true, because at this time only the overall level of leverage is included in the reporting information and the source of leverage (derivatives, SFTs, borrowing) is not known for all AIFs. This would also improve the monitoring of the consistency of different leverage figures in the data quality management and improve overall data quality.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Please explain why data on non-EU master AIFs that are not marketed into the EU, but which have an EU feeder AIF or a non-EU feeder marketed into the EU if managed by the same AIFM should be added to the AIFMR supervisory reporting template, providing as much detail as possible and**

**relevant examples as well as the costs, benefits and disadvantages of this option:**

*5000 character(s) maximum*  
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Please explain why LEIs of all counterparties to provide detail on exposures should be added to the AIFMR supervisory reporting template, providing as much detail as possible and relevant examples as well as the costs, benefits and disadvantages of this option:**

**LEIs are necessary for all counterparties, from which the exposure arises, in order to assess counterparty risks for systemic risk analysis. Based on the included information in the current framework, this cannot be done sufficiently.**

*5000 character(s) maximum*  
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Please explain why sustainability-related data, in particular on exposure to climate and environmental risks, including physical and transition risks should be added to the AIFMR supervisory reporting template, providing as much detail as possible and relevant examples as well as the costs, benefits and disadvantages of this option:**

*5000 character(s) maximum*  
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 72. What additional data fields should be added to the AIFMR supervisory reporting template to better capture AIF’s exposure to leveraged loans and CLO market?**

**Please explain your answer providing as much detail as possible and relevant examples as well as the costs, benefits and disadvantages:**

**No suggestions.**

*5000 character(s) maximum*  
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 73. Should any data fields be deleted from the AIFMR supervisory reporting template?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 73.1 Please explain your answer to question 73, presenting the costs, benefits and disadvantages of each data field suggested for deletion:**

*5000 character(s) maximum*  
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 74. Is the reporting frequency of the data required under Annex IV of the AIFMR appropriate?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 74.1 Please explain your answer to question 74, presenting the costs, benefits and disadvantages for a suggested change, if any:**

**The different reporting frequencies and reporting information for AIFMs and AIFs (quarterly/half-annually/annually) appear to be complex and burdensome to monitor and might be reconsidered. Currently, a full market analysis can be conducted only on annually provided data while most AIFMs/AIFs report quarterly or half-annually.**

*5000 character(s) maximum*  
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 75. Which data fields should be included in a template requiring AIFMs to provide ad hoc information in accordance with Article 24(5) of the AIFMD during the period of the stressed market in a harmonised and proportionate way?**

**Please explain your answer presenting the costs, benefits and disadvantages of implementing the suggestions:**

**No suggestions.**

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 76. Should supervisory reporting for UCITS funds be introduced?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 76.1 Please explain your answer to question 78, also in terms of costs, benefits and disadvantages:**

Supervisory reporting requirements in similar fields of supervision have not been harmonised to the same extent (e.g. UCITS Directive and AIFMD). While AIFMD-reporting is harmonised on the EU level, regulatory reporting requirements for investment funds under the UCITS Directive currently remain within the discretion of NCAs. The introduction of harmonised UCITS reporting (arguably, simpler than AIFMD reporting) for supervisory and systemic risk analysis might contribute to a market wide risk analysis of the European investment fund sector (as recommended by the ESRB, see <https://www.esrb.europa.eu/news/pr/date/2018/html/esrb.pr180214.en.html>).

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 77. Should the supervisory reporting requirements for UCITS and AIFs be harmonised?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 77.1 Please explain your answer to question 79, also in terms of costs, benefits and disadvantages:**

The introduction of harmonised UCITS reporting (arguably, simpler than AIFMD reporting) for supervisory and systemic risk analysis might contribute to a market wide risk analysis of the European investment fund sector.

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 78. Should the formats and definitions be harmonised with other reporting regimes (e.g. for derivatives and repos, that the AIF could report using a straightforward transformation of the data that they already have to report under EMIR or SFTR)?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 78.1 If yes, please explain your response indicating the benefits and disadvantages of a harmonisation of the format and definitions with other reporting regimes:**

**In general, the lack of integration between supervisory reporting and other areas of reporting leads to duplication and overlaps of data to be reported. In the long-run, a “multi-use of data” approach should be implemented, meaning that data once reported can be re-used to fulfill as many different reporting requirements as possible.**

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

### **c) leverage**

**Question 79. Are the leverage calculation methods - gross and commitment - as provided in AIFMR appropriate?**

- Fully agree
- Somewhat agree
- Neutral
- Somewhat disagree
- Fully disagree
- Don't know / no opinion / not relevant

**Question 79.1 Please explain your answer to question 79 in terms of the costs, benefits and disadvantages:**

**Key figures include data on leverage and liquidity of AIFs. However, the correct calculation of gross and commitment leverage and AuM figures appears to be complex for many reporting entities. They should be explicitly defined and consistent to each other. Explanations of the differences in the calculations and relations among AuM, NAV, Gross and Commitment leverage might be helpful to lead to a common approach.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 80. Should the leverage calculation methods for UCITS and AIFs be harmonised?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 80.1 If yes, what leverage calculation methods should be chosen to be applied for both UCITS and AIFs?**

**Please explain your proposal, indicating the difficulties, costs and benefits of applying such methodology(ies) to both UCITS and AIFs:**

**Based on our experience, different leverage calculations have different interpretations and advantages. We have no preference with regards to a specific single leverage measure. However, in our view it is of utmost importance that they are explicitly defined and consistent to each other.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 80.1 Please explain your answer to question 80:**

**The similar terminology for “commitment leverage” (AIFMD framework) and “commitment method” (UCITS framework) is misleading, as their calculation methods are different.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 81. What is your assessment of the two-step approach as suggested by International Organisation of Securities Commissions (‘IOSCO’) in the [Framework Assessing Leverage in Investment Funds published in December 2019](#) to collect data on the asset by asset class to**

**assess leverage in AIFs?**

**Please provide it, presenting costs, benefits and disadvantages of implementing the IOSCO approach:**

**No opinion.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 82. Should the leverage calculation metrics be harmonised at EU level?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 82.1 Please explain your answer to question 82, presenting the costs, benefits and disadvantages of your chosen approach:**

**As mentioned above (please, refer to question 80.1), the similar terminology for “commitment leverage” (AIFMD framework) and “commitment method” (UCITS framework) is misleading, as their calculation methods are different.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 83. What additional measures may be required given the reported increase in CLO and leveraged loans in the financial system and the risks those may present to macro-prudential stability?**

**Please provide your suggestion(s) including information, where available, on the costs and benefits, advantages and disadvantages of the proposed measures:**

**No suggestions.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 84. Are the current AIFMD rules permitting NCAs to cap the use of leverage appropriate?**

- Yes

- No
- Don't know / no opinion / not relevant

**Question 84.1 Please explain your answer to question 84, in terms of the costs, benefits and disadvantages:**

*5000 character(s) maximum*  
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 85. Should the requirements for loan originating AIFs be harmonised at EU level?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 85.1 Please explain your answer to question 85:**

**Please, refer to the ESMA Opinion on Loan Origination Funds from 11 April 2016 for more details ([https://www.esma.europa.eu/sites/default/files/library/2016-596\\_opinion\\_on\\_loan\\_origination.pdf](https://www.esma.europa.eu/sites/default/files/library/2016-596_opinion_on_loan_origination.pdf)).**

*5000 character(s) maximum*  
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 85.1 If yes, which of the following options would support this harmonisation:**

Please select as many answers as you like

- limit interconnectedness with other financial intermediaries
- impose leverage limits
- impose additional organisational requirements for AIFMs
- allow only closed-ended AIFs to originate loans
- provide for certain safeguards to borrowers
- permit marketing only to professional investors
- impose diversification requirements
- impose concentration requirements
- other

**Please explain why you think limiting interconnectedness with other**

**financial intermediaries would support this harmonisation.**

**Please provide information, where available, on the costs and benefits, advantages and disadvantages of this option. Concrete examples are welcome:**

*5000 character(s) maximum*  
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Please explain why you think imposing leverage limits would support this harmonisation.**

**Please provide information, where available, on the costs and benefits, advantages and disadvantages of this option. Concrete examples are welcome:**

*5000 character(s) maximum*  
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Please explain why you think imposing additional organisational requirements for AIFMs would support this harmonisation.**

**Please provide information, where available, on the costs and benefits, advantages and disadvantages of this option. Concrete examples are welcome:**

*5000 character(s) maximum*  
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Please explain why you think allowing only closed-ended AIFs to originate loans would support this harmonisation.**

**Please provide information, where available, on the costs and benefits, advantages and disadvantages of this option. Concrete examples are welcome:**

*5000 character(s) maximum*  
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Please explain why you think providing for certain safeguards to borrowers would support this harmonisation.**

**Please provide information, where available, on the costs and benefits, advantages and disadvantages of this option. Concrete examples are welcome:**

*5000 character(s) maximum*  
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Please explain why you think permitting marketing only to professional investors would support this harmonisation.**

**Please provide information, where available, on the costs and benefits, advantages and disadvantages of this option. Concrete examples are welcome:**

*5000 character(s) maximum*  
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Please explain why you think imposing diversification requirements would support this harmonization.**

**Please provide information, where available, on the costs and benefits, advantages and disadvantages of this option. Concrete examples are welcome:**

*5000 character(s) maximum*  
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Please explain why you think imposing concentration requirements would support this harmonisation.**

**Please provide information, where available, on the costs and benefits, advantages and disadvantages of this option. Concrete examples are welcome:**

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Please explain what other option would support this harmonisation.**

**Please provide information, where available, on the costs and benefits, advantages and disadvantages of this option. Concrete examples are welcome:**

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

## **V. Investing in private companies**

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The AIFMD rules regulating investing in private companies aim to increase transparency and accountability of collective investment funds holding controlling stakes in non-listed companies. This section seeks insights whether these provisions are delivering on the stated objectives and whether there are other ways to achieve those objectives more efficiently and effectively. Private equity industry has been growing for years from a few boutique firms to € 3,7 T global industry. The questions are raised therefore whether the AIFMD contains all the relevant regulatory elements that are fit for purpose.

**Question 86. Are the rules provided in Section 2 of Chapter 5 of the AIFMD laying down the obligations for AIFMs managing AIFs, which acquire control of non-listed companies and issuers, adequate, proportionate and effective in enhancing transparency regarding the employees of the portfolio company and the AIF investors?**

- Fully agree
- Somewhat agree
- Neutral
- Somewhat disagree
- Fully disagree
- Don't know / no opinion / not relevant

**Question 86.1 Please explain your answer to question 86, providing concrete examples and data, where available:**

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 87. Are the AIFMD rules provided in Section 2 of Chapter 5 of the AIFMD whereby the AIFM of an AIF, which acquires control over a non-listed company, is required to provide the NCA of its home Member State with information on the financing of the acquisition necessary, adequate and proportionate?**

- Fully agree
- Somewhat agree
- Neutral
- Somewhat disagree
- Fully disagree
- Don't know / no opinion / not relevant

**Question 87.1 Please explain your answer to question 87, providing concrete examples and data, where available:**

*5000 character(s) maximum*  
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 88. Are the AIFMD provisions against asset stripping in the case of an acquired control over a non-listed company or an issuer necessary, effective and proportionate?**

- Fully agree
- Somewhat agree
- Neutral
- Somewhat disagree
- Fully disagree
- Don't know / no opinion / not relevant

**Question 88.1 Please explain your answer to question 88, providing concrete examples and data, where available:**

*5000 character(s) maximum*  
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 89. How can the AIFMD provisions against asset stripping in the case of an acquired control over a non-listed company or an issuer be**

improved?

**Please provide your suggestion(s) including information, where available, on the costs and benefits, advantages and disadvantages of the proposed measures:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

## VI. Sustainability/ESG

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Integrating sustainability factors in the portfolio selection and management has a double materiality perspective, in line with the [non-financial reporting directive \(2014/95\)](#) and the [European Commission's 2017 non-binding guidelines on non-financial](#). Financial materiality refers in a broad sense to the financial value and performance of an investment. In this context, sustainability risks refer to potential environmental, social or governance events or conditions that if occurring could cause a negative material impact on the value of the investment. For example, physical risks from the consequences of climate change may concern a single investment/company, e.g. due to potential supply chain disruptions or scarcity of raw materials, and may concern welfare losses for the economy as a whole. Non-financial materiality, also known as environmental and social materiality, refers to the impacts of an investment/corporate activity on the environment and society (i.e. negative externalities). Still, there is also a financial dimension to non-financial materiality. Notably, so-called transition risks arise from an insufficient consideration for environmental materiality, for instance due to potential policy changes for mitigating climate change (e.g. to regulatory frameworks, incentive structures, carbon pricing), shifts of supply chains and end-demand, as well as stakeholder actions for mitigating climate change.

The [disclosure regulation 2019/2088](#) requires a significant part of the financial services market, including AIFMs, to integrate in their processes, including in their due diligence processes, assessment of all relevant sustainability risks that might have a material negative impact on the financial return of an investment or advice. However, at the moment AIFMs are not required to integrate the quantification of sustainability risks. Regulatory technical standards under the disclosure regulation 2019/2088 will specify principal adverse impacts to be quantified or described. This section seeks to gather input permitting better understand and assess the appropriateness of the AIFMD rules in assessing the sustainability risks.

**Question 90. The [disclosure regulation 2019/2088](#) defines sustainability risks, and allows their disclosures either in quantitative or qualitative terms.**

**Should AIFMs only quantify such risks?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 90.1 Please substantiate your answer to question 90, also in terms of benefits, disadvantages and costs as well as in terms of available data:**

**AIFMs should at least quantify sustainability risks. AIFMs should be able to quantify such risks; an additional qualitative explanation would also improve disclosures.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 91. Should investment decision processes of any AIFM integrate the assessment of non-financial materiality, i.e. potential principal adverse sustainability impacts?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 91.1 Please substantiate your answer to question 91, also in terms of benefits, disadvantages and costs. Please make a distinction between adverse impacts and principal adverse impacts and consider those types of adverse impacts for which data and methodologies are available as well as those where the competence is nascent or evolving:**

**In the spirit of the Disclosure Regulation, and applying the principle of proportionality, AIFMs should integrate the assessment of potential principal adverse sustainability impacts.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 92. Should the adverse impacts on sustainability factors be integrated in the quantification of sustainability risks (see the example in the introduction)?**

- Fully agree
- Somewhat agree
- Neutral
- Somewhat disagree
- Fully disagree
- Don't know / no opinion / not relevant

**Question 92.1** If you agree, please explain how and at which level the adverse impacts on sustainability factors should be integrated in the quantification of sustainability risks (AIFM or financial product level etc.).

Please explain your answer including concrete proposals, if any, and costs, advantages and disadvantages associated therewith. Please make a distinction between adverse impacts and principal adverse impacts and consider those types of adverse impacts for which data and methodologies are available as well as those where the competence is nascent or evolving

At this level, we do not have any concrete proposals yet. Indeed, in the spirit of the Disclosure Regulation, the principle of proportionality should be applied. Further, it should be noted that the approach of the integration of potential principal adverse sustainability impacts appears to be novel in financial market regulation. In this context, based on our understanding, adverse sustainability impacts (potential impacts/risks of investment decisions on sustainability factors) have to be distinguished from sustainability risks (potential impacts/risks of sustainability factors on asset values). Latter should be considered and clearly defined to prevent methodical misunderstandings.

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 92.1** Please explain your answer to question 92:

If feasible and by applying the principle of proportionality, adverse impacts on sustainability factors should also be integrated in the quantification of sustainability risks.

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 93.** Should AIFMs, when considering investment decisions, be required to take account of sustainability-related impacts beyond what is currently required by the EU law (such as environmental pollution and degradation, climate change, social impacts, human rights violations) alongside the interests and preferences of investors?

Yes

No

- No, ESMA's current competences and powers are sufficient
- Don't know / no opinion / not relevant

**Question 93.1 If so, how should AIFMs be required to take account of the long-term sustainability and social impacts of their investment decisions?**

**Please explain.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 93.1 Please explain your answer to question 93:**

**AIFMs should be required to take account of what is required by EU law (such as the Disclosure Regulation). Further and stricter requirements in comparison to other financial sectors would lead to a fragmentation of requirements.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 94. The [EU Taxonomy Regulation 2020/852](#) provides a framework for identifying economic activities that are in fact sustainable in order to establish a common understanding for market participants and prevent green-washing. To qualify as sustainable, an activity needs to make a substantial contribution to one of six environmental objectives, do no significant harm to any of the other five, and meet certain social minimum standards. In your view, should the EU Taxonomy play a role when AIFMs are making investment decisions, in particular regarding sustainability factors?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 94.1 Please explain your answer to question 94:**

**The EU Taxonomy should play a role when AIFMs are making investment decisions. However, it should not be mandatory for any AIFM.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 95. Should other sustainability-related requirements or international principles beyond those laid down in Regulation (EU) 2020/852 be considered by AIFMs when making investment decisions?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 95.1 Please explain your answer to question 95, describing sustainability-related requirements or international principles that you would propose to consider.**

**Please indicate, where possible, costs, advantages and disadvantages associated therewith:**

**AIFMs should be able to voluntarily consider any additional requirements or principles. In our opinion, a mandatory application should not be applicable to AIFMs (only) since this would lead to a fragmentation of financial markets.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

## **VII. Miscellaneous**

This section contains a few questions on the competences and powers of supervisory authorities. It also opens up the floor for any other comments of the stakeholders on the AIFMD related regulatory issues that are raised in the preceding sections. Respondents are invited to provide relevant data to support their remarks/proposals.

**Question 96. Should ESMA be granted additional competences and powers beyond those already granted to them under the AIFMD?**

Please select as many answers as you like

- entrusting ESMA with authorisation and supervision of all AIFMs
- entrusting ESMA with authorisation and supervision of non-EU AIFMs and AIFs
- enhancing ESMA's powers in taking action against individual AIFMs and AIFs where their activities threaten integrity of the EU financial market or stability the financial system

- enhance ESMA's powers in getting information about national supervisory practices, including in relation to individual AIMF and AIFs
- no, there is no need to change competences and powers of ESMA
- other

**Please explain why you think ESMA should be entrusted with authorisation and supervision of all AIFMs.**

**Please present costs, advantages and disadvantages associated with the chosen option. Concrete examples substantiating your answer are welcome:**

**In our opinion, there is no need to change the competences and powers of ESMA, for the following reasons:**

**ESMA's main role should remain in ensuring a level-playing-field for AIFMs active in the European market by providing valuable guidance in the form of Q&As, Guidelines, and other convergence tools. ESMA also coordinates common supervisory actions that have the potential of digging into specific supervisory issues in a coordinated manner. Considering the new convergence power bestowed upon ESMA by the ESAs-Review, ESMA has the obligation and means to identify supervisory issues and areas that merit clarification to guarantee a common understanding of the AIFMD framework across the Union. We are of the opinion, that ESMA has the competences and powers needed to fulfil its tasks. However, taking into account that a significant proportion of AIFMs are comparably small entities active on the financial market, NCAs are better suited to perform direct supervisory tasks. Thus, ESMA's coordination role should be fostered and improved, while keeping the supervisory expertise in the NCAs, which know the specificities of their market best.**

*5000 character(s) maximum*

*including spaces and line breaks, i.e. stricter than the MS Word characters counting method.*

**Please explain why you think ESMA should be entrusted with authorisation and supervision of non-EU AIFMs and AIFs.**

**Please present costs, advantages and disadvantages associated with the chosen option. Concrete examples substantiating your answer are**

**welcome:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Please explain why you think ESMA's powers should be enhanced in taking action against individual AIMFs and AIFs where their activities threaten integrity of the EU financial market or stability the financial system.**

**Please present costs, advantages and disadvantages associated with the chosen option. Concrete examples substantiating your answer are welcome:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Please explain why you think ESMA's powers should be enhanced in getting information about national supervisory practices, including in relation to individual AIMF and AIFs.**

**Please present costs, advantages and disadvantages associated with the chosen option. Concrete examples substantiating your answer are welcome:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Please explain with what other additional competences and powers ESMA should be granted.**

**Please present costs, advantages and disadvantages associated with the chosen option. Concrete examples substantiating your answer are welcome:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 97. Should NCAs be granted additional powers and competences beyond those already granted to them under the AIFMD?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 97.1 Please explain your answer to question 97, providing information, where available, on the costs and benefits, advantages and disadvantages of implementing your suggestion:**

**In our experience, the AIFMD framework provides for clear competences of NCAs and cooperation between NCAs in different MS. The powers of NCAs have to be aligned with the changes proposed by the AIFMD-Review. However, we have not experienced any major issues regarding the powers under the AIFMD so far.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 98. Are the AIFMD provisions for the supervision of intra-EU cross-border entities effective?**

- Fully agree
- Somewhat agree
- Neutral
- Somewhat disagree
- Fully disagree
- Don't know / no opinion / not relevant

**Question 98.1 Please explain your answer to question 98, providing concrete examples:**

In general, the supervision of EU-AIFMs and EU-AIFs active in several MS increases, as opposed to the supervision of AIFs and AIFMs active only domestically. The AIFMD created an effective framework with clear responsibilities that works reasonably well. There are, however, situations where certain activities of entities are interpreted differently by NCAs. Consideration has to be given to the CBDF-initiative that tackled a good proportion of these issues, in particular questions surrounding marketing regimes and auxiliary services. For the AIFMD-Review it should be taken into consideration that these new provisions were not yet tested over a longer period of time. Thus, any changes thereof will come without robust experience and insights of what to amend. Considering the questions on implementing a depositary passport into the AIFMD framework, these supervisory arrangements will be stressed even more as there are potentially three or more main NCAs involved in supervising the activity of the AIF, the AIFM, the depositary, and the marketing in different MS. This complexity can become a burden for investors in the time of distress.

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including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 99. What improvements to intra-EU cross-border supervisory cooperation would you suggest?**

**Please provide your answer presenting costs, advantages and disadvantages associated with the suggestions:**

In our opinion, the cooperation of NCAs works reasonably well in standard supervisory cases. Most issues we encountered were connected to inconsistencies of the scope, which are natural considering the developments on the market. In the interest of not being overly descriptive in the regulatory requirements in order to not hamper innovation, certain inconsistencies may be unavoidable. However, NCAs and ESMA alike are working together on multiple initiatives in order to maintain a high level of supervision and investor protection. Improvements of the cooperation regime should be closely linked to the changes proposed to the AIFMD framework to ensure responsibilities are clearly allocated to the closest NCA and cooperation is facilitated and encouraged.

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 100. Should the sanctioning regime under the AIFMD be changed?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 100.1 Please explain your answer to question 100, substantiating your answer in terms of costs/benefits/advantages, if possible:**

**In order to foster harmonization and convergence in the sanctioning regime within the scope of ESMA, an extension of sanctions regarding legal entities should be considered.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 101. Should the UCITS and AIFM regulatory frameworks be merged into a single EU rulebook?**

- Yes
- No
- Don't know / no opinion / not relevant

**Question 101.1 Please explain your answer to question 101, in terms of costs, benefits and disadvantages:**

**UCITS and AIF (as well as their managers) should be as closely aligned as possible regarding the requirements for the supervised entities, while acknowledging their individual specificities. The general safeguards, in particular regarding the depositary and risk management, should be aligned to facilitate the activity of asset managers managing UCITS and AIF as well. From a purely regulatory perspective, the recent developments of both, the UCITS and AIFM framework, usually were initiated on the level of the AIFMD. This resulted in the peculiar situation that certain provisions in the AIFMD (although targeted at professional investors) were stricter than under the UCITS regime. Regardless of whether both frameworks will be merged into one single rulebook, the frameworks should be seen as complementing each other where possible and feasible.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 102. Are there other regulatory issues related to the proportionality, efficiency and effectiveness of the AIFMD legal framework?**

**Please detail your answer, substantiating your answer in terms of costs /benefits/advantages, where possible:**

**Supervisory powers concerning sub-threshold AIFM appear to be necessary.**

**No other regulatory issues are to be raised.**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.