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European Commission
Directorate-General for Financial Stability, Financial Services and Capital Markets Union
1049 Brussels
Belgium

By email

15 December 2023

RE: Targeted consultation on the implementation of the Sustainable Finance Disclosures Regulation

Dear Sir or Madam,

The Alternative Investment Management Association ("AIMA")[1] appreciates the opportunity to respond to the European Commission's consultation on the Sustainable Finance Disclosures Regulation ("SFDR")[2] review.

AIMA welcomes the European Commission's twin aims of encouraging capital flows towards sustainable projects and of reducing the risk of greenwashing to retail investors through the SFDR. SFDR has had a broadly positive impact on the alternative investment industry since its implementation in 2021 which we welcome. For alternative investment managers, the regime has put sustainability considerations front of mind and for investors it has increased transparency around the integration of sustainability risks in investment decisions. It has also provided a framework and clear boundaries within which the sustainable investment industry should operate.

At the same time, it is evident from AIMA's global membership base that the implementation of SFDR has required a significant investment of time, effort and financial resources. This has

[1] The Alternative Investment Management Association (AIMA) is the global representative of the alternative investment industry, with around 2,100 corporate members in over 60 countries. AIMA's fund manager members collectively manage more than US$3 trillion in hedge fund and private credit assets. AIMA draws upon the expertise and diversity of its membership to provide leadership in industry initiatives such as advocacy, policy and regulatory engagement, educational programmes and sound practice guides. AIMA works to raise media and public awareness of the value of the industry. AIMA set up the Alternative Credit Council (ACC) to help firms focused in the private credit and direct lending space. The ACC currently represents over 250 members that manage over US$1 trillion of private credit assets globally. AIMA is committed to developing skills and education standards and is a co-founder of the Chartered Alternative Investment Analyst designation (CAIA) – the first and only specialised educational standard for alternative investment specialists. AIMA is governed by its Council (Board of Directors).

[2] Available at www.finance.ec.europa.eu/regulation-and-supervision/consultations/finance-2023-sfdr-implementation_en

impacted alternative investment firms' operating and staffing costs and is likely to have led to increased costs for investors over the short-term, something that has been amplified by successive changes to report templates. The European Commission has separately acknowledged that the SFDR is not working as well as it could, with Commissioner McGuiness explaining that the Commission is "learning by doing"[3]. The SFDR review consultation itself also states most notably that the use of the disclosures as de facto product labels is operating contrary to the regulation's intention and has led to concerns of greenwashing – the opposite of what the regulation has been seeking to achieve. AIMA members have expressed further concerns about the utility of entity and website-level disclosures, the inflexibility of Principal Adverse Impact (PAIs) disclosures and the broader failure of SFDR to accommodate the wide range of alternative investment managers' sustainable investment strategies.

We do not question the usefulness of a sustainable finance disclosure framework – AIMA fully supports high standards in sustainable finance regulation and the aims of the SFDR. What is increasingly apparent, however, is that improvements to the current regime would ensure the SFDR operates more as the European Commission originally intended. Improvements would make disclosures less burdensome for alternative investment managers, reduce confusion among retail consumers of sustainable finance products and encourage greater capital flows towards a wide range of sustainable projects. It is from this perspective that AIMA, and the global members we represent, have responded to the SFDR review consultation.

As a summary of our response to the consultation, AIMA:

- believes that the SFDR is not currently flexible enough to cover all asset classes and all investment strategies. Transition assets, in particular, are not well catered for by the current regime despite playing an important role in the sustainable transition. The SFDR should cover all investment strategies and encourage capital flows into all sustainable projects, including transition assets.

- recommends that entity-level disclosures and website disclosures be removed from the regime. These currently place a significant reporting cost and administrative burden on alternative investment managers while providing little information of value to investors. Investors understand that firms manage multiple products with different investment strategies and that they are investing in individual products not the financial market participant itself.

- advises that product-level PAI disclosures be reformed so that they are subject to materiality assessments. Managers should be able to report a coverage metric for PAI indicators in light of continuing ESG data gaps which prevent more comprehensive disclosures.

- supports the continuation of SFDR as a disclosure-based regime. Product categorisation, if introduced, should sit as a separate regime alongside SFDR and be aimed principally at retail investors.

- urges the European Commission not to make SFDR more rigid by introducing minimum standards in disclosures, particularly under Article 8 and 9. Alternative investment managers pursue a variety of investment strategies and minimum standards are likely to

[3] Mairead McGuiness, Commissioner for Financial Services, Webinar: the Sustainability Finance Disclosure Regulation - what next?, 10.10.2023

limit investment in sustainable funds over the short to medium-term. If introduced at all, they should only be included as part of product categories.

- urges the European Commission not to make SFDR more rigid by introducing uniform disclosure. Uniform disclosure runs the risk of misleading investors who may think a product is making a sustainable claim or holds sustainable characteristics when neither is the case. We would also question the value of a playing field if a large proportion of products return 'nil' disclosures because they have no sustainability characteristics.

- recommends that the definition of sustainable investment as outlined in the European Commission's Q&A from April 2023 remain but with further flexibility to fully take into account the role of transition assets in sustainable investments.

- does not believe that strict regulation around fund names would be desirable, particularly because we believe that product categories should be optional. Managers who choose not to use product categories should still be permitted to use sustainable product terms.

- believes that closed ended funds which were fully closed as at the date of SFDR II's application should benefit from a grandfathering regime where they are optionally exempt from the requirements of SFDR II provided that they continue to disclose in line with the requirements of SFDR I – this would ensure that investors continue to receive the information they seek without requiring firms to make costly updates to templates.

We have provided more detailed comments on each of the issues in the consultation online.

AIMA wishes to see a durable and workable sustainable investment framework in the EU and we are keen to engage with the European Commission as it reviews the SFDR to achieve this aim.

If you would like to discuss any aspect of our submission further, please contact Thomas Sharpe (tsharpe@aima.org) and Adam Jacobs-Dean (ajacobs-dean@aima.org).

Yours faithfully,

/s/ Adam Jacobs-Dean
Managing Director and Global Head of Markets, Governance and Innovation
AIMA