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European Commission
Rue de la Loi, 200
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Submitted via web portal

29 January 2021

Dear Sirs,

AIMA and ACC Response to Public Consultation on the Review of the AIFMD

The Alternative Investment Management Association Limited (AIMA)[1] and the Alternative Credit Council[2] (ACC) appreciate the opportunity to respond to the European Commission's "Public consultation on the review of the alternative investment fund managers directive (AIFMD)".

The AIMA and the ACC's membership includes alternative investment fund managers ('AIFMs') established in the EU ('EU AIFMs') as well as AIFMs established in third countries ('non-EU AIFMs'). The AIFMD framework is the main regulatory framework under which our members operate in the EU and any potential change to this framework will directly affect our members' operations and activities.

Our members note that the AIFMD review happens in a particular context with important challenges ahead, both for the financial industry itself and for the European and global economy in general. The materialisation of Brexit has certainly created, and will continue to create, an additional layer of uncertainty and fragmentation which will impact our members' activities as most of them are operating on global, or at least cross-border, basis. Furthermore, the current economic context linked to the aftermath of the Covid-19 pandemic is very much uncertain and it

1 AIMA, the Alternative Investment Management Association, is the global representative of the alternative investment industry, with more than 1,900 corporate members in over 60 countries. AIMA's fund manager members collectively manage more than $2 trillion in 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. 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). For further information, please visit AIMA's website, www.aima.org.

2 The ACC represents over 170 members that manage more than $400 billion of private credit assets. ACC members provide an important source of funding to the economy by providing finance to mid-market corporates, small and mid-sized enterprises, commercial and residential real estate developments, infrastructure, as well the trade and receivables business. The ACC's core objectives are to provide direction on policy and regulatory matters, support wider advocacy and educational efforts, and generate industry research with the view to strengthening the sector's sustainability and wider economic and financial benefits.

is probable that the economic impact of the health crisis will last for years. Finally, the restructuring of industry practices in relation to the EU's sustainable finance initiative is likely to take up significant operational and compliance resources in the next several years, further reducing the industry's capacity to engage with potential structural changes related to a significant reform of the AIFMD framework.

Against this background, the European Commission ('Commission') has confirmed the importance of developing and supporting the growth of EU capital markets.[3] Fund managers, and notably AIFMs, are an essential component of the EU Capital Markets Union ('CMU') project and, if the plan is to increase liquidity and volumes of EU capital markets, we feel that a clear decision should be taken to consider how and whether the review of the AIFMD can support the development and activities of fund managers in EU capital markets.

Although we understand that the AIFMD review was foreseen in the AIFMD itself and that the Commission is simply following the legislative procedure by launching this consultation, our strong recommendation is to comprehensively assess whether changes to the AIFMD framework are actually needed. Indeed, our members' widely shared concern is that any attempt to change, clarify or "improve" the framework might create more uncertainties in the legal framework, generate more operational costs to apply the changes and ultimately reduce bandwidth to focus on what our members do best: provide liquidity on capital markets, contribute to a diverse, vibrant, open and ultimately trustworthy economic environment and/or directly finance corporates, from large blue-chip companies to local SMEs.

We feel that, among a multiplicity of factors, what EU capital markets need in order to grow is to provide a sense of stability, openness and transparency to their users. These three elements are vital for a successful and robust capital market and we would very much caution against adding further restrictions on fund managers operating in the EU as this would go against the ultimate objective of developing EU capital markets.

Structure of our answer

We used the online form provided by the Commission to answer the consultation. In instances where the response chosen did not allow a justification, we have added some additional considerations in Annex I to this letter. These have been numbered in line with the related questions rather than necessarily sequentially within Annex I. Annex II of this letter is a copy of AIMA's March 2020 position paper on AIFMD systemic risk reporting, as we reference this paper in our responses to the online consultation.

Although we feel a number of matters raised in the consultation paper relate to perceived issues that we do not believe are substantial enough to warrant a change, should a change nevertheless be considered by the Commission in those areas, we will be pleased to contribute to the discussions.

[3] See European Commission's Capital Markets Union new action plan, 24 September 2020.

High-level principles underpinning our answer

We provide in this cover letter a summary of the key topics addressed in the consultation. A few baseline principles are guiding our answers throughout, which can be summarised as follows:

- **We do not believe any substantial revisions to the AIFMD, which has been assessed as efficient and robust by both the industry and policymakers, are needed, nor justified**. Technical fixes, if any, can be addressed via changes to supervisory guidance or practices and/or changes to Commission Delegated Regulation (EU) No 231/2013 (the 'AIFMR').

- **The AIFMD has been designed as a "manager" directive, rather than as a "financial product" directive** for the main reason that the alternative investment management industry covers many different types of AIFs. Because the definition of AIF encompasses any fund that is not a UCITS regardless of where and in what form the fund has been established, a product directive like UCITS would have faced an impossibly large and diverse universe collection of entities, many established outside the EU, making one regulatory framework at the level of the fund unworkable. Recital 10 of the AIFMD recognises this difficulty, stating that "[i]t would be disproportionate to regulate the structure or composition of the portfolios of AIFs managed by AIFMs at Union level and it would be difficult to provide for such extensive harmonisation due to the very diverse types of AIFs managed by AIFMs". We strongly recommend that the AIFMD remains focused on the duties of the manager of the AIF and therefore advise keeping any discussion around specific financial products outside of the AIFMD review. These comments are particularly relevant to the matter of creating an AIF accessible to retail investors.

- **No specific framework for loan funds should be established within the AIFMD**. To do so would represent a significant departure from the "manager directive" approach that has proved to be an effective means of supervising a diverse sector by promoting a robust and consistent regulatory framework. In addition, loan funds do not pose any unique supervisory risks or concerns in relation to financial stability that cannot be addressed using tools currently available to supervisors within the AIFMD. Most loan funds operate in private markets, use closed-ended structures, are unlevered or employ modest levels of leverage and almost exclusively serve professional investors who are themselves prudentially supervised. While non-bank lending is increasing in the EU, it is still a relatively small industry, approximately €200bn compared to corporate lending of more than €5tn by Eurozone banks. It is essential that the EU cultivates additional sources of non-bank finance to support the development of the CMU. Introducing a framework for loan funds will hinder this objective by undermining regulatory stability and reducing the incentives for non-bank lenders to invest in the EU. Policymakers should instead focus on enhancing the ELTIF regime and reducing other barriers that prevent the non-bank lending sector from playing a full role in the financing of the European economy.

- For the same reason, **we do not support the proposal to merge or fully harmonise the AIFMD and UCITS regulatory frameworks**. The UCITS Directive is a "product"-focused directive and should not be put on the same footing as the AIFMD, or vice versa. Merging the UCITS and AIFM regulatory frameworks into a single EU rulebook runs the significant risk of three outcomes: (i) a too permissive UCITS regime, (ii) a too restrictive AIFMD regime, or (iii) a highly complicated rulebook full of caveats, carveouts and exceptions.

Key considerations

I) International relations

Our members appreciate some essential elements of the AIFMD that support the alternative investment industry's competitiveness. The AIFMD is viewed as an open framework permitting managers authorised as investment managers in other countries to market their funds in the EU. Some key aspects support the competitiveness of EU AIFMs: (i) the marketing "passport" which allows AIFs to be marketed to professional investors across the EU; (ii) the well-established outsourcing and delegation model; and (iii) the fact that the AIFMD is not "product"-based regulation enables greater flexibility and innovation.

As regards the topic of delegation, our members fully rely on the possibility to delegate some functions such as portfolio management to expertise located anywhere in the world to efficiently serve their clients. They view the delegation of functions under the AIFMD as strictly regulated in order to avoid any "letter-box entity" by Article 20 of the AIFMD and related portions of the AIFMR which have recently been reinforced with detailed and prescriptive guidance from the European Securities and Markets Authority (ESMA).[4] It is natural for supervisory procedures to evolve over time as new requirements are applied and national competent authorities ('NCAs') gain experience of how market practice has been impacted. This supervisory evolution has also been guided by the 2017 ESMA opinions and our members have recently seen the effects of this supervisory evolution through further specific guidance in the form of CSSF Circular 18/698[5] and the CBI Fund Management Companies Guidance,[6] for example. Similar evolutionary processes have also been experienced with other NCAs. However, the fact that supervisory processes have evolved forcing AIFM practices to evolve as well should not be taken as an indication that the regulatory framework for delegation in the AIFMD also needs to change. Furthermore, our view is that delegation also allows fund managers to benefit from economies of scale, specialisation and access to an adequate pool of service providers as they are able to domicile their operations in financial centres which offer this ecosystem. This is ultimately beneficial to the CMU project and to the EU investors. Using restrictions on delegation to artificially increase fund management activities in various EU capitals risks resulting in further frictions and costs in fund managers operations, which would be

[4] Opinion to support supervisory convergence in the area of investment management in the context of the UK withdrawing from the EU, ESMA, July 2017 – available at: https://www.esma.europa.eu/document/opinion-support-supervisory-convergence-in-area-investment-management-in-context-united.

[5] CSSF Circular 18/698 Re: Authorisation and organisation of investment fund managers incorporated under Luxembourg law, August 2018 – available at: https://www.cssf.lu/wp-content/uploads/files/Lois_reglements/Circulaires/Hors_blanchiment_terrorisme/cssf18_698eng.pdf.

[6] CBI Thematic review of fund management companies' governance, management and effectiveness, October 2020 – available at: https://www.centralbank.ie/docs/default-source/regulation/industry-market-sectors/funds/industry-communications/dear-chair-letter---thematic-review-of-fund-management-companies-governance-management-and-effectiveness---20-october-2020.pdf.

detrimental for the end investor, as well as in further fragmentation of the market, ultimately defeating the purpose of the CMU.

As regards EU investor choice, AIMA members who are making use of the national private regimes ('NPPRs') have found them useful as they have allowed them to satisfy the demand of local investors while complying with local marketing rules and requirements. In AIMA's view, NPPRs do not grant access to the EU single market but only to national/local investors, so the situation of EU AIFMs able to passport and market their funds in all of the EU is not comparable with non-EU AIFMs being allowed by a local NCA to distribute only to that Member State's local investors. Any attempt to potentially modify the functioning of the NPPRs should carefully take into account EU institutional investors' need to be able to diversify their investments, in light of their own fiduciary duties and obligations to their end clients in a dual context of continuously low interest rates and an ageing population.

The only area where we believe improvements could be made to make the EU more attractive is a centralisation of regulatory reporting to ESMA, rather than to each NCA, which all have different interpretations of the data to be reported.

II) Financial stability

As regards liquidity risk management, the Covid-19 pandemic has demonstrated the alternative investment management industry's resilience as the industry has not experienced larger than normal outflows over the period and has rebounded strongly since the market volatility in March 2020. If more binding macroprudential tools are introduced, AIFMs may be constrained in their ability to act swiftly and decisively during times of market stress.

More specifically, AIMA would be in favour of regulatory requirements for Member States to make available liquidity risk management tools ('LMTs') to the AIFs established in the country as a matter of national law. While we support including a legal obligation for each Member State to make the full range of LMTs available to funds established in that Member State, we would not support the imposition of requirements such as mandatory liquidity buffers as this would hamper the manager's ability to adequately manage liquidity risks which are always dependent on real-time market conditions.

As regards more specific suggestions made by the European Systemic Risk Board and referred to in the AIFMD review consultation, we would not necessarily oppose more reporting on the use of LMTs nor an improvement of coordination mechanisms among NCAs. We do not, however, recommend adopting a definition for "inherently liquid or illiquid assets" as this would run the risk of creating artificial categories of assets as the liquidity profile of an asset is, for the vast majority of them, very much dependent on market conditions and not an "inherent" feature. Specific liquidity requirements attached to any such categories would be inappropriate in the context of AIFs given the diversity of investment strategies employed by AIFs and the greater flexibility afforded to AIFMs to deploy (with the agreement of the governing body of the AIF where the AIF is a separate legal entity) a wide range of LMTs on both an ex-ante and an ex-post basis. The existing liquidity risk management principles set out in the AIFMD are sufficient to impose an obligation on AIFMs and provide an avenue for supervision by NCAs.

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As regards leverage, our members would like to reiterate their support of IOSCO's recommendations for improving the AIFMD's existing leverage calculation methodologies, which we have previously described to the Commission as being inadequate. Indeed, our view is that both the gross and the commitment methodologies are over-inclusive and do not provide any indications as to the actual risk related to the use of leverage.

When looking at leverage from a macroprudential perspective in the EU, we would like to encourage supervisors and policymakers to run comprehensive, granular and data-driven exercises on the EU investment management industry and its use of leverage to improve the general understanding of market mechanisms and how to best mitigate systemic failures. We feel such conceptual and comprehensive evidence is currently missing at the EU level.

Our position on reporting is that AIFMs have spent a lot of time and resources to comply with the AIFMD regulatory reporting requirements which include around 360 fields for each AIF managed by an AIFM. No overlaps or any of the additional types of reporting other stakeholders have been calling for seem to warrant a change to the text of the Directive, as reporting requirements in the AIFMD itself are very general, but our members would view the streamlining and clarification of some fields in the Annex IV of the AIFMR, as well as in the reporting guidelines, as a useful change. Our members would insist though that any changes, or the addition of any new data field, be accompanied by the deletion of at least another one, as, as many NCAs have commented in the past few years, many data points being currently collected are not useful to their supervisory exercise. AIMA has shared with the Commission and NCAs specific recommendations regarding reporting, and that position paper has been reproduced as Annex II to this letter for ease of reference.

As regards loan origination, we view this activity as is already regulated by the AIFMD, which provides NCAs with the necessary tools to adequately supervise this activity. Furthermore, as demonstrated in our position paper,[7] we believe that any reforms to support the development of loan origination activity in the EU should be addressed at the national level or by improving the European Long Term Investment Fund which already provides a framework for funds to originate loans across the EU. We also would like to note that although private debt is currently rising, it is very much dwarfed by the European banking sector, which is 25 times bigger than private debt. We recommend that policymakers keep this scale in mind when looking at "systemic risk" considerations among private debt funds.[8]

III) <u>Sustainability/ESG</u>

The questions asked in the AIFMD review consultation imply proposals that if adopted would go beyond what is required in the Sustainable Finance Disclosure Regulation ('SFDR'), including for example a requirement that AIFMs only report, under the SFDR, on sustainability risks on a quantitative basis (rather than also on a qualitative basis) or that all AIFMs report the principal adverse impacts of their underlying investments, not just AIFMs considering those impacts or the

[7] See our White Paper: Non-bank lending in the European Union at https://www.aima.org/static/uploaded/d3eb38cf-c998-4d5c-bbeb67502020f8a2.pdf.

[8] The entire European market for 'private credit', of which direct lending by funds is only one part, is estimated at around EUR200bn. In comparison, the corporate lending carried out by Eurozone banks is more than EUR5tn.

larger AIFMs as per the SFDR. Our members view this potential approach as an unnecessary and unjustified gold-plating specifically targeting AIFMs. They question this approach, especially ahead of the publication of a renewed sustainable finance action plan by the Commission and would strongly recommend the discussion on ESG be centralised within the implementation of the various action plans on sustainable finance, rather than via a separate and sectoral workstream.

We hope our comments are helpful. We would be happy to elaborate further on any of the points raised in this letter. For further information please contact Jennifer Wood, Managing Director, Global Head of Asset Management Regulation (jwood@aima.org).

Yours faithfully,

Jiří Król
Deputy CEO, Global Head of Government Affairs, AIMA
Global Head of the ACC

ANNEX I

We have endeavoured to respond to each of the questions posed in the online form as requested. For several of the questions, however, we want to offer some elaboration or response where the setup of the online form did not make this possible. For ease of understanding and reference, we have included the text of the relevant questions for context and kept them in the order the questions appeared in the consultation paper.

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

Although we have responded to Question 4 marking "Don't know / no opinion / not relevant", we do not think changes to the AIFM licensing requirements are appropriate at this time. However, we reserve the right to offer additional suggestions/ commentary in this regard should any proposals affecting these provisions be put forward by the Commission in the future.

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

Although we have responded to Question 5 marking "Don't know / no opinion / not relevant", we do not think changes to the permissions included in the AIFM authorisation are appropriate at this time. However, we reserve the right to offer additional suggestions/commentary in this regard should any proposals affecting these provisions be put forward by the Commission in the future.

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

We would not support any measures seeking to amend the AIFMD framework in relation to securitisation. It is broadly understood in the market that AIFMD excludes vehicles which are characterised as securitisations. The Securitisation Regulation already provides a comprehensive and detailed policy framework for this activity. Any measures to reform the AIFMD framework risk undermining the stability of that framework and discouraging investment in the European securitisation market. This will negatively affect the real economy by reducing access to credit among SMEs and consumers.

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

We do not think changes to the AIFMD/R, including the AIFM capital requirements, are appropriate at this time. See our response to Question 2.1. If changes are nevertheless considered, any revised requirements that are being considered in order to align with other regulatory regimes should reference IFR/D (Regulation 2019/2033 and Directive 2019/2034) rather than CRD (Directive 2013/36/EU) to avoid an unlevel playing field between types of asset managers based on the types of clients they service.

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?

Although in response to Question 11 we stated that the capital requirements for AIFMs authorised to carry out ancillary services under Article 6 of the AIFMD should not be calculated on a more risk sensitive basis, we do believe that the existing cross reference to Article 21 of Directive 2006/49/EC (updated in 2013 to refer to Directive 2013/36/EU) needs a technical correction to be a cross reference to the appropriate provisions of IFR/D instead, since nearly all of the asset managers that are investment firms will be subject to IFR/D rather than CRD/R when IFR/D begins to apply in mid-2021. Without this change the requirements for asset managers that are AIFMs will not align with the requirements for investment firms performing the same services.

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

Although we have responded to Question 16 marking "Don't know / no opinion / not relevant", we do not think changes to the AUM thresholds under Article 3 of the AIFMD are appropriate at this time. However, we reserve the right to offer additional suggestions/commentary in this regard should any proposals affecting these provisions be put forward by the Commission in the future.

Question 18. Is it necessary to provide an EU level passport for sub-threshold AIFMs?

See our comments in response to Question 17.

I. Investor protection

a. Investor classification and investor access

All questions in this section addressed fully in web form.

b. Depositary regime

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

We have responded to Question 29 marking "No", as we do not believe there are any difficulties in obtaining reporting from prime brokers and we do not think changes to the reporting rules from prime brokers to depositaries are appropriate at this time. However, we reserve the right to offer additional suggestions/commentary in this regard should any proposals affecting these provisions be put forward by the Commission in the future.

c. transparency and conflicts of interest

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

Although we responded "Don't know / no opinion / not relevant" to Question 39, we do not think changes to the AIFMD legal framework are appropriate at this time. However, we reserve the right to offer additional suggestions/ commentary on conflicts of interest rules should any proposals affecting these provisions be put forward by the Commission in the future.

d. valuation rules

Question 40. Are the AIFMD rules on valuation appropriate?

We responded “Yes” to Question 40 because we do not think changes to the valuation requirements are helpful or appropriate at this time. However, we reserve the right to offer additional suggestions/commentary on the valuation provisions should any proposals affecting these provisions be put forward by the Commission in the future.

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

We responded “No” to Question 41 because we do not think changes to the valuation requirements are helpful or appropriate at this time. Changes to the valuation requirements would not have solved any of the dislocations experienced earlier in 2020. However, we reserve the right to offer additional suggestions/commentary on the valuation provisions should any proposals affecting these provisions be put forward by the Commission in the future.

Question 42. Are the AIFMD rules on valuation clear?

We responded “Yes” to Question 42 because we do not think changes to the valuation requirements are helpful or appropriate at this time. However, we reserve the right to offer additional suggestions/commentary on the valuation provisions should any proposals affecting these provisions be put forward by the Commission in the future.

Question 43. Are the AIFMD rules on valuation sufficient?

We responded “Yes” to Question 43 because we do not think changes to the valuation requirements are helpful or appropriate at this time. However, we reserve the right to offer additional suggestions/commentary on the valuation provisions should any proposals affecting these provisions be put forward by the Commission in the future.

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

We responded “Don’t know / no opinion / not relevant” to Question 44 because we do not think changes to the valuation requirements are helpful or appropriate at this time. However, we reserve the right to offer additional suggestions/commentary on the valuation provisions should any proposals affecting these provisions be put forward by the Commission in the future.

II. International relations

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

The Commission’s AIFMD report describes national private placement regimes (‘NPPRs’) as “an important factor in market development” which allowed EU investors to gain access to global markets for financial services. We agree with this view.

Prior to the AIFMD, many Member States already had a NPPR in place, as many of the local investors needed access to the wide and diversified pool of investment managers in order to meet their own fiduciary duties toward their end clients. The AIFMD has sought not to impede or obstruct these asset owners' access to global talent management, and it seems that the current set up has allowed the right balance between EU investor protection (as no major failures were observed) and the ability for asset owners to benefit from a great choice of asset allocation.

We recognise the fact that originally NPPRs were meant to fade out as the third country passport would be adopted. The third country passport has not yet been activated, which in our view, demonstrates the complexity of setting up a rigid framework for third country firms. Furthermore, it is interesting to observe that in Member States where the NPPRs' requirements are equivalent to a compliance with the entire AIFMD regime (such as France), the choice offered to local investors is very low given (i) the costs related to the compliance with a foreign regime, and (ii) sometimes the incompatibility between the local requirements of the non-EU AIFM and the AIFMD requirements.

Non-EU AIFMs do not set up funds outside of the EU just to target EU investors. Those funds are usually distributed on a global basis and EU investors will invest alongside international investors. Imposing AIFMD requirements on such asset managers will only reduce the choice for EU investors since it is very unlikely that such non-EU AIFMs change their entire structure in order to on board a handful of EU investors. Indeed, large, sophisticated pension clients seek co-investment opportunities in third country funds alongside competitor pension funds in other jurisdictions. Funds are not being set up to bypass EU rules but rather because they serve a multiplicity of investors, and if they cannot market to EU investors, EU pension funds will lose out on the benefits of global diversification.

We believe a light-touch EU approach to maintain the flexibility of choice of Member States for institutional investors only is the right balance for an effective yet sound framework.

The Commission report assessing the application and the scope of the AIFMD on AIFMs (COM (2020) 232 final) (the 'Commission report') and the Commission Staff Working Document further note that some Member States consider that, in the view of some stakeholders, the NPPRs have, however, contributed to create an unlevel playing field between non-EU AIFMs and EU AIFMs as some non-EU AIFMs are subject to different regulatory requirements than EU AIFMs but are still able to access local investors. The Commission report goes on to note that small EU AIFMs which do not benefit from the passport sometimes face more difficulties than non-EU AIFMs to access investors from another Member State. In our view, NPPRs do not grant access to the EU single market but only to national/local investors, so the situation of EU AIFMs being able to passport and market their funds in all of the EU is not comparable with non-EU AIFMs being allowed by a single Member State's NCA to distribute only to the professional investors in that Member State. Furthermore, those same EU AIFMs (small or large) meet the same type of requirements when being marketed in other jurisdictions, such as the U.S. Indeed, the U.S. permits EU managers doing business from outside the U.S. to market their AIFs to qualified purchasers in unlimited amounts and only requires in return that the EU manager files a registration form and meets certain requirements around investor protection. However, the U.S. does not require the EU manager to comply with any substantial requirements around risk management, governance or remuneration. We believe this is the "field" which should be chosen as a comparative basis and believe the current situation is fair from both sides and does not warrant a change.

Finally, a consequence of trying to make amendments to "level the field" between non-EU or EU AIFMs could potentially lead to the application of rules to non-EU AIFMs which would contradict those of their home jurisdictions. It is very likely that non-EU AIFMs might, therefore, reduce or even stop their marketing activities in the EU so as to avoid facing conflicting regulatory requirements. This could ultimately affect the scope of EU investor choice in investment products, and this should not be overlooked. Indeed, any attempt to potentially modify NPPRs should carefully take into account EU institutional investors' need to access a global pool of talents and asset managers, in light of their own fiduciary duties and obligations to their end clients and in a dual context of continuously low interest rates and an aging population.

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

We believe that the current delegation rules are sufficiently clear to prevent the creation of letter-box entities in the EU. The delegation of functions under the AIFMD is strictly regulated under Article 20 and related requirements in Commission Delegated Regulation (EU 231/2013) ('AIFMR') in order to avoid any letter-box entity. An AIFM intending to delegate any functions to a third party must notify and, in some cases, seek the consent of its regulator before the delegation arrangements become effective and must comply with numerous conditions set out in the AIFMD and elaborated in the AIFMR. In particular, Article 20 of the AIFMD prohibits an AIFM from delegating its functions to such an extent that it can no longer be considered to be acting as manager of the relevant fund and becomes a letter-box entity. Article 82 of the AIFMR sets out situations in which an AIFM has delegated the performance of its functions to such an extent that it will be deemed to be a letter-box entity. In practice this means conducting prescribed due diligence on the delegate to satisfy its regulator that the delegate is fit and proper to act as a delegate of an AIFM, ensuring that there are detailed contractual provisions on performance standards, ongoing monitoring and audit of performance and reporting back to the regulator.

Our members have increased their compliance processes to comply with the AIFMD requirements and are generally satisfied with the rules, as well as with the ability to be able to access specialised and expert services, which is vital in order to remain competitive and to be able to provide the best products to their European investors. Our members have also adapted to the supervisory guidance and the robust national frameworks, such as the CSSF Circular 18/698[9] and the CBI Fund Management Companies Guidance,[10] which both reflect the considerations ESMA set out in its

[9] CSSF Circular 18/698 Re: Authorisation and organisation of investment fund managers incorporated under Luxembourg law, August 2018 – available at: https://www.cssf.lu/wp-content/uploads/files/Lois_reglements/Circulaires/Hors_blanchiment_terrorisme/cssf18_698eng.pdf.

[10] CBI Thematic review of fund management companies' governance, management and effectiveness, October 2020 – available at: https://www.centralbank.ie/docs/default-source/regulation/industry-market-sectors/funds/industry-communications/dear-chair-letter---thematic-review-of-fund-management-companies-governance-management-and-effectiveness---20-october-2020.

2017 Opinions.[11] The CSSF and CBI have applied these requirements for new firms seeking an authorisation and are in the process of reviewing the compliance of previously authorised AIFMs against these same standards. Given these developments, we do not think a further legislative review of the AIFMD rules relating to delegation is currently justified. Rather, the current process of supervisory review and peer review should continue to ensure a consistent and coherent approach. We believe this should be sufficient to resolve any material uncertainties NCAs and ESMA may have on the application of the delegation rules.

In relation to ESMA's comments in its August 2020 letter[12] to the Commission around the topic of the delegation of the legal or compliance functions listed in Annex I of the AIFMD, we would reiterate the negative impact of such a change in policy, if implemented. It is likely to be very significant as many AIFMs would need to try to completely restructure the contractual and operational arrangements in place between AIFs and their key service providers, potentially creating material tensions between AIFs unwilling to relinquish the control they have long had over key service providers and AIFMs compelled to take on supervisory liability for the actions of service providers and limiting the AIFM's flexibility to ensure that its managed AIFs have the appropriate and best resource available to them. AIFMs would also likely need to put in place new insurance arrangements (if available).

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

We continue to believe that the delegation rules under the AIFMD/AIFMR are appropriate to ensure effective risk management.

The Commission's 2019 Report, commissioned from KPMG, on the operation of the AIFMD noted that the delegation provisions especially assure that effective and appropriate governance and risk management obligations with respect to the delegation of functions are imposed on AIFMs.[13]

We are not aware of any AIFM failures of risk management giving rise to any systemic damage to the financial system and no significant failure of risk management leading to a disorderly collapse of an existing fund. Moreover, according to ESMA there were more than 30,350 EU AIFs in 2018[14] and there were no penalties or sanctions issued by NCAs relating to the delegation rules under Article 20 of the AIFMD.[15] At this stage the lack of evidence does not provide the justification for further action.

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[11] ESMA Opinions setting out sector-specific principles in the areas of investment firms, investment management and secondary markets, aimed at fostering consistency in authorisation, supervision and enforcement related to the relocation of entities, activities and functions from the UK, July 2017 – available at: https://www.esma.europa.eu/press-news/esma-news/esma-issues-sector-specific-principles-relocations-uk-eu27.

[12] ESMA's Letter to the European Commission on its Review of AIFMD, August 2020 – available at: https://www.esma.europa.eu/sites/default/files/library/esma34-32-551_esma_letter_on_aifmd_review.pdf.

[13] https://ec.europa.eu/info/publications/190110-aifmd-operation-report_en

[14] https://www.esma.europa.eu/sites/default/files/library/esma50-165-1006_asr-aif_2020.pdf

[15] https://www.esma.europa.eu/sites/default/files/library/esma34-32-548_2018-2019_aifmd_sanctions_report.pdf

We believe that the onus should be on NCAs to ensure proper and effective supervision of the financial institutions operating in their jurisdiction.

Finally, a key part of effective risk management is the efficiency of stress testing for extreme scenarios and we have been through a significant stress for risk management practices in 2020. ESMA's Report on Trends, Risks and Vulnerabilities (September 2020)[16] noted that between the second half of March and May around 200 EU and UK funds (out of 60,000 funds) had to suspend redemptions temporarily. In total, only about 0.3% of funds across both UCITS and AIFs were suspended, and the majority were UK property funds which were due to material valuation issues in the underlying market. We believe that this is another interesting proof point of the efficiency of the risk management framework under the AIFMD/R.

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

We responded "No" to Question 52 because we do not think changes to the delegation requirements are helpful or appropriate at this time. Our members fully rely on the possibility to delegate some functions such as portfolio management to expertise located anywhere in the world to effectively serve their clients. They view the delegation of functions under the AIFMD as strictly regulated in order to avoid any letter-box entity by Article 20 of the AIFMD and related portions of the AIFMR which have recently been reinforced with detailed and prescriptive guidance from ESMA.[17] It is natural for supervisory procedures to evolve over time as new requirements are applied and NCAs gain experience of how market practice has been impacted. This supervisory evolution has also been guided by the 2017 ESMA opinions and our members have recently seen the effects of this supervisory evolution through further specific guidance in the form of CSSF Circular 18/698[18] and the CBI Fund Management Companies Guidance,[19] for example. However, the fact that supervisory processes have evolved forcing AIFM practices to evolve as well should not be taken as an indication that the regulatory framework for delegation in the AIFMD also needs to change. We do not believe there is a need to introduce new and unnecessary changes to the rules on delegation that risks creating uncertainty and would disrupt well-established investment models and deprive European investors - both institutional and retail - of access to essential expertise in investment returns. A drastic change in policy would be all the more detrimental to investors if it were to be enacted in the midst of the tentative economic recovery from Covid-19 and would undermine the achievement of the desired goals of the EU's capital markets union.

[16] https://www.esma.europa.eu/sites/default/files/library/esma_50-165-1287_report_on_trends_risks_and_vulnerabilities_no.2_2020.pdf

[17] Opinion to support supervisory convergence in the area of investment management in the context of the UK withdrawing from the EU, ESMA, July 2017 – available at: https://www.esma.europa.eu/document/opinion-support-supervisory-convergence-in-area-investment-management-in-context-united.

[18] CSSF Circular 18/698 Re: Authorisation and organisation of investment fund managers incorporated under Luxembourg law, August 2018 – available at: https://www.cssf.lu/wp-content/uploads/files/Lois_reglements/Circulaires/Hors_blanchiment_terrorisme/cssf18_698eng.pdf.

[19] CBI Thematic review of fund management companies' governance, management and effectiveness, October 2020 – available at: https://www.centralbank.ie/docs/default-source/regulation/industry-market-sectors/funds/industry-communications/dear-chair-letter---thematic-review-of-fund-management-companies-governance-management-and-effectiveness---20-october-2020.pdf.

Should the Commission feel there is a need to reinforce existing delegation rules then we would strongly urge against introducing quantitative limits as this would fundamentally change the existing delegation model. Moreover, the diverse universe of asset classes in the alternative investment fund industry means required resources vary greatly depending on the strategy, business models, etc. We support a more principles-based approach.

However, we continue to believe that the focus should be on monitoring and enforcement by NCAs. Indeed, NCAs are able to act flexibly to take account of market specificities and new industry trends in their enforcement and implementation of the rules and that is more important to the goals of protecting European investors than embellishments of Article 82 of the AIFMR.

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

We responded "No" to Question 54 because we do not believe there is a need for changes to be made to the current approach to enforcement of delegation rules throughout the EU. The existing regime – under AIFMD/R, ESMA's 2017 opinion to support supervisory convergence in the area of investment management[20] and NCA guidance – already results in local substance and effective control and oversight of delegation. For example, the CBI thematic review of fund management companies' governance, management and effectiveness found that the existing rules and guidance provide a framework of robust governance, management and oversight arrangements.[21] The CBI confirmed that the application of the framework to the authorisation of firms resulted in appropriate and effective overall levels of resourcing in those firms. Under existing rules, the necessary flexibility to take account of market specificities and new industry trends is available to the NCAs.

We appreciate that, in the Commission Staff Working Document, the Commission concluded that the rules regarding delegation arrangements are proportionate within the imposed limitations. The working document clarifies that the provided safeguards in place to respond to supervisory and competitive concerns are deemed to equip NCAs with a relevant toolkit.[22]

The combination of a robust regulatory and supervisory framework, a well-established and understood approach to delegation which promotes investors' interests while providing appropriate safeguards has served – and will continue to serve – the interests of global investors optimally.

[20] https://www.esma.europa.eu/sites/default/files/library/esma34-45-344_opinion_to_support_supervisory_convergence_in_the_area_of_investment_management_in_the_context_of_the_united_kingdom_withdrawing_from_the_european_union.pdf.

[21] https://www.centralbank.ie/docs/default-source/regulation/industry-market-sectors/funds/industry-communications/dear-chair-letter---thematic-review-of-fund-management-companies-governance-management-and-effectiveness---20-october-2020.pdf.

[22] https://ec.europa.eu/info/files/200610-aifmd-application-scope-working-document_en.

III. Financial stability

a. macroprudential tools

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

Improving supervisory reporting

Please refer to our answers related to the supervisory reporting requirements at Questions 61-78.

Harmonising availability of liquidity risk management tools for AIFMs across the EU

While we recognise that there is not a uniform and homogenous availability of liquidity risk management tools ('LRM tools') across the EU, we believe that it is the ultimate responsibility of the AIFM to ensure that the appropriate and adequate LRM tools are included in the fund's organisational documents and to ensure they are deployed as necessary.

We believe that NCAs should allow all LRM tools be made available through the necessary changes needed in national (corporate) law rather than making amendments to the AIFMD. We note that IOSCO, in its 2018 Recommendations for Liquidity Risk Management for Collective Investment Schemes, has provided a comprehensive overview of good practices and detailed guidance to manage LRM risks. We would encourage the Commission, and ESMA, to reinforce and amplify these recommendations to strengthen their use among AIFMs.

In addition, we do not believe that LRM tools should be required to be incorporated in the AIF's constitutional documents as a matter of course. The European Systemic Risk Board (ESRB), in its 2017 Recommendations to the Commission (the 'ESRB 2017 letter'), acknowledged that AIFMs of open-ended AIFs should assess all available LRM tools and specifically to assess which of them are suitable for the fund type and the investment strategies of the funds they manage. Mandating the incorporation of all available LRM tools in the AIF's constitutional documents would be a disproportionate measure.

Defining an inherently liquid/illiquid assets

We do not recommend adopting a definition for "inherently liquid or illiquid assets" as this would run the risk of creating artificial categories of assets as the liquidity profile of an asset is, for the vast majority of them, very much depending on market conditions and not an "inherent" feature. Specific liquidity requirements attached to any such categories would be inappropriate in the context of AIFs given the diversity of investment strategies employed by AIFs and the greater flexibility afforded to AIFMs for using a wide range of LMTs on both an ex-ante and an ex-post basis. The existing liquidity risk management principles set out in the AIFMD are sufficient to impose an obligation on AIFMs and provide an avenue for supervision by NCAs.

The liquidity profile of an asset can change overtime and the assets cannot be taken in isolation. We would caution against any prescriptive requirements related to assets that could be characterised "less liquid" according to some aspects, as the same assets could have a very liquid profile according to other factors. Indeed, some securities linked to real assets such as infrastructure or real estate could be seen as less liquid given the nature of the underlying asset but could actually be easily disposable depending on investors' appetite or other macroeconomic factors. In addition, and in line with the above, we note that a list containing an overview of liquid/illiquid assets has the potential to quickly become outdated considering the changing liquidity profiles of a wide variety of assets.

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

We note that certain Member States (e.g., France) already require the notification of the activation of LRM tools which aids NCAs and ESMA in their supervisory obligations to monitor a potential build-up of systemic risk and provides them with relevant data for statistical purposes. It is not uncommon for funds to have LRM tools built into their structures and for these LRM tools to be operated in 'business as usual' circumstances. The notification of the use of a suspension and a side pocket or gate does not necessarily indicate that there is a problem with an AIF, it may simply be part of the AIF's set up. It would be overly burdensome to require AIFMs to notify NCAs in these circumstances.

While we are generally in favour of requiring AIFMs to notify the relevant NCA(s) of the activation of LRM tools where their use is not part of the fund's disclosed 'business as usual', we do believe that the level of reporting should be limited to the use of a defined set of LRM tools, such as gates, suspensions, and side pockets. We do not believe that AIFMs should be required to report the activation of 'swing pricing' as this tool is used on a fairly frequent basis by, in particular, large AIFMs. Requiring AIFMs to report the activation of swing pricing to the relevant NCA would result in excessive reporting with no tangible benefit to NCAs. In addition, if notifying the NCAs of the use of LRM tools is a pre-cursor to AIFMs needing to wait for the NCAs to revert before AIFMs can employ LRM tools, this would be of considerable concern and would lead to unnecessary, complicated and disproportional operational difficulties.

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

We have responded to Question 60 marking "No", as we do not believe that *de minimis* thresholds should be introduced nor do we believe changes to the AIFMD's remuneration provisions are appropriate at this time. The Commission, in its report from June 2020, acknowledges that the AIFMD remuneration rules "have introduced greater risk-aversion in the collective alternative investment management sector and increased overall awareness of good remuneration systems." We reserve the right to offer additional suggestions/commentary in this regard should any proposals affecting these provisions be put forward by the Commission in the future.

b. supervisory reporting requirements

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

Full portfolio reporting by relevant identifier as provided for statistical purposes

We do not believe AIFMs should be required to provide their full portfolio holdings in the Annex IV template as this could result in market participants accessing these reports and who, in turn, may then engage in bad behaviour by recreating or front running the AIFM's portfolio or other types of market abuse. We believe the Annex IV reports should only be accessed by specified members of staff of the relevant NCA, ESMA or other institutions that are to be given access to the Annex IV reports by the Commission. The data submitted through the Annex IV report is highly (market) sensitive and confidential and should the information fall into the hands of other market participants, e.g., AIFMs, or cyber criminals, it could lead to irreversible financial and reputational damage to the AIFM, the AIF and its investors. To that end, we would urge the Commission to put in place strong security measures to safeguard the (investment) interests of the AIFM and its investors.

In addition, while national central banks do require portfolio holdings information, among other things, with respect to funds which they then share with the ECB, our understanding is that such requirements apply only with respect to EU AIFs, and many EU AIFMs manage non-EU AIFs, and are not the obligation of the AIFM or the AIF to file, but rather the EU AIF's third-party administrator. As a result, adding such a requirement to the AIFMD Annex IV would create a duplication where none currently exists. We do not believe that requesting AIFMs to provide more granular data at the level of the portfolio holdings than is currently required under the Annex IV report will aid NCAs and ESMA in their attempts to better understand the state of the industry and assess whether there has been a build-up of systemic risk vulnerabilities. Such approach to reporting may provide a misleading representation of risk. If, however, AIFMs are to be required, despite our objections, to provide a full overview of their portfolio listings, we believe this should be done by allowing AIFMs to provide the ISIN numbers that identify the specific holdings and securities, and the issuers of those securities, as opposed to requiring AIFMs to provide the LEIs of the counterparties.

Requiring more details on leverage

The leverage measures calculated under the AIFMD (and being reported at fields 294 and 295) are being used to assess systemic risk, which is unhelpful for this purpose, as the measures are over inclusive for some types of investments. The gross and commitment methods are not useful for the purpose of measuring and monitoring market risk and economic exposure.

We welcome the Recommendations for a Framework Assessing Leverage in Investment Funds ('the Leverage Framework') by IOSCO and believe the changes in the definition and measurement of leverage should be integrated in the AIFMD framework in the AIFMR.

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

Although we have responded to Question 69 marking "Don't know / no opinion / not relevant", we have no reason for supporting or opposing at this time. However, we reserve the right to offer additional suggestions/commentary in this regard should any proposals affecting these provisions be put forward by the Commission in the future.

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

Although we answered 'Yes' to Question 71 and responded to some of the related sub-questions, we wanted to also offer our thoughts on Question 71.9 regarding LEIs of counterparties and issuers of securities, which we did not check in the online response. As we have outlined in our response to Question 65, we do not believe that counterparties' and issuers of securities' LEIs should be reported for the Annex IV reporting of AIFMR as this would prove to be a cumbersome exercise considering wide and large variety of counterparties and/or securities issuers the AIFM deals with. Please refer to our answer to Question 65 where we have offered additional reasons why LEIs on counterparties should not be made mandatory.

c. leverage

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

Although we answered 'No' to Question 85, we would like to offer some feedback on some of the possible choices that would have come up if we had answered 'Yes' instead.

Limiting interconnectedness with other financial intermediaries

It is our understanding that the interconnectedness between loan originating AIFs and banks is a source of concern for some policymakers, particularly contagion in the banking sector in response to distress that may be experienced by these AIFs. If this is the primary concern, we believe it is best addressed by reviewing and potentially reforming regulation of the banking sector to ensure their exposure to such activity is risk-aligned and proportionate, rather than through AIFMD.

Imposing leverage limits

Our research[23] indicates that leverage levels employed by non-bank lenders remains low overall with nearly 90% of respondents to an AIMA survey indicating that they employ less than 2x leverage and 54% stating that they employ no leverage at all. This reflects the general preference of investors in non-bank lenders for either unlevered investment strategies or modestly levered strategies.

Where non-bank lenders do use leverage as part of their investment strategy, they manage its use through a range of means that will typically involve consideration of:

[23] See https://www.aima.org/static/uploaded/12558e4c-cbc3-4418-9fc6e86d67cc8e3d.pdf.

- the source of leverage;
- any interlinkage/relevant relationships with other financial institutions;
- the need to limit exposure to any one counterparty;
- the extent to which the leverage is collateralised;
- the asset-liability ratio; and
- the scale, nature and extent of the AIFM's activity on the market concerned.

The use of leverage by non-bank lenders is also assessed by NCAs as part of their supervisory responsibilities. For example, AIFMs employing leverage are required to: (i) set a maximum level of leverage for each AIF (including funds originating loans); (ii) manage and monitor leverage levels to ensure they do not exceed this maximum; and (iii) provide extensive disclosures to both investors and regulators on how they are using leverage as well as levels of leverage. There are also enhanced reporting requirements for AIFMs where leverage exceeds three times the NAV of the fund.

The information provided to NCAs on leverage by AIFMs is also shared with other NCAs, ESMA and the ESRB. This enables these bodies to understand overall levels of leverage in the non-bank lending sector. While the non-bank lender already bears the burden to demonstrate that each leverage limit it sets is reasonable in relation to its investment strategy, NCAs can impose overriding leverage limits where this is deemed necessary. ESMA and the ESRB are also empowered to advise NCAs on appropriate remedial measures for firms or groups of firms where they deem necessary.

While we understand that leverage will remain an area of ongoing interest, we do not believe that current levels, and use of, leverage by non-bank lenders warrants additional regulatory intervention at this stage.

Imposing additional organisational requirements for AIFMs

We recognise the concerns expressed by policymakers in relation to non-bank lenders, maturity transformation and the risks this may present to financial stability. While maturity transformation is an important issue in the financial sector, we believe it is less salient for non-bank lenders where the maturity of the loans made by the fund are generally aligned to the maturity of the capital provided by investors. Capital allocated to non-bank lenders is typically invested via closed ended fund structures that have a fixed life cycle. This means that investors are not able to recall this capital and that borrowers benefit from a stable and patient source of finance.

The illiquid nature of these fund structures and the underlying loans made by non-bank lenders is well understood by investors. These investors are predominantly pension funds and insurance companies and endowments, are typically attracted to these investments by factors such as the yield that can be achieved with this type of investment (sometimes described as an illiquidity premium) or the alignment of the loan repayment schedule with their income requirements. These institutional investors also have long-term investment horizons that more closely fit the nature of private credit.

Ensuring that the liquidity profile of the fund matches that of the illiquid nature of the loans being originated is a key driver of non-bank lending fund structures. Our research[24] demonstrates that nearly two thirds of non-bank lenders' funds are closed-ended and that non-bank lenders with open-ended fund structures typically use tools to limit redemptions. These tools would typically include lock-up periods, redemption gates, side pockets, suspension of redemptions. As a result, investors are fully aware at the outset of (i) their committed investment period and, more importantly, (ii) the time it will take to unwind positions with the borrowers. This means that both closed-ended and open-ended fund structures can deliver matched liquidity models.

These features provide substantial structural safeguards against policymakers' concerns in relation to maturity transformation. While we recognise that maturity transformation will remain an important consideration as the non-bank lending market develops, we do not believe any specific regulatory measures are required at this stage.

Allowing only closed-ended AIFs to originate loans

In addition to our comments above in relation to organisational requirements for loan originating AIFs, we would also note that while the majority of loan originating AIFs are closed ended the diversity of credit strategies carried out by non-bank lenders means that a one-size-fits all approach is likely to be inappropriate.

Providing for certain safeguards to borrowers

Borrowers obtaining finance from non-bank lenders are not subject to any potential risks that are not already addressed through existing safeguards and borrower protection rules. The primary legal and regulatory safeguards for business borrowers are generally found within the legal systems of EU Member States. European borrowers obtaining finance currently benefit from various legal protections that help safeguard their interests. Laws relating to property rights, insolvency, restructuring, contracts, fraud and misrepresentation provide EU Member States with a range of tools to ensure there is an appropriate balance between the legitimate interests of borrowers and lenders. This framework supports the effective functioning of the business finance markets and applies to lending by both nonbank lenders, credit institutions and other sources of business finance.

It should also be noted that the existing regulation of non-bank lenders provides borrowers with assurances that they are dealing with a lender who is subject to regulatory oversight. There is also regulation to govern the provision of credit to certain types of borrowers such as individuals, financial institutions, collective investment schemes and related parties (e.g., the Consumer Credit Directive or prudential regulation of loans between financial institutions). Non-bank lenders providing credit to these borrowers would be subject to the same rules and, where necessary, the same authorisation requirements. Borrowers' interests are therefore already protected through a range of means within the legal systems of EU Member States.

[24] https://www.aima.org/static/uploaded/12558e4c-cbc3-4418-9fc6e86d67cc8e3d.pdf.

Permitting marketing only to professional investors

Loan originating AIFs are currently almost exclusively the preserve of institutional investors or professional clients. The only exception would be the ELTIF which already has provisions relating to the marketing of the ELTIF to retail clients. Therefore, it is unclear why such a requirement would be necessary to support harmonisation when this is already the position today.

Imposing diversification and/or concentration requirements

As well as assessing each individual loan on its own merits, non-bank lenders will also assess how the loan will affect the diversification of their investment portfolio overall. This ensures that potential concentration risks (e.g., within a particular geography or industrial sector) are identified and mitigated within the context of the non-bank lender's investment mandate.

Article 18 of the AIFMR already requires non-bank lenders to apply a high standard of diligence in the selection and ongoing monitoring of investments, including loans, which must be reflected in written policies and procedures. Specifically, under Article 19 of the AIFMR, when investing in assets of limited liquidity such as loans and some bonds, a non-bank lender must also: (i) set out and regularly update a business plan consistent with the duration of the AIF undertaking lending activity and market conditions (in the context of lending, this often takes the form of stress testing that includes a borrower base case, upside case and downside case); (ii) conduct due diligence and invest in accordance with that plan; and (iii) monitor the performance of the assets against the plan.

While no form of due diligence can mitigate against every eventuality, we believe existing framework of the AIFMD is sufficient to address any concerns regarding diversification or concentration.

IV. Investing in private companies

Although we have responded to Questions 86-89 on investing in private companies, marking "Don't know / no opinion / not relevant" or indicating "no comment" for each, we do not think changes to these requirements are appropriate at this time. However, we reserve the right to offer additional suggestions/commentary in this regard should any proposals affecting these provisions be put forward by the Commission in the future.

V. Sustainability/ESG

All questions in this section were answered in the online form.

VI. Miscellaneous

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

The key difference between the UCITS and AIFM regulatory frameworks is that the UCITS Directive focuses on the funds, while the AIFMD regime focuses solely on the requirements applicable to the manager. UCITS is a product regime governing funds that must be established in the EU and with specific characteristics. In UCITS, the EU-established, EU-authorised product is the *sine qua non*, which is not the case in AIFMD. The AIFMD, however, has been designed to focus on management companies because the universe of AIFs is so diverse and broad – including hedge funds, private credit, private equity, real estate, infrastructure and other types of hybrid strategies. As noted in the Commission Staff Working Document: "The AIFs' universe is heterogeneous in terms of investment strategies, markets, asset types and legal forms". A "product" directive in the style of the UCITS Directive would not be appropriate to take into account all the various strategies and specificities of each type of non-UCITS fund. Merging the UCITS and AIFM regulatory frameworks into a single EU rulebook runs the significant risk of three outcomes: (i) a too permissive UCITS regime, (ii) a too restrictive AIFMD regime, or (iii) a highly complicated rulebook full of caveats, carveouts and exceptions necessary to accommodate the large range of different types of national AIFs.

RESPONSES TO BE INCLUDED IN ONLINE FORM RESPONSE

[***Note to readers:*** *We have set out below the questions that were answered as part of our response in the online form. This portion of the text was omitted from the cover letter before it was finalised for uploading as an accompaniment to the online form but has been added back to this PDF version for ease of reference.*]

VII. Functioning of the AIFMD regulatory framework, scope and authorisation requirements

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:

Overall, the Alternative Investment Management Association Limited (AIMA) and the Alternative Credit Council (ACC) believe that Directive 2011/61/EU (the 'AIFMD'), the national implementations of the AIFMD and Commission Delegated Regulation (EU) No 231/2013 (the 'AIFMR') are functioning well, although there are areas where improvement could potentially be made. With the exception of regulatory reporting under Article 24 of the AIFMD (see our responses to Questions 61-78), we believe the areas that could be improved are not ones that are impairing the overall effectiveness of the AIFMD though. With the need for a significant economic recovery looming, now is not the time to shift focus to restructuring or significantly changing regulatory regimes that are functioning as they were meant to function. At this point, any proposal to amend the AIFMD to overhaul the way asset management businesses function will be at best a major distraction for alternative investment fund managers ('AIFMs'), alternative investment funds ('AIFs'), national competent authorities ('NCAs'), policymakers and Member States.

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 N/A
creating internal market for AIFs	☐	☐	☐	☒	☐	☐
enabling monitoring risks to the financial stability	☐	☒	☐	☐	☐	☐
providing high level investor protection	☐	☐	☐	☐	☒	☐

Other statements:

	1 (fully disagree)	2 (somewhat disagree)	3 (neutral)	4 (somewhat agree)	5 (fully agree)	Don't know No opinion N/A
The scope of the AIFM license is clear and appropriate	☐	☐	☐	☒	☐	☐
The AIFMD costs and benefits are balanced (in particular regarding the regulatory and administrative burden)	☐	☐	☒	☐	☐	☐
The different components of the AIFMD legal framework operate well together to achieve the AIFMD objectives	☐	☐	☐	☒	☐	☐
The AIFMD objectives correspond to the needs and problems in EU asset	☐	☐	☐	☒	☐	☐

	1 (fully disagree)	2 (somewhat disagree)	3 (neutral)	4 (somewhat agree)	5 (fully agree)	Don't know No opinion N/A
management and financial markets						
The AIFMD has provided EU AIFs and AIFMs added Value [sic]	☐	☐	☐	☒	☐	☐

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

The AIFMD/R is generally achieving its objectives and is functioning in a satisfactory manner. While we acknowledge that there are areas of AIFMD/R that could be refined, we believe the areas that could be improved are not ones that are impairing the overall effectiveness of the AIFMD though. With the need for a significant economic recovery looming, now is not the time to shift focus to restructuring or significantly changing regulatory regimes that are functioning as they were meant to function.

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

☐	Yes
☐	No *[if selected, followed by Q4.1]*
☒	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:

[*Box will not be revealed – See Annex I.*]

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

☐	Yes *[if selected, followed by Q5.1]*
☐	No *[if selected, followed by Q5.1[B]]*
☒	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:

[*Box will not be revealed so not applicable.*]

Question 5.1[B] Please explain your answer to question 5:

Although we have responded to Question 5 marking "Don't know / no opinion / not relevant", we do not think changes to the permissions included in the AIFM authorisation are appropriate at this time. However, we reserve the right to offer additional suggestions/commentary in this regard should any proposals affecting these provisions be put forward by the Commission in the future.

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

☒	Yes
☐	No *[if selected, followed by Q6.1]*
☐	Don't know / no opinion / not relevant

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:

[*Box will not be revealed – See Annex I.*]

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

☐	Yes
☐	No *[if selected, followed by Q7.1]*
☒	Don't know / no opinion / not relevant

Question 7.1 Please explain your answer to question 7:

[*Box will not be revealed so not applicable.*]

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

☐	Yes *[if selected, followed by Q8.1]*
☒	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:

[*Box will not be revealed – See Annex I.*]

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 *[if selected, followed by Q9.1]*
☐	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:

[*Box will not be revealed so not applicable.*]

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:

Any differences appear to be a matter of supervisory interpretation and should be resolved through the supervisory coordination process rather than through changes in the requirements of AIFMD/R.

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 *[if selected, followed by Q11.1]*
☒	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:

[*Box will not be revealed – See Annex I.*]

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:

We do not think changes to the capital requirements for carrying out ancillary services under Article 6 of the AIFMD are appropriate at this time. However, we reserve the right to offer additional suggestions/commentary in this regard should any proposals affecting these provisions be put forward by the Commission in the future.

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:

We do not think changes to the AIFMD legal framework are appropriate at this time. However, we reserve the right to offer additional suggestions/commentary in this regard should any proposals affecting the AIFMD legal framework be put forward by the Commission in the future.

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:

The level of systematic and intensive supervisory review implied through any SREP process would be costly for firms and supervisors and would be highly disproportionate to the level of risk posed by, and the relative simplicity of, the operations of most AIFMs.

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:

The use of professional indemnity insurance is optional. Options improve flexibility for firms. We would not be in favour of the option being removed.

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

☐	Yes
☐	No *[if selected, followed by Q16.1]*
☒	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:

[*Box will not be revealed – See Annex I.*]

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:

We note that in some jurisdictions, local requirements could evolve to remove unnecessary barriers for sub-threshold EU AIFMs. We do not believe this warrants a change to the text of the AIFMD but would encourage legal and supervisory convergence on this matter at a national level as well as a deeper coordination between Member States on this topic.

Question 18. Is it necessary to provide an EU level passport for sub-threshold AIFMs?

☐	Yes *[if selected, followed by Q18.1]*
☐	No *[if selected, followed by Q18.1[B]]*
☒	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:

[*Box will not be revealed – See Annex I.*]

Question 18.1[B] Please explain your answer to question 18:

See our comments in response to Question 17.

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:

No comment.

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

☐	Yes *[if selected, followed by Q20.1]*
☒	No *[if selected, followed by Q20.1[B]]*
☐	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:

[*Box will not be revealed so not applicable.*]

Question 20.1[B] Please explain your answer to question 20:

As regards the marketing passport under Article 32 of the AIFMD, our members note and welcome the recent changes adopted as part of the Cross-Border Distribution of Investment Funds ('CBDF') package (Regulation (EU) 2019/1156 and Directive (EU) 2019/1160). In light of the pending CBDF package, their view is that the marketing passport under Article 32 is/will be functioning reasonably well.

We believe, however, that the language set out in Article 36 which deals with the *'Conditions for the marketing in Member States without a passport of non-EU AIFs managed by an EU AIFM'* has led to an uneven application of requirements across EU Member States. This has resulted in an uneven application of requirements across the EU and places prohibitive costs on EU AIFMs that wish to market non-EU AIFs across multiple Member States.

Indeed, the requirements often have to be teased out by making an application and then waiting for the requirements to slowly filter out during the often laborious process of receiving and responding to emails over a number of months or, in some cases, years. Furthermore, the NCAs do not ask for a consistent set of requirements to be met and our members have found that the requirements can vary significantly. We feel that it would benefit both the AIFMs and the NCAs themselves if the guidance for Article 36 application process is made more explicit so as to ease the notification/application process on the side of both the EU AIFM and the competent authority and ultimately improve the range of investment choices available to EU citizens.

We noted and welcomed the requirements adopted as part of the CBDF Regulation aiming at facilitating cross-border marketing, such as removing the obligation to appoint a local agent, or the need for NCAs to apply fees that are consistent with the overall cost relating to the performance of their supervisory duties, or finally the requirement to publish those fees and administrative requirements in a transparent manner on their website. We would encourage an exercise of supervisory convergence on Article 36 building on CBDF's Regulation improvements to Article 32 to ensure consistent application of requirements across the EU.

VIII. Investor protection

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 *[if selected, followed by Q21.1[B]]*
☐	No *[if selected, followed by Q21.1]*
☐	Don't know / no opinion / not relevant

[unnumbered but presumably 21.1] 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:

[*Box will not be revealed so not applicable.*]

Question 21.1[B] Please explain your answer to question 21:

We believe that the existing cross-reference (Article 4(1)(ag) of the AIFMD) should remain rather than having a distinct classification framework under the AIFMD. Our members are keen to maintain the current client categorisation as per MiFID II as it provides a useful flexibility in the professional investment world and the categorisations are well understood by firms and investors alike. Changing the current situation would also likely mean a repapering exercise of all clients to check which category they fall into.

However, we also believe that the opt-up framework in MiFID II as it operates today is overly restrictive. For example, where AIFMs require co-investment by staff that are identified as risk takers, it is not always possible for them to treat those staff as professional clients, triggering PRIIPs obligations which were evidently not intended to protect portfolio managers at investment firms. Accordingly, we see merit in adding to the list of professional clients identified risk takers and other employees of the firm making the classification decision. However, we would prefer to see these changes made within MiFID Annex II.

Our members are not generally looking to service clients that are currently classified as retail clients other than perhaps defined contribution pension schemes, family offices and high net worth individuals collectively classed as semi-professional investors by some Member States.

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:

Our membership is focused on institutional investors so does not have a particularly strong view regarding retail access to AIFs. Though we recognise that one focus of the AIFMD is regulating the marketing of a wide range of AIFs to professional investors in the EU, each Member State may, at its discretion, permit marketing of AIFs to retail investors in accordance with national laws. We do not see the need for any changes to the AIFMD in this regard. Moreover, the European Long-Term Investment Fund ('ELTIF') can already provide retail investor access to less liquid AIFs whose strategies would not fit within the UCITS regime and we are supportive of the upcoming review of the ELTIF regulatory framework. However, we reserve the right to offer additional suggestions/commentary in this regard should any proposals on this topic be put forward by the European Commission (Commission) in the future.

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 *[if selected, followed by Q23.1]*
☒	No *[if selected, followed by Q23.1[B]]*

☐	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:

[*Box will not be revealed so not applicable.*]

Question 23.1[B] Please explain your answer to question 23:

Our members are not supportive of the idea to structure a specific AIF product within the AIFMD as part of the AIFMD review as they are keen to ensure that the AIFMD remains a “manager” directive and is not transformed into a “product” directive so as to ensure the framework remains workable for the multitude of different types of funds that are not UCITS, as initially foreseen. We strongly recommend that the AIFMD remains focused on the duties of the manager and therefore advise keeping any discussion around financial products outside of the AIFMD review including the matter of creating an AIF accessible to retail investors.

Furthermore, the AIFMD is focused on asset managers serving institutional investors, which is the current main category of clients of our members. Our view at this stage is that it should remain so and should allow a distinction between a regulatory framework fit for an institutional investor universe (AIFMD) and one fit for the retail universe (UCITS and to a certain extent ELTIF, which are both “product” centred). We are supportive of the review of the ELTIF regulatory framework and fixing some of the issues with the ELTIF thereby making it more fit for purpose. We will be separately responding to the Commission’s ongoing public consultation on the forthcoming review of the ELTIF regulatory framework.

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.

We agree with the Commission staff’s conclusion from its Staff working document accompanying the report assessing the application and the scope of the AIFMD (SWD(2020) 110 final) (the ‘Commission Staff Working Document’) that the “AIFMD regime for depositories is judged to remain relevant, effective and efficient”.

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:

Although we have responded to Question 25 marking "Don't know / no opinion / not relevant", we do not think changes to the depositary requirements are appropriate at this time. However, we reserve the right to offer additional suggestions/commentary in this regard should any proposals affecting these provisions be put forward by the Commission in the future.

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:

Although we have responded to Question 26 marking "Don't know / no opinion / not relevant", we do not think changes to the depositary requirements are appropriate at this time. However, we reserve the right to offer additional suggestions/ commentary in this regard should any proposals affecting these provisions be put forward by the Commission in the future.

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 *[if selected, followed by Q27.1[A]]*
☐	the flow of information between the tri-party collateral manager and the depositary *[if selected, followed by Q27.1[B]]*
☐	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 *[if selected, followed by Q27.1[C]]*
☒	no additional rules are necessary, the current regulation is appropriate
☐	Other *[if selected, followed by Q27.1[D]]*

[unnumbered but presumably 27.1[A]] 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:

[*Box will not be revealed so not applicable.*]

[unnumbered but presumably 27.1[B]] 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:

[*Box will not be revealed so not applicable.*]

[unnumbered but presumably 27.1[C]] 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:

[*Box will not be revealed so not applicable.*]

[unnumbered but presumably 27.1[D]] 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:

[*Box will not be revealed so not applicable.*]

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

☒	Yes
☐	No *[if selected, followed by Q28.1]*
☐	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:

[*Box will not be revealed so not applicable.*]

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

☐	Yes *[if selected, followed by Q29.1]*
☒	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:

[*Box will not be revealed – See Annex I.*]

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 comment.

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:

While we generally support the introduction of a depositary passport, we have responded to Question 31 marking "Don't know / no opinion / not relevant", as we do not believe the AIFMD legal framework should be reopened at this time considering the overall satisfaction of the AIFMD framework, as recognised by the Commission and by the KPMG report. However, we reserve the right to offer additional suggestions/commentary in this regard should any proposals affecting these provisions be put forward by the Commission in the future.

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:

No comment.

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:

No comment.

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:

No comment.

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:

In its current form, Article 21(11) of the AIFMD is clear that no CSDs are delegates of the depositary, provided that such CSDs are settlement systems designated under Directive 98/26/EC and providing services as specified in that directive, or third-country settlement systems providing similar services. (The nature of "services as specified" in that directive is not wholly clear but includes the holding of securities by settlement systems for participants since this is contemplated by the directive – see definitions of system, transfer order, system operator and settlement agent.) Moreover, Recital (41) of the AIFMD specifically states that "[e]ntrusting the custody of assets to the operator of a securities settlement as designated for the purposes of Directive 98/26/EC ... or entrusting the provision of similar services to third-country securities settlement systems should not be considered to be a delegation of custody functions." The European Securities and Markets Authority (ESMA) has no power to amend AIFMD simply by producing an opinion. ESMA's opinion of 20 July 2017 contains certain suggestions for amendments to AIFMD but does not change the meaning of Article 21(11) of the AIFMD as it currently stands.

Thus, if it is intended that investor CSDs should be treated as delegates, this will require amendment of AIFMD. We do not consider that this is justified, proportionate or practical for the reasons listed below.

CSDs, whether investor CSDs or issuer CSDs, are market infrastructures systems. It is disproportionate and unnecessary to treat such systems as delegates of a depositary. CSDs are subject to specific regulatory and legislative requirements regarding operation and protection of participants under Regulation 909/2014 ('CSDR') and domestic legislation in the EU, and relevant requirements in third countries (AIFMD shows no intention to treat EU CSDs and non-EU CSDs differently). Additional requirements regarding use of CSDs are therefore unnecessary.

Given the large scale of CSD operations, and related security issues, the level of due diligence required by AIFMD in relation to delegates is not possible in relation to CSDs and is unnecessary given the regulatory and legislative framework in which CSDs operate. CSDR requires all CSDs to maintain fair and open access for participants. An important part of this is that standard terms apply to all CSD participants. CSDs cannot agree to different terms with participants who are depositaries, such as variation of standard terms to include the contractual terms required by AIFMD in relation to use of delegates, without risking breach of CSDR requirements.

In order to minimise systemic risks, CSDs must necessarily set limits on their liability. Acceptance of greater liability to some participants than others is not consistent with maintaining a level playing field for participants. Therefore, CSDs will not agree to accept a level of liability to depositaries similar to the liability imposed on depositaries by AIFMD, or to accept transfer of liability as permitted by AIFMD for delegates.

A CSD with an immobilisation structure (such as Euroclear) cannot provide settlement services to its participants without also holding securities for (i.e., providing custody services to) its participants. The custody services are a fundamental part of the settlement service. There is no possible distinction between the custody services provided by a CSD and the settlement services provided by the CSD, since the settlement services necessarily involve provision of custody services, and such custody services are provided in the capacity of a settlement system. This would only be different if the legal entity which operates of the settlement system also, but in a different capacity, provides standalone custody services unrelated to the settlement system services; in such case, use of such separate custody services could be regarded as use of a delegate because such custody services are provided in a separate capacity, not by a settlement system.

It is not practicable to impose obligations on a depositary (or its delegate) in relation to use of an investor CSD but not an issuer CSD, not only for the reasons above, but also because the distinction is unworkable in practice. A number of different securities may be held with the same CSD, some of which are in turn held by that CSD with another CSD and some are not. It may be impossible for a participant to obtain details from the CSD of the nature of the CSD's delegation arrangements, which may change over time. Even if possible, it is not feasible to treat the same CSD as a delegate for some securities and not a delegate in relation to other securities.

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 *[if selected, followed by Q36.1]*
☐	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:

[*Box will not be revealed so not applicable.*]

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:

No comment.

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 *[if selected, followed by Q38.1]*
☒	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:

[*Box will not be revealed so not applicable.*]

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

☐	Yes
☐	No *[if selected, followed by Q39.1]*
☒	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:

[*Box will not be revealed – See Annex I.*]

d. **valuation rules**

Question 40. Are the AIFMD rules on valuation appropriate?

☒	Yes
☐	No *[if selected, followed by Q40.1]*
☐	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:

[*Box will not be revealed – See Annex I.*]

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

☐	Yes *[if selected, followed by Q41.1]*
☒	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:

[*Box will not be revealed – See Annex I.*]

Question 42. Are the AIFMD rules on valuation clear?

☒	Yes
☐	No *[if selected, followed by Q42.1]*
☐	Don't know / no opinion / not relevant

Question 42.1 Please explain your answer to question 42:

[*Box will not be revealed – See Annex I.*]

Question 43. Are the AIFMD rules on valuation sufficient?

☒	Yes
☐	No *[if selected, followed by Q43.1]*
☐	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:

[*Box will not be revealed – See Annex I.*]

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:

We responded "Don't know / no opinion / not relevant" to Question 44 because we do not think changes to the valuation requirements are helpful or appropriate at this time. However, we reserve the right to offer additional suggestions/commentary on the valuation provisions should any proposals affecting these provisions be put forward by the Commission in the future.

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:

No comment.

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:

No comment.

IX. International relations

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:

We believe that there are several elements of the AIFMD that support the competitiveness of the EU AIF industry. Firstly, the open framework permitting managers authorised as investment managers in other countries to market their funds in the EU fosters both competition and investor choice. Secondly, the marketing "passport" which allows AIFs to be marketed to professional investors across the EU but also the added option that allows AIFs to be marketed in a specific Member State in accordance with that Member State's national private placement regime ('NPPR') are useful tools for managers that enhance the competitiveness of the EU AIF industry. Thirdly, the well-established outsourcing and delegation model allows investment managers to minimise costs and optimise internal or external centres of excellence for investment management and related services. Finally, the fact that the AIFMD is not a "product"-based regulation but instead is regulating the AIFM, i.e., no restrictions on investments or leverage, enables greater flexibility and innovation thereby supporting the competitiveness of the EU AIF industry.

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:

We do not think changes to the AIFMD are appropriate at this time for the reasons stated elsewhere in this response. All our suggestions in this response can be dealt with at the level of ESMA and NCAs by making use of existing powers (Guidelines, Q&As, Common Supervisory Actions) or via targeted changes to the AIFMR. Overall, we would call on the Commission to focus its attention on vehicles that have not worked as well as expected, such as ELTIFs, rather than those which have been successful in ensuring the EU's competitiveness and attractiveness (AIFs and UCITS). However, we reserve the right to offer additional suggestions/commentary should the Commission nevertheless choose to propose amending the text of the AIFMD or the AIFMR in the future.

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

☐	Yes *[if selected, followed by Q49.1]*
☒	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:

[*Box will not be revealed – See Annex I.*]

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

☒	Yes
☐	No *[if selected, followed by Q50.1]*
☐	Don't know / no opinion / not relevant

Question 50.1 Please explain your answer to question 50:

[*Box will not be revealed – See Annex I.*]

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

☒	Yes
☐	No *[if selected, followed by Q51.1]*
☐	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:

[*Box will not be revealed – See Annex I.*]

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 *[if selected, followed by Q52.1]*
☒	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 *[if selected, followed by Q52.1.1]*
☐	a list of core or critical functions that would be always performed internally and may not be delegated to third parties *[if selected, followed by Q52.1.2]*
☐	other requirements *[if selected, followed by Q52.1.3]*

[*Choices will not appear, so none checked.*]

[unnumbered but presumably Q52.1.1] 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:

[*Box will not be revealed so not applicable.*]

[unnumbered but presumably Q52.1.2] 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:

[*Box will not be revealed so not applicable.*]

[unnumbered but presumably Q52.1.3] 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:

[*Box will not be revealed – See Annex I.*]

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:

Alternative investment management is a highly internationalised industry and delegation of parts of collective portfolio management by AIFMs to specialists remains a predominant business model for the European AIF industry. This is not a new occurrence and mitigating actions include (i) the contractual arrangements with the delegate and (ii) the oversight, monitoring and control framework imposed on the delegate. Furthermore, Article 78(3) of the AIFMR already sets out the excess conditions required for where the delegation is conferred on a third-country undertaking.

The AIFM has strong duties of oversight when it is delegating any function it is required to perform. It must have a full understanding and control of what is happening and that is regardless of where the delegate is located. The AIFM has to provide that the delegate act in a manner that is consistent with their own regulatory obligations as a principle (see Article 75(a-l) of the AIFMR) and Article 20(3) of the AIFMD makes clear that the AIFM's liability towards investors is not affected by any delegation. Moreover, NCAs already have the appropriate toolkit at their disposal to effectively supervise AIFMs in their jurisdictions in order to ensure investor protection.

If delegation were to require full compliance by the delegate with AIFMD standards, this could pose significant obstacles for delegation outside the EU, particularly in the U.S. and Asia where investment advisers are subject to significantly different, but equally internationally respected, frameworks. This is a significant point because of the preponderance of delegations to U.S. investment advisers (notably often the parent company of the EU AIFM making the delegation) and is a key issue in terms of the damage that can be caused to the interests of European investors. Best-of-breed alternative asset managers in the world are predominantly headquartered in the U.S. According to the 2019 Preqin Global Hedge Fund Report (data as at November 2018), there are 3,906 Hedge Fund Managers based in North America out of a total 6,050 globally and $2,638bn AUM held by Fund Managers headquartered in North America out of $3,526bn AUM globally. There is a real risk that they will turn off the taps on European operations in some cases reducing EU activities as well as EU investors' access to products and returns. This is a very important issue for the industry as a whole and demonstrates the potential negative implications of any changes to delegation. Requiring full compliance with the AIFMD by U.S. or other non-EU firms would result in significant and prohibitive costs. This would make it difficult for EU AIFM investment platforms to attract non-EU managers to act as sub-managers, thereby potentially limiting the range of strategies that such platforms can offer to their clients. We strongly believe that artificially constraining access to the best expertise, wherever it may be, is not in the best interests of European fund managers nor investors.

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

☐	Yes *[if selected, followed by Q54.1]*
☒	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:

[*Box will not be revealed – See Annex I.*]

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:

We do not believe that any elements of the AIFMR delegation rules need to be applied to UCITS. Given that delegation under the UCITS framework has historically not been subject to granular legal provisions in the same manner as the AIFMD/R, any significant uplift in terms of the delegation requirements for UCITS could have a materially negative impact on the UCITS delegation model and UCITS brand, which is currently the gold standard of funds globally.

The AIFMD and UCITS frameworks - including the delegation model contained in each – are currently fit for the international nature of capital flows and the global investment management ecosystem in which our members operate. Existing rules and effective supervision by NCAs should be more than sufficient to police their own jurisdictions around delegation by UCITS management companies. Moreover, UCITS is a highly regulated "product" so the need to flow through of rules in the delegation is perhaps less than in AIFMD/R which is all about the manager and the way the manager operates. Our members, including those with dual licenses, do not believe any operational and legal advantages would be significant enough to move towards a greater alignment of the two different frameworks.

We would also re-emphasise that the two regulatory frameworks should be treated separately given differences both in the business models, investment strategies they follow and in the type of investors for which they are intended. As an example, UCITS capital requirements do not include the additional uncapped 0.01% requirement which apply to AIFMs. Aligning the two would mean an immediate uplift in capital requirements for UCITS firms. This is just one example of the complexity of creating a single rulebook. Taking steps to merge the UCITS and AIFMD regulatory frameworks into a single rulebook runs the significant risk of creating a highly complicated rulebook full of caveats, carveouts and exceptions. A more effective route would be the current approach of supervisory guidelines on key issues, see, for example, ESMA's recent LST guidelines (available at: https://www.esma.europa.eu/press-news/esma-news/esma-publishes-translations-guidelines-liquidity-stress-testing-in-ucits-and) which apply to both AIFs and UCITS with appropriate levels of proportionality reflecting the varying levels of applicability to different types of fund structures and objectives.

Changing the rules on delegation under the UCITS framework could result in a significant upheaval of existing business models and weaken the EU single market as it would likely result in repatriation of activities and business lines in line with national as opposed to pan-EU or global considerations. We strongly caution against pursuing this course of action, particularly at this uncertain point in time.

X. Financial stability

a. macroprudential tools

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

☐	Yes *[if selected, followed by Q56.1]*
☒	No *[if selected, followed by Q56.1[B]]*
☐	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 Yes *[if selected, followed by Q56.1.1]*
☐	harmonising availability of liquidity risk management tools for AIFMs across the EU *[if selected, followed by Q56.1.2]*
☐	further detailing cooperation of the NCAs in case of activating liquidity risk management tools, in particular in situations with cross-border implications *[if selected, followed by Q56.1.3]*
☐	further clarifying grounds for supervisory intervention when applying macroprudential tools *[if selected, followed by Q56.1.4]*
☐	defining an inherently liquid/illiquid asset *[if selected, followed by Q56.1.5]*
☐	granting ESMA strong and binding coordination powers in market stress situations *[if selected, followed by Q56.1.6]*
☐	Other *[if selected, followed by Q56.1.7]*

[*Choices will not appear, so none checked.*]

[unnumbered but presumably Q56.1.1] Please explain why you would suggest *improving supervisory reporting requirements*.

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

[*Box will not be revealed – See Annex I.*]

[unnumbered but presumably Q56.1.2] Please explain why you would suggest *harmonising availability of liquidity risk management tools for AIFMs across the EU*.

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

[*Box will not be revealed – See Annex I.*]

[unnumbered but presumably Q56.1.3] 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:

[*Box will not be revealed so not applicable.*]

[unnumbered but presumably Q56.1.4] 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:

[*Box will not be revealed so not applicable.*]

[unnumbered but presumably Q56.1.5] 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:

[*Box will not be revealed – See Annex I.*]

[unnumbered but presumably Q56.1.6] 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:

[*Box will not be revealed so not applicable.*]

[unnumbered but presumably Q56.1.7] 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:

[*Box will not be revealed so not applicable.*]

Question 56.1[B] Please explain your answer to question 56:

We do not believe that the AIFMD framework needs to be further enhanced to effectively address macroprudential concerns. As evidenced during the first half of 2020, the industry's response to the outbreak of the Covid-19 pandemic has been handled relatively well. We refer to ESMA's most recently published report on 'Trends, Risks and Vulnerabilities from September 2020 (the 'ESMA report') which stated that "between the second half of March and May around 200 EU and UK funds (out of 60,000 funds) [(i.e., 0.3%)] had to suspend redemptions temporarily". It further recognised that "since April, the liquidity profile of funds has improved across fund types, with a surge in inflows and a general improvement in performance." In addition, in a speech recently delivered by ESMA's Chair, Steven Maijoor, he stated that "Overall, there was an increased use of exceptional LMTs but still modest in absolute value.

We do recognise, however, that for investment funds that have short redemption periods, but invest in less liquid assets, performance was subdued during the March-April term. Most notably, this concerns funds with exposure to real estate and corporate debt where the former's performance challenges were compounded due to high valuation uncertainty. However, in ESMA's report on the Recommendation of the ESRB on liquidity risk in investment funds, ESMA notes that "the funds exposed to corporate debt and real estate funds under review overall managed to **adequately maintain their activities** when facing redemption pressures and/or episodes of valuation uncertainty" (emphasis added). It goes on to note that "only a limited number of these type of funds suspended subscriptions and redemptions while the vast majority was able to meet redemptions requests and maintain their portfolio structure."

Overall, the extreme pressures experienced during the global financial crisis of 2008-09 were not felt and are unlikely to materialise in the short- to near term as the industry, since the 2008-09 financial crisis, put in place adequate LRM tools to address macroprudential concerns.

If there are concerns about the way some AIFMs handled liquidity risk management earlier in 2020, we note that supervisory means of addressing these issues are available already. Changes to the regulatory regime in response to the perceived ineffective liquidity risk management of a few is disproportionate.

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:

We do not believe that the AIFMD should be modified to clarify if the suspension of the issue, repurchase or redemption of units in the public interest includes financial stability reasons as it is unclear what such a statement would practically bring. We believe that "public interest" is broad enough to include "financial stability reasons" and we see no reasons to further clarify this definition. We again refer to the ESRB's 2017 letter which states that NCAs can impose the suspension of redemptions if it deemed "to be in the public interest which, presumably, also **includes financial stability factors**" (emphasis added).

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:

As we have outlined in our response to Question 61.1, we believe there is supervisory value in being able to compare and contrast at least a minimum amount of data across different AIFs by, for example, requiring AIFMs to report the impact on long and short components of a portfolio (as % of NAV) from specified changes to certain identified market factors, as identified in our response to Question 61.1. These market factors would allow NCAs to identify stress test scenarios that reflect rates of change that would be reflected in unusual market or economic risk conditions.

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

☒	Yes
☐	No *[if selected, followed by Q59.1]*
☐	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:

[*Box will not be revealed – See Annex I.*]

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

☐	Yes *[if selected, followed by Q60.1]*
☒	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:

[*Box will not be revealed – See Annex I.*]

b. **supervisory reporting requirements**

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

☐	Fully agree *[if selected, followed by Q61.1]*
☐	Somewhat agree *[if selected, followed by Q61.1]*
☐	Neutral *[if selected, followed by Q61.1]*
☐	Somewhat disagree *[if selected, followed by Q61.1[B]]*
☒	Fully disagree *[if selected, followed by Q61.1[B]]*
☐	Don't know / no opinion / not relevant *[if selected, followed by Q61.1]*

Question 61.1 Please explain your answer to question 61:

[*Box will not be revealed so not applicable.*]

Question 61.1[B] 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 *[if selected, followed by Q61.1[B].1]*
☒	the reporting coverage is insufficient *[if selected, followed by Q61.1[B].2]*
☒	the reporting coverage is superfluous *[if selected, followed by Q61.1[B].3]*
☒	Other *[if selected, followed by Q61.1[B].4]*

[unnumbered but presumably Q61.1[B].1] 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:

We do not believe that any of the overlaps seem to warrant a change to the text of the AIFMD itself as reporting requirements in the Directive are very general. Rather, our members would view the streamlining and clarification of some fields in Annex IV of the AIFMR text, as well as in the reporting guidelines, which both contain the substance, as a useful change. We note that, in general, our position is that AIFMs have already spent much time and resources to comply with the AIFMD regulatory reporting requirements which includes around 360 fields for each AIF managed by an AIFM and marketed in the EU so we would caution against a complete overhaul of the reporting requirements.

To that end, we refer the Commission to Annex II of our accompanying cover letter which provides a comprehensive overview of suggested proposals to improve Annex IV to better serve the goals of the Commission and NCAs with respect to systemic risk monitoring. The answers to the questions related to supervisory reporting requirements are based on the Annex II of our accompanying cover letter and have been extracted and précised.

With regard to overlapping reporting requirements, we believe that certain fields could be omitted from the Annex IV report template as they overlap with other reporting regimes. Depending on the possible changes to the AIFMR reporting template the Commission envisions, such as the removal of duplicative or overlapping fields, or the introduction of the mandatory use of LEIs, we may raise, in addition to the below, further examples of data fields in the AIFMR template that are either duplicative or overlap with other EU reporting requirements.

Fields 148-156 - Trading and clearing mechanisms

Fields 157-159; 160-171 - Value of collateral, top five counterparty exposures

We would suggest that the Commission re-evaluate the need for information reported for fields 148-171 in light of information available to competent authorities through reporting requirements established under other pieces of sectoral legislation. Our view is that these fields duplicate other sectoral reporting rules while providing less comprehensive information. Specifically, competent authorities have at their disposal a comprehensive dataset regarding the activities of AIFs in various asset classes on the basis of obligations under EMIR, MiFIR and SFTR. As a result, we recommend deleting fields 148-171.

[unnumbered but presumably Q61.1[B].2] 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:

We believe there are a few areas where the Annex IV template insufficiently captures information on AIFMs that would improve ESMA/NCAs' ability to monitor a potential build-up of systemic risks. We have outlined these below, but we refer the Commission to Annex II of our accompanying cover letter for a more detailed breakdown.

Seeking details on initial margin and variation margin posted as of the reporting date, replicating the EMIR and SFTR reporting fields

Currently, fields 287-288 only require the AIFM to provide the value of borrowing embedded in financial instruments separated by derivatives traded on exchanges and derivates traded OTC. An additional set of data points that could assist NCAs in understanding the quantum of risk associated with derivatives transactions by AIFs is the amount of the AIF's outstanding posted initial margin as of the reporting date, separated by cleared derivatives and OTC/bi-lateral/uncleared derivatives of each major type of derivative instruments (credit, currency, interest rate, commodities, other).

Improving disclosure regarding leverage

We welcome the Recommendations for a Framework Assessing Leverage in Investment Funds ('the Leverage Framework') by the International Organization of Securities Commissions ('IOSCO') and believe the changes in the definition and measurement of leverage should be integrated in the AIFMD framework in the Level 2 Regulation. In order for NCAs to be able to do this though, they will need the information about an AIF's portfolio to be presented somewhat differently than currently provided in the Annex IV reports by revising the data collection forms to facilitate review of the data on an asset class by asset class basis which would allow NCAs to see an AIF's basic asset allocation and to distinguish between AIFs with exposure to higher risk assets and those with exposure to lower risk assets. In our view this would permit NCAs to differentiate AIFs considering the risk profile - and not just the scale – of their investments. In our response to Question 71 we have identified how the Annex IV template could be revised to achieve the implementation of IOSCO's recommendations.

[unnumbered but presumably Q61.1[B].3] 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:

Fields 103-112 - Five most important portfolio concentrations
The Commission should revise fields 103 and 108-109 by introducing a 10% threshold in order to better identify potential risks from concentrated investments, thereby reducing the reporting burden as concentrated positions are not necessarily a signal of risk.

Fields 64-77 – Main instruments in which the AIF is trading
Fields 94-102 – 10 principal exposures
Fields 103-112 – Five most important portfolio concentrations
Fields 114-117 – Principal markets in which AIF trades

In our view, these rankings requested by the indicated fields, when based on notional exposures, do not provide any meaningful insight to assessing systemic risk, especially on AIFs who are trading in derivative instruments. Furthermore, the data that is requested in each of the four rankings have a high degree of duplication as they identify the same instruments multiple times. We, therefore, believe that either these rankings should be combined to reduce duplicating data at multiple reporting fields in the Annex IV report, or these fields should not be required for AIFs trading principally in derivatives contracts. This would significantly cut down on unnecessary reporting burdens.

[unnumbered but presumably Q61.1[B].4] Please specify for for [sic?] what *other reason* the supervisory reporting requirements as provided in the AIFMD and AIFMR's Annex IV are not appropriate.

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:

Certain additions to the reporting template or refinements of existing reporting requirements could help NCAs and ESMA to better understand the relevant risks.

Revisiting the method of calculating AUM for general Annex IV reporting purposes

The AUM figures supplied to ESMA and the NCAs are generally not capable of being compared to those of other countries or of being aggregated with the data of other countries. In general, non-EU regulators use the basic NAV calculation as the basis for similar systemic risk reports and we would support the inclusion of NAV as it is a more appropriate measure for reporting purposes.

Breaking down certain metrics by derivatives vs cash exposures

We believe that DV01 and CS01 are better suited metrics that could be requested from AIFs which would allow supervisors to understand better an AIF's risk profile. IOSCO's Leverage Framework has also referred to DV01 and CS01 as additional metrics to gather insightful data on analysing leverage-related risks in AIFs. These should be broken down as between cleared and non-cleared derivatives of each category and for each type of derivative instruments (credit, currency, interest rate, commodities, other) and separately for cash instruments.

Improving the instructions to remove questions of interpretation

In Annex II of the accompanying cover letter AIMA and the ACC have submitted to the Commission as part of this response, we have outlined a few examples of where the instructions for data fields could be improved. Although ESMA has provided some guidance, these instructions are still many matters open for interpretation.

Seeking some basic stress test comparative details

Fields 279 and 280 require the AIFM to provide a free text discussion of the results of their required stress testing. While we strongly believe that stress testing should not be required to be done on a uniform set of requirements, we also believe there can be supervisory value in being able to compare and contrast at least a minimum amount of data across different AIFs. One possibility would be to require AIFMs to report the impact on long and short components of a portfolio (as % of NAV) from specified changes to certain identified market factors as outlined in Annex II of the accompanying cover letter.

Fields 178-185 - Portfolio liquidity profile

The requirement to report the percentage of the AIF's portfolio that is capable of being liquidated within each of the liquidity periods specified, diminishes the usefulness of the data reported because it causes AIFMs to report that certain AIFs are less liquid than they actually are. Allowing AIFMs to spread the likely liquidity into the various categories will provide a more accurate view of AIF liquidity. We ask the Commission to reconsider the requirements that each investment be assigned to only one period.

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

☒	Yes *[if selected, followed by Q62.1]*
☐	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 *[if selected, followed by Q62.1.1]*
☐	a more granular geographical breakdown of exposures (e.g. at country level) by asset classes, investors, counterparties, and sponsorship arrangements *[if selected, followed by Q62.1.2]*
☒	requiring more details on leverage *[if selected, followed by Q62.1.3]*
☐	requiring more details on liquidity *[if selected, followed by Q62.1.4]*
☐	requiring more details on sustainability-related information, e.g. risk exposure and/or impacts *[if selected, followed by Q62.1.5]*
☐	other *[if selected, followed by Q62.1.6]*

[unnumbered but presumably Q62.1.1] 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:

[*Box will not be revealed – See Annex I.*]

[unnumbered but presumably Q62.1.2] 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:

[*Box will not be revealed so not applicable.*]

[unnumbered but presumably Q62.1.3] 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:

The leverage measures calculated under the AIFMD (and being reported at fields 294 and 295) are being used to assess systemic risk, which is unhelpful for this purpose, as the measures are over inclusive for some types of investments. The gross and commitment methods are not useful for the purpose of measuring and monitoring market risk and economic exposure.

We welcome the Recommendations for a Framework Assessing Leverage in Investment Funds ('the Leverage Framework') by IOSCO and believe the changes in the definition and measurement of leverage should be integrated in the AIFMD framework in the AIFMR.

[unnumbered but presumably Q62.1.4] 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:

[*Box will not be revealed so not applicable.*]

[unnumbered but presumably Q62.1.5] 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:

[*Box will not be revealed so not applicable.*]

[unnumbered but presumably Q62.1.6] 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:

[*Box will not be revealed so not applicable.*]

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:

No comment.

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:

No comment.

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:

We do not believe that counterparties' and issuers of securities' LEIs should be reported for the Annex IV reporting of AIFMR as this would prove to be a cumbersome exercise considering the wide and large variety of counterparties and/or securities issuers the AIFM deals with.

In addition, portfolio holdings listings are most often subject to requirements to identify the ISIN, which is an identifier that specifies the security as well as its issuer by extension. As a result, any requirements that specify the use of both the ISIN and the LEI are meaninglessly redundant and any portfolio listing requirements for the LEI alone would presumably not be specific enough. As a result, the ISIN seems the most appropriate single identifier for portfolio positions. Asking for the LEI of the counterparty also seems redundant of other regulatory regimes. We also note that the layering licensable identifiers not only increases costs for AIFMs, but it should be wholly avoidable if the correct technology is applied (i.e., the issuer LEI should automatically be accessible via the ISIN based on the reporting given by the issuer about its own LEI and the ISINs of the securities it has issued). The costs for licensing the use of LEI for the AIFM and the AIF is significantly less expensive than it would be to license the use of the LEI of every issuer and counterparty.

Furthermore, fields 161-171 of the Annex IV template already require the AIFMD to provide information on the top five counterparty exposures. Requiring AIFMs to also source and include LEIs of all the AIF's counterparties and issuers of securities would provide little insight to monitor the spread or amplification of risks through the financial system as the NAV percentage of total exposure value of the counterparties to the AIF would, for the majority of counterparties and issuers of securities, be minimal.

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

☒	Yes *[if selected, followed by Q66.1]*
☐	No *[if selected, followed by Q62.1[B]]*
☐	Don't know / no opinion / not relevant

Question 66.1 Please explain your answer to question 66:

We believe that the current reporting data provides supervisors with sufficient information regarding the activities of loan originating AIFs to carry out their supervisory activities. We are not aware of any deficiencies in the existing framework that prevent supervisors from having the necessary data to meet their responsibilities.

The activities of loan originating AIFs (i.e., volume of lending they carry out) remains relatively small despite the growth in this part of the asset management sector. The entire European market for 'private credit', of which direct lending by funds is only one part, is estimated at around EUR200bn. In comparison, the corporate lending carried out by Eurozone banks is more than EUR5tn. Therefore, the market remains a relatively small part of the credit markets despite the sector's growth in the past 5 years.

Our data (contained in the report available at https://www.aima.org/static/uploaded/12558e4c-cbc3-4418-9fc6e86d67cc8e3d.pdf) also suggests that there are no immediate supervisory concerns stemming from the way in which loan funds are being managed. Loan funds are typically structured to ensure matched maturity between the fund and the assets. Our data also indicates that most loan funds employ either no leverage or relatively low levels of leverage (between 1-2 times).

Therefore, we do not see the need for additional reporting requirements for loan originating funds. Adding further data fields would only add operational burdens and cost to such funds without any commensurate benefits. This would also have an impact on the appetite of loan funds to provide credit to European businesses at a time when alternative sources of finance should be encouraged to support the economic recovery from the COVID-19 pandemic.

Question 66.1[B] 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 *[if selected, followed by Q66.1[B].1]*
☐	leveraged loans originated by AIFs *[if selected, followed by Q66.1[B].2]*
☐	Other *[if selected, followed by Q66.1[B].3]*

[*Choices will not appear, so none checked.*]

[unnumbered but presumably Q66.1[B].1] 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:

[*Box will not be revealed so not applicable.*]

[unnumbered but presumably Q66.1[B].2] 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:

[*Box will not be revealed so not applicable.*]

[unnumbered but presumably Q66.1[B].3] 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:

[*Box will not be revealed so not applicable.*]

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

☒	Yes *[if selected, followed by Q67.1[B]]*
☐	No *[if selected, followed by Q67.1]*
☐	Don't know / no opinion / not relevant

Question 67.1 Please explain your answer to question 67:

[*Box will not be revealed so not applicable.*]

Question 67.1[B] If yes, which one:

☒	ESMA
☐	other options

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

Annex IV reports should be submitted to ESMA as the single central authority on a single set of uniform set of clearly established instructions to avoid ambiguity and to ensure full harmonisation and data quality. There should also be a fully tested and well-thought out set of validation features (preferably via a web interface and not simply uploading an XML file). This is the only way to ensure full harmonisation, data quality and ability to create comparability across the different jurisdictions. It is perhaps also the easiest way to improve systemic risk oversight. However, there should be no change to NCAs' supervisory rights and obligations and ESMA should not be given direct supervisory power over the reporting AIFMs or AIFs.

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 *[if selected, followed by Q68.1 and Q68.1[B]]*
☒	No *[if selected, followed by Q68.1[B]]*
☐	Don't know / no opinion / not relevant

Question 68.1[B] Please explain your answer to question 68:

While in principle we have no objections to the sharing of the AIFMD supervisory reporting data with NCAs for the purpose of monitoring the possible build-up of systemic risk, we believe that this data should not be shared with other institutions than that of ESMA and the relevant NCAs unless the information is completely anonymised and non-identifiable. The data submitted through the Annex IV report is highly (market) sensitive and confidential and should the information fall into the hands of cyber criminals, it could lead to irreversible financial and reputational damage to the AIFM, the AIF and its investors so we urge caution to safeguard the interests of all parties involved.

Question 68.1 If yes, please specify which one:

☐	ESRB *[if selected, followed by Q68.2]*
☐	ECB *[if selected, followed by Q68.2]*
☐	NCBs *[if selected, followed by Q68.2]*
☐	National macro-prudential authorities *[if selected, followed by Q68.2]*
☐	Other *[if selected, followed by Q68.2[B]]*

[*Choices will not appear, so none checked.*]

Question 68.2 Please explain your anwser [sic] to question 68.1:

[*Box will not be revealed so not applicable.*]

[unnumbered but presumably Q68.2[B]] Please specify to which other relevant national and/or EU institutions the access to the AIFMD supervisory reporting data should be granted:

[*Box will not be revealed so not applicable.*]

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

☐	Yes *[if selected, followed by Q69.1]*
☐	No *[if selected, followed by Q69.1[B]]*
☒	Don't know / no opinion / not relevant

Question 69.1 Please explain your answer to question 69:

[*Box will not be revealed – See Annex I.*]

Question 69.1[B] 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:

[*Box will not be revealed so not applicable.*]

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

☒	Yes *[if selected, followed by Q70.1]*
☐	No *[if selected, followed by Q70.1[B]]*
☐	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 *[if selected, followed by Q70.1.1]*
☐	adding additional investment strategies *[if selected, followed by Q70.1.2]*
☒	Other *[if selected, followed by Q70.1.3]*
☐	it cannot be improved, however, if a portfolio breakdown is provided to the supervisors this can be inferred *[if selected, followed by Q70.1.4]*

[unnumbered but presumably Q70.1.1] Please explain why you think the AIF classification could be improved by *permitting multiple choice of investment strategies in the AIFMR template*, providing information, where available, on the costs, benefits and disadvantages of this option:

[*Box will not be revealed so not applicable.*]

[unnumbered but presumably Q70.1.2] 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:

[*Box will not be revealed so not applicable.*]

[unnumbered but presumably Q70.1.3] 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:

We understand that ESMA and various NCAs have expressed concerns regarding the opaqueness of the types of funds that are included in the statistics under "Other" in fields 57-61. This lack of clarity could be decreased by defining the characteristics of AIFs that make them fit into the specified categories (e.g., what characteristics make an AIF a "hedge fund" for this purpose).

Some improvements could also be made by carving out some other sub-categories such as asking for money market funds (as defined by the Money Market Fund Regulation) to be segregated as a separate category rather than being part of fixed income under the "Other" category.

[unnumbered but presumably Q70.1.4] 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:

[*Box will not be revealed so not applicable.*]

Question 70.1[B] Please explain your answer to question 70:

[*Box will not be revealed so not applicable.*]

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

Please select as many answers as you like

☐	value at Risk (VaR) *[if selected, followed by Q71.1]*
☒	additional details used for calculating leverage *[if selected, followed by Q71.2]*
☐	additional details on the liquidity profile of the fund's portfolio *[if selected, followed by Q71.3]*
☒	details on initial margin and variation margin *[if selected, followed by Q71.4]*
☐	the geographical focus expressed in monetary values *[if selected, followed by Q71.5]*
☐	the extent of hedging through long/short positions by an AIFM/AIF expressed as a percentage *[if selected, followed by Q71.6]*
☒	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 *[if selected, followed by Q71.7]*
☐	the role of external credit ratings in investment mandates *[if selected, followed by Q71.8]*
☐	LEIs of all counterparties to provide detail on exposures *[if selected, followed by Q71.9]*
☐	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) *[if selected, followed by Q71.10]*
☒	other *[if selected, followed by Q71.11]*

[unnumbered but presumably Q71.1] 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:

[*Box will not be revealed so not applicable.*]

[unnumbered presumably Q71.2] Please explain why *additional details used for calculating leverage* 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:

Fields 121-124 of the Annex IV reporting template currently require AIFMs to provide information on the individual exposures in which the AIF is trading and the main categories of assets in which the AIF invests in, broken down on a sub-asset type level asking for the gross value and the short and long values of the individual exposures. This could be supplemented by the form asking for the gross value for each asset type in Field 122 (which is not currently required) and perhaps adding Fields 123a and 124a to request the long and short values for each asset type to also be reported as a percentage of NAV as suggested by IOSCO in its Leverage Framework. We believe it would be the easiest way to improve the ability to compare data across supervisory regimes and thus improve the supervisory authorities' understanding of the risk exposures generated by AIFs. In the event this recommendation is not taken forward, we have identified and expanded on three areas in Annex II of our accompanying cover letter where the current calculations for the gross methods and commitment methods figures should be adjusted regardless. These are (i) aligning the calculation of the gross method and commitment method by excluding cash held in the base currency; (ii) excluding derivatives that are used to hedge currency risk from the calculation of the gross and commitment method; and (iii) adjusting the calculation of the gross notional exposure amount and include certain types of netting or hedging.

[unnumbered presumably Q71.3] 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:

[*Box will not be revealed so not applicable.*]

[unnumbered presumably Q71.4] 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:

An additional set of data points that could assist NCAs in understanding the quantum of risk associated with derivatives transactions by AIFs is the amount of the AIF's outstanding posted initial margin as of the reporting date, separated by cleared derivatives and OTC/bi-lateral/uncleared derivatives of each major type of derivative instruments (credit, currency, interest rate, commodities, other).

Most AIFs are required to post initial margin for their cleared and uncleared derivatives positions, as well as their leveraged positions which are financed through borrowing. For many positions, AIFs must also exchange variation margin on a daily basis, and this will soon become mandatory for all large asset managers in the derivatives space.

[unnumbered presumably Q71.5] 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:

[*Box will not be revealed so not applicable.*]

[unnumbered presumably Q71.6] 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:

[*Box will not be revealed so not applicable.*]

[unnumbered presumably Q71.7] 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:

[*Box will not be revealed so not applicable.*]

[unnumbered presumably Q71.8] Please explain why *the role of external credit ratings in investment mandates* 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:

[*Box will not be revealed so not applicable.*]

[unnumbered presumably Q71.9] Please explain why *lEIs [sic] 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:

[*Box will not be revealed – See Annex I.*]

[unnumbered presumably Q71.10] 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:

[*Box will not be revealed so not applicable.*]

[unnumbered presumably Q71.11] Please explain what *other data fields* 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:

Field 120 – Investor Concentration percentage by retail investors

While asking for a split between retail investors and professional investors provides a straightforward check on whether the AIF will be subject to PRIIPs and other requirements applicable with respect to marketing to retail investors, we recommend adding a breakout from these figures for retail investors that are risk-taking staff for purposes of the remuneration guidelines.

Seeking some basic stress test comparative details

As we have outlined in our response to Question 61.1, we believe there is supervisory value in being able to compare and contrast at least a minimum amount of data across different AIFs by, for example, requiring AIFMs to report the impact on long and short components of a portfolio (as % of NAV) from specified changes to certain identified market factors, as identified in Annex II of our accompanying cover letter.

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 additional data fields should be added to the Annex IV template to better capture AIFs' exposures to leveraged loans and the CLO market. An AIF's principal exposures and portfolio concentration levels are already reported under existing requirements. It is unclear why any exposure to leveraged loans and CLO market would merit additional disclosure through new data fields beyond what is already required.

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

☒	Yes *[if selected, followed by Q73.1]*
☐	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:

We believe that some fields in Annex IV should be either removed or simplified, as doing so would considerably cut down on unnecessary reporting burdens. The below provides an overview of the specific Annex IV fields in line with this recommendation. Please refer to Annex II of the accompanying cover letter AIMA has submitted to the Commission for a detailed overview of specific suggested edits to the following fields:

- Fields 64-77 – Main instruments in which the AIF is trading
- Fields 94-102 – 10 principal exposures
- Fields 103-112 – Five most important portfolio concentrations
- Fields 114-117 – Principal markets in which AIF trades
- Fields 125-127 – Value of turnover in each asset class over the reporting months
- Field 172 – Direct clearing flag
- Field 197 - Side pocket percentage
- Fields 208-209 - Breakdown of the ownership of units in the AIF by investor group
- Field 218 - Total number of open positions.

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

☐	Yes
☒	No *[if selected, followed by Q74.1]*
☐	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:

To significantly reduce unwarranted costs associated with Annex IV reporting for the substantial number of AIFMs who are currently required to file and report on a quarterly basis, AIMA recommends that the Commission should only require AIFMs to file their Annex IV report on a maximum half-yearly basis to reduce the amount of often superfluous data collected under current requirements. However, it would also be helpful for AIFMs reporting with respect to multiple funds of varying sizes if the reporting scheme were to permit and support allowing AIFMs the option to choose to file the form with respect to all of its AIFs on the most frequent applicable basis even if some of those AIFs are only required to be reported on a less frequent basis.

We do not believe that AIFs with less than EUR 5bn in AUM and AIFs with less than EUR 2.5bn in AUM through the use of leverage pose the type of risk that justifies the high costs of the frequent and detailed reporting required.

We have, therefore, made targeted suggestions to edit Article 110(3) and (4) of the AIFMR to decrease the filing frequency which can be found in Annex II to our accompanying cover letter.

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:

While we do not believe any (additional) data fields should be included to provide ad hoc information to NCAs during periods of market stress, we have argued in our response to Question 61 that it may be helpful to require AIFMs to report the impact on long and short components of a portfolio (as % of NAV) from specified changes to certain identified market factors. We also note that stressed market conditions are often based on subjective criteria and there is not a uniform definition or understanding of 'stressed market'. What is considered 'stressed' for some AIFs may not be 'stressed' for others. It would, therefore, be helpful to use a common set of stress test scenarios that reflect rates of change that would be reflected in unusual market or economic risk conditions, such as those identified in our response to Question 61.

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:

We do not believe that supervisory reporting for UCITS funds should be introduced. We believe that it would be disproportionate for UCITS to become subject to leverage reporting provisions similar to those applicable to AIFs. This is because the UCITS Directive includes specific limits on leverage. In addition, we note that several NCAs already require UCITS to report portfolio liquidity profiles of fund. We understood that it was ESMA's intention to bridge these different approaches through its 2020 convergence exercise between NCAs regarding compliance with UCITS fund liquidity rules, which has already prompted investment managers to respond to questionnaires sent by NCAs in coordination with ESMA. Overall, we believe that supervision and enforcement of the existing rules should be the focus of the authorities. In any case a new reporting system would represent a significant implementation project with unclear benefits. Instead, we believe that it would be preferable to use existing reporting and ensuring NCAs or ESMA are given access to existing central bank reporting.

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 [sic?], also in terms of costs, benefits and disadvantages:

See above response to Question 76. However, we reserve the right to offer additional suggestions/commentary should the Commission nevertheless choose to propose amending the text of the UCITS framework in the future.

Question 78. Should the formats and definitions be harmonised with other reporting regimes (e.g. for derivates 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 *[if selected, followed by Q78.1]*
☐	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:

We believe that harmonising the formats and definitions with other reporting regimes would result in greater efficiency between the various regimes as some data often has to be reproduced and edited to comply with the different regimes that may demand the data to be submitted in a slightly different manner and/or format.

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:

Leverage in the AIFMD is currently viewed through the lenses of two calculation methodologies: the gross and the commitment methods. However, both the gross and commitment methods have resulted in distorted leverage numbers for AIFs for at least two keys reasons: (1) they provide a single aggregated number that does not provide any meaningful information about the actual risk of leverage used by the fund, and (ii) they fail to properly account for the use of interest rate, currency and other types of derivatives. AIFs that use these types of instruments are required to use notional amounts of such contracts in those calculations where the notional amounts do not reflect, for example, the maturity, the type and/or the underlying financial asset of a particular contract. To illustrate, let us compare the 3-month U.S. T-bill futures contract with the 10-year U.S. T-note futures contract. One single 10-year U.S. T-note contract effectively covers the interest rate risk over a period equal to the period covered by 40 consecutive 3-month U.S. T-bill futures contracts. However, the aggregate underlying value of these 40 U.S. T-bill futures contracts is 40 times as high as the underlying value of the single U.S. T-note contract, causing leverage of the first position, though similar from a risk perspective, to be 40 times as high. The gross market exposure may provide NCAs with a measure for the footprint of a fund or strategy in the capital markets but does not give an adequate measure for market risk or leverage. The commitment method suffers from the same flaws in terms of aggregating notional exposures of substantially different instruments to constitute one risk number (although it does allow for certain netting, i.e., a very limited reduction of hedging positions). None of these measures take into account correlations within a portfolio.

We consider that the gross and commitment methods currently used under the AIFMD are not sufficient or appropriate for all types of AIFs and are misleading to managers, investors and competent authorities. The measures are indeed over-inclusive for some types of investments (some fairly low volatility strategies may appear riskier under the measures, while other high volatility strategies may appear less risky). In addition, it is difficult if not impossible for competent authorities to derive more meaningful measures of leverage without requesting additional data from the managers, which undermines the effectiveness of the AIFMD framework.

In line with our comments above, we agree with ESMA's recommendation in its recent letter to the Commission to amend the commitment amount calculation by adjusting the notional amounts of interest rate derivatives contracts by the duration of the 10-year bond equivalent.

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

☐	Yes *[if selected, followed by Q80.1]*
☒	No *[if selected, followed by Q80.1[B]]*
☐	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:

[*Box will not be revealed so not applicable.*]

Question 80.1[B] Please explain your answer to question 80:

We acknowledge that in principle while a harmonised approach to leverage reporting as between AIFs and UCITS might be beneficial in reducing complexity, we would want to ensure the approach that is chosen is appropriate to the relevant products and if that is not the case the status quo should remain. There are different approaches and merit in both methods under different facts and circumstances. Therefore, at this stage we do not have a strong opinion. However, we reserve the right to offer additional suggestions/commentary should the Commission nevertheless choose to propose amending the text of the UCITS framework in the future.

Question 81. What is your assessment of the two-step approach as suggested by International Organisation [sic] 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:

Our members broadly welcome IOSCO's Recommendations on leverage measurement and believe the changes in the definition and measurement of leverage should be integrated in the AIFMD framework in Annex IV of the AIFMR. Alignment with IOSCO's recommendations on leverage should notably include collecting data about leverage in AIFs on an asset class by asset class basis broken down by long and short exposures for risk monitoring purposes using consistent and comparable measures across different supervisory regimes. This should only be done however if the total number of Annex IV data fields is reduced and cleaned from data which is not deemed useful by supervisors, so as to avoid an unjustified operational burden.

We agree with IOSCO's acknowledgement that NCAs should consider circumstances and factors relevant in their jurisdictions and specific to the AIF, its size, characteristics and strategies to assess whether the AIF may or may not present leverage-related risk. We acknowledge that in order for NCAs to be able to do this, they will need the information about an AIF's portfolio to be presented somewhat differently than currently provided in the Annex IV reports. In its recommendations, IOSCO suggests retaining the gross and commitment methods (although these are respectively referred to in the IOSCO paper as GNE without adjustments and Adjusted GNE) but encourages the revision of the data collection forms to facilitate review of the data on an asset class by asset class basis (e.g., equity securities, fixed income securities, interest rate derivatives), broken out by long and short exposures.

This would allow NCAs to see an AIF's basic asset allocation and to distinguish between AIFs with exposure to higher risk assets and those with exposure to lower risk assets, and the directionality of the AIF's exposures. This would permit NCAs to differentiate AIFs considering the risk profile - and not just the scale – of their investments. Fields 121-124 of the Annex IV reporting template, for example, currently require AIFMs to provide information on the individual exposures in which the AIF is trading and the main categories of assets in which the AIF invests in, broken down on a sub-asset type level asking for the gross value and the short and long values of the individual exposures. This could be supplemented by the form asking for the gross value for each asset type in Field 122 (which is not currently required) and adding Fields 123a and 124a to request the long and short values for each asset type to also be reported as a percentage of NAV as suggested by IOSCO.

We believe it would be the easiest way to improve the ability to compare data across supervisory regimes and thus improve the supervisory authorities' understanding of the risk exposures generated by AIFs. We do not feel it would be appropriate to aggregate the total amount of these asset classes, broken out by long and short exposures, into a single gross exposure number as we believe this number, on its own, is misleading in that it does not represent the amount of leverage or risk of an AIF's investment positions and it does not account for differences across different types of asset classes. The suggested breakdown would allow NCAs to consider implementing additional targeted measures aimed at the different asset classes, depending on their risk exposure. However, even though this would be an improvement to the current situation, this approach would still ignore the risk reducing effects of correlation. Additional metrics such as margin to equity could usefully supplement leverage-related metrics.

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:

No comment.

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:

It is unclear what measures might be appropriate within the AIFMD framework to address potential concerns arising from the reported increase in CLO and leveraged loans and any risks these may present to the financial system.

The largest investors in leveraged loans and the CLO market are banks. If there is a view that additional measures are required to address potential financial stability risks arising from the growth in the CLO market and leveraged loans, a proportionate approach would be to address these investors first as that is where the biggest impacts are likely to be felt.

If, subsequently, it is decided that further actions should also be considered for the asset management sector we would suggest that policymakers focus on the following three areas:

- Ensuring good liquidity risk management in structures which may be subject to significant liquidity mismatches;
- Ensuring good regulatory oversight of institutional investors due diligence, risk management and loss bearing capacity; and
- Ensuring good regulatory oversight of rating agency practices, including any changes to those practices in the late stages of the credit cycle.

We believe that policymakers and supervisors can ensure each of these under the existing asset management framework in tandem with existing regulatory frameworks for other parts of the financial sector related to the CLO/leveraged loan market.

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

☐	Yes
☒	No *[if selected, followed by Q84.1]*
☐	Don't know / no opinion / not relevant

Question 84.1 Please explain your answer to question 86, in terms of the costs, benefits and disadvantages:

The use of leverage is essential to the delivery of some strategies, and the possibility of capping or restricting the use of leverage could put at risk an entire portfolio, especially if such decision is taken on the basis of indicators which, as demonstrated in response to Question 79, do not reflect the reality of a fund's exposure or potential risk. According to ESMA's Guidelines on Article 25 of the AIFMD, once the decision to impose limits is taken, these limits should apply to the indicators available, i.e., the gross or the commitment aggregated numbers. We fail to see how a limit on an aggregated number can be a helpful tool to effectively mitigate systemic risk stemming from the use of leverage for a particular and specific investment strategy.

Furthermore, the Guidelines clearly show that the assessment of systemic risk caused by the strategy of a particular fund is linked to a multiplicity of factors, as per the number of indicators listed under Step 2 and Table 2 recommended by ESMA. It seems rather unbalanced that such a thorough assessment would result in the limitation of one single aggregated number. We therefore recommend that regulators and policymakers further refine their assessment of macro-prudential risks stemming from EU AIFs with additional research and evidence before considering the use of tools that could have strong unintended consequences while not being helpful from a systemic risk perspective. Indeed, given the importance of the use of leverage in some strategies, as demonstrated above, the fact that such limits can result in an increase of risks (as recognised by ESMA itself in section [30(c) of its draft] Guidelines on leverage-related risks) and that this could lead to a change in the investment strategy of the relevant fund (as implied by the same section [30(c))], ESMA should remind NCAs that powers granted by AIFMD Article 25 should only be considered as a last resort measure and other tools should be considered first. [Indeed, section 30(c) shows the deep impact setting leverage limits can have on portfolio management and especially on risk management.] This is also recognised in the recent paper published by the Office of Financial Research of the US Treasury:

> "Our results provide context for evaluating policy proposals related to limits on private fund leverage, such as those being considered in the European Union. **Perhaps most important is that limits on leverage may have unintended consequences**. Limits on leverage may make previously unconstrained funds leverage constrained, since leverage unconstrained funds are likely to be the heaviest users of leverage. But if leverage-unconstrained funds' appetite for risk remains the same, then such funds may tilt toward higher risk — and in particular higher market beta — assets. That is, leverage limits may push funds to invest in higher beta assets, which may lead to more correlated and crowded trades and more coordinated outcomes. Further, the riskiest funds are likely to be those that leverage high-risk assets. But for reasons discussed in this paper, those funds may not be the most highly leveraged, since risky assets are often accompanied by large haircuts and margin requirements." (emphasis added)

Furthermore, in order to mitigate the risks that would result from setting leverage limits, ESMA recommends a suite of restrictions which could, as we see it, directly impact the contractual relationship of the asset manager and its client (the fund) and, by extension, the investors' understanding of the fund they are investing in. Restrictions to the proportion of certain assets in the portfolio, their sensitivity to market risk factors or to the liquidity of the portfolio are inherent features of the contractual relationship with a fund and amending such elements on a unilateral basis, even temporarily, without the client's approval is contrary to the asset manager's core fiduciary duty and will fundamentally change the economics of the investment for investors. This is a problem because institutional investors invest in multiple funds to create balanced and diversified portfolios of investments to meet their particular needs. If there can be no certainty about whether and to what extent the regulator may or may not choose to create a negative externality for the investor by imposing a leverage limit or other restriction, the investor will choose to invest in places where this arbitrary risk does not exist.

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

☐	Yes *[if selected, followed by Q85.1]*
☒	No *[if selected, followed by Q85.1[B]]*
☐	Don't know / no opinion / not relevant

Question 85.1[B] Please explain your answer to question 85:

The establishment of a specific framework for loan origination within the AIFMD would represent a significant departure from the existing AIFMD framework. Recital 10 of the AIFMD explicitly states that the Directive does not regulate AIFs and that it would be "disproportionate to regulate the structure or composition of the portfolios of AIFs managed by AIFMs at Union level and it would be difficult to provide for such extensive harmonisation due to the very diverse types of AIFs managed by AIFMs".

We agree with this approach which ensures there is a consistent approach for different types of alternative investment strategies (e.g., hedge funds, private credit, private equity, real estate or infrastructure) and to limit the potential for nominal distinctions between these strategies within the AIFMD to affect investment decisions.

Furthermore, there are no aspects of the organisational, conduct and prudential requirements for loan originating funds which may give rise to supervisory concerns which cannot be addressed under the existing AIFMD framework. The AIFMD already ensures that loan origination funds:

- are authorised and supervised by NCAs;
- match the liquidity arrangements of their funds with the liquidity profile of their lending activity;
- undertake rigorous borrower due diligence and credit underwriting procedures on any loans they originate;
- implement risk management systems, including stress testing, to identify, monitor and manage risk arising from their lending activity;
- are transparent in their use of leverage to their investors and NCAs; and
- provide detailed reporting to investors and NCAs.

The existing AIFMD framework therefore provides NCAs with the necessary tools to authorise and supervise loan origination. Any additional regulatory measures should only be considered in instances where it has been demonstrated that the risk management processes and regulatory oversight tools established under the AIFMD or other regulations are insufficient to manage any risks potentially arising from loan origination. Our white paper on Non-bank lending in Europe (contained in the report available at https://www.aima.org/educate/aima-research/non-bank-lending-in-the-european-union.html) provides a detailed analysis of how the AIFMD framework already provides the means by which supervisors can address these questions. We are also not aware of any cases where the activities of loan originating AIFs have either caused investor detriment or been a source of market risk that would require additional regulatory interventions.

The Commission is currently consulting on the effectiveness of the ELTIF Regulation. ELTIF provides a pan-European framework for some types of loan origination by AIFs and reform of the ELTIF has been identified as a core part of the EU's capital markets union project.

We would strongly recommend that there is no further consideration of additional requirements for AIFs until the ELTIF review and any necessary reforms are implemented. This will prevent any disturbance to the overall asset management framework from undermining the implementation and success of any reforms to the ELTIF Regulation.

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 *[if selected, followed by Q85.1.1]*
☐	impose leverage limits *[if selected, followed by Q85.1.2]*
☐	impose additional organisational requirements for AIFMs *[if selected, followed by Q85.1.3]*
☐	allow only closed-ended AIFs to originate loans *[if selected, followed by Q85.1.4]*
☐	provide for certain safeguards to borrowers *[if selected, followed by Q85.1.5]*
☐	permit marketing only to professional investors *[if selected, followed by Q85.1.6]*
☐	impose diversification requirements *[if selected, followed by Q85.1.7]*
☐	impose concentration requirements *[if selected, followed by Q85.1.8]*
☐	Other *[if selected, followed by Q85.1.9]*

[*Choices will not appear, so none checked.*]

[unnumbered but presumably Q85.1.1] 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:

[*Box will not be revealed – See Annex I.*]

[unnumbered but presumably Q85.1.2] 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:

[*Box will not be revealed – See Annex I.*]

[unnumbered but presumably Q85.1.3] Please explain why you think *imposing additional organizational 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:

[*Box will not be revealed – See Annex I.*]

[unnumbered but presumably Q85.1.4] 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:

[*Box will not be revealed – See Annex I.*]

[unnumbered but presumably Q85.1.5] 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:

[*Box will not be revealed – See Annex I.*]

[unnumbered but presumably Q85.1.6] Please explain why you think *permiting [sic] 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:

[*Box will not be revealed – See Annex I.*]

[unnumbered but presumably Q85.1.7] Please explain why you think *imposing diversification 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:

[*Box will not be revealed – See Annex I.*]

[unnumbered but presumably Q85.1.8] 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:

[*Box will not be revealed – See Annex I.*]

[unnumbered but presumably Q85.1.9] 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:

[*Box will not be revealed so not applicable.*]

XI. Investing in private companies

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:

[*Box will not be revealed – See Annex I.*]

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:

[*Box will not be revealed – See Annex I.*]

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:

[*Box will not be revealed – See Annex I.*]

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:

No comment.

XII. Sustainability/ESG

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:

Requiring that AIFMs only disclose in quantitative terms the impact of sustainability risks on their portfolio returns is not desirable.

First of all, this change would represent an additional requirement to the duties that must be performed under Regulation 2019/2088 ('SFDR') by AIFMs. The SFDR, however, applies to all financial market participants ('FMPs') - among these are MiFID firms, UCITS management companies, AIFMs, credit institutions which provides portfolio management, pan-European pension provider, insurance companies, etc. - and not just AIFMs. Therefore, using the AIFMD to gold-plate the SFDR would create an unbalanced, and confusing, situation whereby AIFMs would be subject to a different treatment than all the other FMPs. This could make the comparability of data, on the part of investors, who may have multiple relationships with AIFMs and other types of FMP, more difficult. We therefore recommend that any amendments to the SFDR should be discussed in relation to the SFDR itself to avoid differences of treatment among FMPs. It is also essential to keep the sustainability policy discussion coordinated and centralised in specific regulatory texts to avoid regulatory overlaps and confusion.

Furthermore, as an answer to the substance of the question, our members are currently getting prepared for the application of the SFDR (10 March 2021). Where possible, some of our members are already able to quantify ESG-related risks and will therefore disclose them on a quantitative basis. However, the vast majority of our members will include qualitative descriptions of ESG risks in their pre-contractual disclosure simply because it is almost impossible to predict on a quantitative manner the likely impact of ESG risks on financial returns in a legally binding document without being over-conservative and therefore not representative of the actual risk. A thorough explanation on potential ESG risks and their likely impact on the portfolio can therefore be more helpful for the investor than an over-conservative number.

Furthermore, AIFMs are characterised by a heterogeneity of strategies that do not always lend themselves to straightforward assessment of the impact of ESG risks, which is another reason why most of our members are relying on a qualitative description.

Finally, the qualification and even more the quantification of the impact of ESG risks on a portfolio is a nascent trend, which is growing due to regulatory requirements, but also, and mainly, due to investors' demands. We therefore urge EU policymakers to let FMPs implement SFDR as it was adopted and monitor how SFDR disclosure requirements interact with market practices and standards as well as with investors requirements before embarking in further changes.

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:

As with Question 90, such requirements would result in gold-plating the SFDR specifically for AIFMs. We reiterate our comments to keep the discussion on sustainable finance within the Sustainable Finance Action plan.

Furthermore, we note that the current obligation for larger asset manager to be required to consider principal adverse impacts has raised some questions among their non-EU clients. A very important source of capital for EU asset managers are U.S. investors and our members have reported a few questions from U.S. ERISAs scheme advisers in relation to principal adverse impacts ('PAI') considerations and how it interplays with the fiduciary duty to which ERISAs' product managers are subject in the U.S. They have had to introduce changes to their disclosure to adequately address these clients' questions or own legal limitations.

Indeed, a recent rule published by the US Department of Labor requires that "a fiduciary may not subordinate the interests of the participants and beneficiaries in their retirement income or financial benefits under the plan to other objectives, and may not sacrifice investment return or take on additional investment risk to promote non-pecuniary benefits or goals". The mandatory consideration of PAI would necessarily integrate non-pecuniary considerations and objectives (given the related obligation to mitigate those PAI) into the investment strategy of the AIFM and could therefore put into difficulty EU AIFMs seeking to raise money in the U.S. and service their U.S. clients.

Another consideration to have in mind is that given the heterogeneity of AIFMs and their strategies, very often the issue of adverse impact is not relevant to many investment strategies, so requiring all AIFMs to assess these PAI might not end up providing relevant data to investors. We would also like to highlight the current questions in relation to PAI which are still pending and on which our members would welcome clarifications: how to treat non-corporate securities, short positions or derivatives under the PAI report. We believe that should there be more work to be done on the PAI matter and policymakers should focus on making this framework more appropriate to market practices rather than seeking to extend the scope further.

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 *[if selected, followed by Q92.1]*
☐	Somewhat agree *[if selected, followed by Q92.1]*
☐	Neutral *[if selected, followed by Q92.1[B]]*
☐	Somewhat disagree *[if selected, followed by Q92.1[B]]*
☒	Fully disagree *[if selected, followed by Q92.1[B]]*
☐	Don't know / no opinion / not relevant *[if selected, followed by Q92.1[B]]*

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

[*Box will not be revealed so not applicable.*]

Question 92.1[B] Please explain your answer to question 92:

As sustainability risks include any ESG related risks which can have a material impact on the financial return of the investment, this concept indirectly but automatically already include potential adverse impacts as these could have an effect on the financial return of the product. We do not view an additional regulatory requirement to include PAI in the sum of sustainability risks affecting the portfolio's financial returns as a relevant or useful addition.

Furthermore, legally, the two concepts are distinct in the SFDR which allows both PAI and sustainability risks to the value of the portfolio to be considered separately. We are of the view that these two concepts are intrinsically different and should not be artificially merged if the first has no impact on the second. Again, if PAI had an impact on portfolio value, then the PAI would be integrated in the sustainability risk assessment by the AIFM itself.

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 *[if selected, followed by Q93.1]*
☐	No *[if selected, followed by Q93.1[B]]*
☐	No, ESMA's current competences and powers are sufficient
☒	Don't know / no opinion / not relevant *[if selected, followed by Q93.1[B]]*

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.

[*Box will not be revealed so not applicable.*]

Question 93.1[B] Please explain your answer to question 93:

Many investment managers sign side letters with more active investors who will have ESG-related screens that sometime go further than what is required by the EU law. We do not think however that these should be made mandatory, so as to allow both parties to negotiate in good faith. AIFMs are very often structuring bespoke products in niche markets, and blanket requirements without taking into account the specificities of asset managers should generally be avoided.

It has to be noted that the Shareholders Right Directive (SRD II) also requires asset managers to take into account and disclose ESG considerations so we do not believe that adding any further requirements in the AIFMD is desirable as the result would be cumbersome, confusing and could lead to mismatches between different texts and disproportionate operational uncertainty and complexity.

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:

We do not think Question 94 is relevant as the EU Taxonomy already plays a role thanks to the SFDR and its subsequent amendments by the Taxonomy Regulation (Regulation (EU) 2020/852) which requires fund managers promoting environmental characteristics or objectives to disclose their funds' alignment with the EU Taxonomy.

However, we believe, that imposing the EU Taxonomy to all investment decisions made by AIFMs is too broad and risk creating confusion among those AIFMs with investment strategies that do not have a straightforward link to the EU Taxonomy.

Furthermore, our members are currently struggling with the application of the EU Taxonomy to non-long only positions (for example short positions) and would therefore welcome a further deepening of the thinking around such positions, rather than further widening of the application of the EU Taxonomy.

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:

Many AIFMs will take into account international standards and go beyond what is required by the EU law. They are keen to maintain this possibility to abide by the standards they, or their investors, deem relevant also because they are seeing such standards constantly evolving. They would not want to be forced to choose one specific set of standards set by regulation.

XIII. Miscellaneous

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 *[if selected, followed by Q96.1]*
☐	entrusting ESMA with authorisation and supervision of non-EU AIFMs and AIFs *[if selected, followed by Q96.2]*
☐	enhancing ESMA's powers in taking action against individual AIMFs [sic] and AIFs where their activities threaten integrity of the EU financial market or stability the financial system *[if selected, followed by Q96.3]*
☐	enhance ESMA's powers in getting information about national supervisory practices, including in relation to individual AIMF [sic] and AIFs *[if selected, followed by Q96.4]*
☐	no, there is no need to change competences and powers of ESMA
☒	Other *[if selected, followed by Q96.5]*

[unnumbered but presumably Q96.1] 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:

[*Box will not be revealed so not applicable.*]

[unnumbered but presumably Q96.2] 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:

[*Box will not be revealed so not applicable.*]

[unnumbered but presumably Q96.3] Please explain why you think ESMA's powers should be *enhanced in taking action against individual AIMFs [sic] 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:

[*Box will not be revealed so not applicable.*]

[unnumbered but presumably Q96.4] Please explain why you think ESMA's powers should be *enhanced in getting information about national supervisory practices, including in relation to individual AIMF [sic] and AIFs*.

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

[*Box will not be revealed so not applicable.*]

[unnumbered but presumably Q96.5] 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:

See our response to Question 67. Annex IV reports should be submitted to ESMA as the single central authority on a single set of uniform set of clearly established instructions to avoid ambiguity and to ensure full harmonisation and data quality. However, there should be no change to NCAs' supervisory rights and obligations and ESMA should not be given direct supervisory power over the reporting AIFMs or AIFs.

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

☐	Yes *[if selected, followed by Q97.1]*
☒	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:

[*Box will not be revealed so not applicable.*]

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:

No comment.

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:

No comment.

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

☐	Yes *[if selected, followed by Q100.1]*
☒	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:

[*Box will not be revealed so not applicable.*]

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

☐	Yes *[if selected, followed by Q101.1]*
☒	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:

[*Box will not be revealed – See Annex I.*]

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:

In Annex I of the uploaded cover letter to our response, we have provided supplemental responses to a number of questions where our selected response to the initial question meant that no additional box for explanations was provided. These supplemental responses affect Questions 4, 6, 8, 11, 16, 29, 39-43, 49-52, 54, 56, 59, 60, 62, 69, 71, 85-89 and 101.

ANNEX II

Note: The text of Annex II was originally presented as a March 2020 AIMA position paper. That position paper has been widely circulated and discussed with policymakers and regulators. It has been included here as a full discussion of matters that would not fit well within the 5000-character limit set by the response form.

Improving Regulatory Reporting under the AIFMD

This position paper seeks to outline the views of the Alternative Investment Management Association (AIMA)[25] on potential ways regulatory reporting in the form set out as Annex IV of Commission Delegated Regulation (EU) No. 231/2013 (the 'Level 2 Regulation') could be improved. Our paper builds on the ongoing dialogue AIMA has had with the staff of the European Commission (Commission) and other EU stakeholders in relation to the upcoming review of the Alternative Investment Fund Managers Directive (2011/61/EU) (the 'AIFMD').

On 10 January 2019, the Commission published a report it had commissioned from KPMG on the operation of the AIFMD (the 'KPMG Report'). The KPMG Report, which included a market survey, highlighted certain aspects of the AIFMD's regulatory reporting regime that could be addressed to further enhance its effectiveness, such as:

- "*The reporting requirements are viewed as giving rise to unnecessary, duplicative or insufficient data reports, even more so when other reporting requirements are taken into account*" (p. 266);

- *"Overlapping reporting obligations under other EU legislation hinder coherence."* (p. 267); and

- *"Respondents urged that decisions about amendments to the reporting requirements should take into account the significant sunk costs in implementing the reporting systems, for AIFMs, NCAs and [the European Securities and Markets Authority (ESMA)], and the additional costs that would be incurred in making changes, especially if those changes are made in a piecemeal fashion."* (p. 268).

[25] AIMA, the Alternative Investment Management Association, is the global representative of the alternative investment industry, with more than 1,900 corporate members in over 60 countries. AIMA's fund manager members collectively manage more than $2 trillion in 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 100 members that manage $350 billion 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). For further information, please visit AIMA's website, www.aima.org.

In general, our position is that alternative investment fund managers ('AIFMs') have spent much time and resources to comply with the AIFMD regulatory reporting requirements which includes around 360 fields for each alternative investment fund ('AIF') managed by an AIFM.[26]

Although none of the overlaps seem to warrant a change to the text of the AIFMD itself, as reporting requirements in the Directive itself are very general, our members would view the streamlining and clarification of some fields in the Annex IV of the level 2 Regulation text as well as in the reporting guidelines,[27] which both contains the substance, as a useful change.

We are aware that the Commission has received many comments and feedback on the Annex IV reporting template since its inception but the majority of them have not provided the level of detailed feedback the Commission has sought. This position paper seeks to provide detailed proposals for improving Annex IV to better serve the goals of the Commission and national competent authorities ('NCAs') with respect to systemic risk monitoring.

We are proposing specific changes outlined below. We do not believe that requesting AIFMs to provide more granular data than is currently required under the Annex IV report[28] will aid NCAs and ESMA in their attempts to better understand the state of the industry and assess whether there has been a build-up of systemic risk vulnerabilities. Such approach to reporting may provide a misleading representation of risk and is not something that existing investors collect from sophisticated managers to understand and manage risk themselves. A simple list of assets or instruments identified by ISIN is likely to be meaningless for understanding the true risk of a portfolio when it comes to more sophisticated strategies pursued by the majority of our members. What is more important is understanding the broad risk exposures (i.e., groups of assets purchased for their combined risk and return profiles).

We believe, however, that the revisions we are proposing to the Annex IV report would improve the accuracy and relevancy of the information that the NCAs review about the industry. The revisions will allow NCAs to assess systemic risk more effectively across AIFs and minimise the significant costs and time burdens imposed on investment managers. Although we strongly believe that supervisory rights and obligations should remain a member state competency, we recommend that all Annex IV reports are sent to ESMA in the first instance. The reports should conform to a single set of instructions and submitted in an identical format. The NCAs can thereafter draw down the information needed for supervisory purposes. This will facilitate the accuracy and completeness of the data submitted and will aid NCAs in assessing systemic risk.

[26] See ESMA AIFMD reporting IT technical guidance on the ESMA website, available as of 18 September 2019 at https://www.esma.europa.eu/document/aifmd-reporting-it-technical-guidance-rev-4-updated.

[27] See ESMA Guidelines on reporting obligations under Articles 3(3)(d) and 24(1), (2) and (4) of the AIFMD (15 November 2013), available as of 18 September 2019 at https://www.esma.europa.eu/sites/default/files/library/2015/11/2013-1339_final_report_on_esma_guidelines_on_aifmd_reporting_for_publication_revised.pdf.

[28] The European Systemic Risk Board ('ESRB') published a letter on 3 February 2020 called 'ESRB considerations regarding the AIFMD' and commented on the current shortcomings of the AIFMD framework. In the letter, the ESRB suggests, among other things, that AIFMs should be required to provide additional data to better assess systemic risk.

If appropriately targeted, this should reduce the current disproportionate reporting burden placed on filers, without compromising the quality and integrity of information received by NCAs in pursuit of their risk monitoring objectives.

We list below a set of recommendations that we believe should be the focus on any prospective refinement to Annex IV. These are:

- Extend the Annex IV report submission deadline from one month to two months;
- Reduce the frequency of reporting in which AIFMs must update and submit the Annex IV report to a maximum half-yearly basis and raise the threshold for AIFs to €5bn in AUM and €2.5bn in AUM through the use of leverage;
- Create a harmonised central reporting framework with one set of instructions, with a fully tested and well-thought out set of validation features;
- Consider changes to the Annex IV reporting framework to improve disclosure regarding leverage, including:
    - Adding asset class fields to collect data in line with the two-step approach suggested in the Framework Assessing Leverage in Investment Funds published by the International Organization of Securities Commissions ('IOSCO') in December 2019 (the 'Leverage Framework');
    - Aligning the calculation of the gross method and commitment method by excluding cash held in the base currency;
    - Excluding derivatives that are used to hedge currency risk from the calculation of the gross and commitment method; and
    - Adjusting the calculation of the gross notional exposure amount and include certain types of netting or hedging.
- Add or refine some new Annex IV fields to help better understand the risks, including:
    - Revisiting the method of calculating AUM for general Annex IV reporting purposes;
    - Seeking details on initial margin and variation margin posted as of the reporting date, replicating the EMIR reporting fields;
    - Breaking down certain metrics by derivatives vs cash exposures;
    - Better defining categories of AIFs;
    - Improving the instructions to remove questions of interpretation; and
    - Seeking some basic stress test comparative details.
- Simplify or eliminate Annex IV fields by minimising those fields that are duplicative or only tangentially related to systemic risk; and

- Incorporate alphanumeric identifiers to mitigate potential cyber breaches.

Although we support the idea of improving the reporting process, we also believe that without the first three suggestions in our list above being taken forward, the overall data quality will not be improved and the costs and burdens of making changes to reporting processes will not be outweighed by the benefits of making those changes.

We hope that these specific suggestions will be helpful. We would be happy to discuss further any of the suggestions raised in this letter or members' views regarding the Annex IV reporting regime more generally at your convenience. For questions, please contact Jennifer Wood (+ 44 (0) 20 7822 8380; jwood@aima.org).

APPENDIX to ANNEX II

In this Appendix, we expand on our suggestions for targeted changes to the Annex IV reporting template which we think will increase data quality and improve the ability of NCAs and ESMA to understand the relevant risks.

1. Extend the Annex IV report submission deadline from one month to two months

Currently, Article 110(1) of the Level 2 Regulation requires AIFMs to submit their Annex IV reports within one month after the quarterly or half-yearly reporting date. Where the AIF is a fund of funds this period may be extended by 15 days. The data that needs to be submitted is often challenging to reconcile within these time periods as the accuracy of the data and the wider compliance of the Annex IV report with the AIFMD and the Level 2 Regulation require verification and sign-off. As a consequence, many AIFMs will often resubmit their Annex IV reports after finalising their month end net asset value (NAV) calculation process having found, and corrected, inadvertent inaccuracies that the previously submitted report contained.

The calculation of a NAV for AIFs invested solely in Level 1 and Level 2 assets with publicly available or observable prices is straightforward. The more hard-to-value assets (i.e., assets investments for which valuation inputs (such as transaction activity) are not directly observable, which will include some Level 2 and all Level 3 assets) an AIF has, the more challenging it becomes to calculate the NAV because the process will now involve inputs from independent third party experts, discussions with the investment manager's valuation committee and, for externally managed AIFs, the fund's valuation committee or governing body.

More complex hard-to-value Level 3 assets can take multiple weeks to price and the additional investment manager and fund governing body steps use further business days, out of what is generally only about 22 business days to start with in a given month. The more AIFs an AIFM manages that have hard-to-value assets, the more challenging it is to calculate the NAVs before month end.

Once the calculated NAV is available, which can be 15 or more business days into the month, the AIFM still has to complete and file the Annex IV in one or more Member States. In some Member States, the physical process of filing the form can take hours or even days due to constraints of filing systems and sheer volumes of filings being made, especially in the last couple of days of the month.

To allow AIFMs more time to report accurate and verified Annex IV submissions, we believe that the submission date should be extended to two months after the relevant period end. This would greatly reduce the current disproportionate reporting burden placed on filers and ensure better quality reporting. Extending the submission reporting date would bring greater alignment with the U.S. Securities Exchange Commission's Annex IV equivalent, Form PF, which requires large hedge funds advisers to submit their report within 60 calendar days at the end of each quarter.

We, therefore, suggest amending Article 110(1) of the Level 2 Regulation as follows:

Current text	Proposed amendment
(1) The information shall be provided as soon as possible and not later than **one month** after the end of the period referred to in paragraph 3. **Where the AIF is a fund of funds this period may be extended by the AIFM by 15 days**.	(1) The information shall be provided as soon as possible and not later than **two months** after the end of the period referred to in paragraph 3. ~~Where the AIF is a fund of funds this period may be extended by the AIFM by 15 days~~.

2. Reduce the frequency of reporting in which AIFMs must update and submit the Annex IV report to a maximum half-yearly basis

The frequency of filings and the filing deadlines for Annex IV Reports are a complex combination of the size and nature of the AIFM's entire portfolio of AIFs, as well as the size of the individual AIFs, where those AIFs were established, where the AIFs are marketed, whether any of the AIFs utilises leverage and the strategy the AIFs are pursuing.

While large AIFMs have been able to automate many of their processes for collecting Annex IV data, they still must spend significant time reviewing data and preparing responses. This is in part due to the format of questions and responses in Annex IV which require a high degree of precision and calculation.

To significantly reduce unwarranted costs associated with Annex IV reporting for the substantial number of AIFMs who are currently required to file and report on a quarterly basis, AIMA recommends that the Commission should only require AIFMs to file their Annex IV report on a maximum half-yearly basis to reduce the amount of often superfluous data collected under current requirements. We suggest, therefore, that NCAs request this data for two data points only, i.e., 30 June and 31 December.

Currently, AIFMs who are either managing a portfolio of AIFs in excess of €1bn assets under management (AUM) or for each AIF whose AUM, including any assets acquired through use of leverage, in total exceed €500mn, are required to report on a quarterly basis under the terms of Article 110(3)(b)-(c).

Furthermore, we do not believe that AIFs with less than €5bn in AUM and AIFs with less than €2.5bn in AUM through the use of leverage pose the type of risk that justifies the high costs of the frequent and detailed reporting required. This would, as a consequence, also mean that the threshold in Article 110(3)(a) should be raised from €1bn to €5bn. Raising the thresholds in this way would decrease the overall compliance burden and associated costs and ensure the Annex IV requirements are more effectively targeted.

The Commission can achieve its policy goals of overseeing AIFMs with these revised reporting frequencies and raised thresholds. We do not believe that NCAs need to collect AIF-level data on a quarterly basis for the purpose of monitoring systemic risk. We suggest the following edits to Article 110(3) and (4) of the Level 2 Regulation to decrease the filing frequency:

Current text	Proposed amendment
3. The information referred to in paragraphs 1 and 2 shall be reported as follows:	3. The information referred to in paragraphs 1 and 2 shall be reported as follows:
(a) on **a half-yearly** basis by AIFMs managing portfolios of AIFs whose assets under management calculated in accordance with Article 2 in total exceed the threshold of either EUR 100 million or EUR 500 million laid down in points (a) and (b) respectively of Article 3(2) of Directive 2011/61/EU but do not exceed **EUR 1 billion**, for each of the EU AIFs they manage and for each of the AIFs they market in the Union;	(a) on **an annual** basis by AIFMs managing portfolios of AIFs whose assets under management calculated in accordance with Article 2 in total exceed the threshold of either EUR 100 million or EUR 500 million laid down in points (a) and (b) respectively of Article 3(2) of Directive 2011/61/EU but do not exceed **EUR 5 billion**, for each of the EU AIFs they manage and for each of the AIFs they market in the Union;
(b) on a **quarterly** basis by AIFMs managing portfolios of AIFs whose assets under management calculated in accordance with Article 2 in total exceed **EUR 1 billion**, for each of the EU AIFs they manage, and for each of the AIFs they market in the Union;	(b) on a **half-yearly** basis by AIFMs managing portfolios of AIFs whose assets under management calculated in accordance with Article 2 in total exceed **EUR 5 billion**, for each of the EU AIFs they manage, and for each of the AIFs they market in the Union~~;~~
(c) on a **quarterly** basis by AIFMs which are subject to the requirements referred to in point (a) of this paragraph, for each AIF whose assets under management, including any assets acquired through use of leverage, in total exceed **EUR 500 million**, in respect of that AIF**;**	(c) on a **half yearly** basis by AIFMs which are subject to the requirements referred to in point (a) of this paragraph, for each AIF whose assets under management, including any assets acquired through use of leverage, in total exceed **EUR 2.5 billion**, in respect of that AIF;
(d) on an annual basis by AIFMs in respect of each unleveraged AIF under their management which, in accordance with its core investment policy, invests in non-listed companies and issuers in order to acquire control.	(d) on an annual basis by AIFMs in respect of each unleveraged AIF under their management which, in accordance with its core investment policy, invests in non-listed companies and issuers in order to acquire control.
4. By way of derogation from paragraph 3, the competent authority of the home Member State of the AIFM may deem it appropriate and necessary for the exercise of its function to require all or part of the information to be reported on a more frequent basis.	4. **[deleted]** ~~By way of derogation from paragraph 3, the competent authority of the home Member State of the AIFM may deem it appropriate and necessary for the exercise of its function to require all or part of the information to be reported on a more frequent basis.~~

Should this recommendation be implemented, it would directly affect fields 6-8 of the AIFM reporting file and fields 6-8 of the AIF reporting file.

While the idea of more frequent data sets may seem attractive, especially to data scientists, more frequent data sets would come at a significant price to the industry and ultimately to investors, and would be especially disproportionate if the frequency was reset for all AIFMs to have to report quarterly (or even more frequently). While costs may have come down as AIFMs have become more familiar with the Annex IV requirements and NCAs' expectations, the costs involved in compiling and filing a report per individual AIF and per filing date still range between a few thousand and several tens of thousands of Euros. If more frequent reporting would become mandatory, it logically follows that the costs would increase accordingly, and we question whether the benefits would outweigh the substantial costs.

3. Create a harmonised central reporting framework with one set of instructions

We strongly believe that the reports on Annex IV of the AIFMD should be all submitted to ESMA in the first instance on a single uniform set of clearly established instructions, with a fully tested and well-thought out set of validation features. This is the only way to ensure full harmonisation, data quality and ability to create comparability across the different jurisdictions. It is perhaps also the easiest way to improve systemic risk oversight. To be clear, however, we are not suggesting any change from the current position that the relevant NCA should have the supervisory rights and obligations set out by the AIFMD as this should remain a member state competency. Rather, we are only suggesting that ESMA receive one report from each reporting AIFM that conforms to a single set of instructions and thereafter allow the relevant NCA(s) to draw down that information for supervisory purposes as needed. We believe this will facilitate the accuracy and completeness of the data submitted and will aid NCAs in assessing systemic risk.

Currently, interpretative differences between NCAs with respect to how the form should be completed weaken the usability of such data for systemic risk oversight purposes. Each NCA has a different process to send the filings, whether it be via online portal, file share folder, excel template or email. They also employ differing levels of form validation, which can, in some cases, force different answers (e.g., where rounding to two decimal places is required). Indeed, the Commission's Fitness Check of EU Supervisory Reporting Requirements, published in November 2019, also identified this issue but, in addition, noted that "[s]ome validation rules result in too many error messages, that there are wrong references in the validation checks, or that there is insufficient feedback on the reasons for rejections" (p. 85).

A uniformly applied reporting template, clear instructions and centralisation of reporting at the level of ESMA would, we believe, greatly improve the assessment of systemic risk not only at the EU, but also at the global, level. A central register would allow its users, e.g., NCAs, to access reports through the search interface by using the AIFM's or AIF's alphanumerical identifier (see below for more in respect of alphanumeric identifiers).

In general, we believe that ESMA should play a more prominent role as a hub for reporting and data consolidation (but not with respect to supervision generally). More efficient and streamlined reporting frameworks for investment managers will support the growth of EU capital markets and ensure that supervisors have the data they need to fulfil their mandates. This should be achieved without duplication of national reporting regimes.

A centralised filing system would also reduce the substantial amount of time being spent simply to submit the forms. Depending on the numbers of AIFs involved, an AIFM's filings can take hours or even days to submit after they have been prepared for submission.

The value of a harmonised system will be diluted, however, if it is not well-constructed, subject to public consultation and fully tested before it is put into effect. Because NCAs are currently using a wide variety of systems for reporting ranging from Excel templates to bespoke reporting portals, at least some AIFMs would need to change their entire reporting process to adapt to the new single harmonised system which will entail a cost and many hours of work. Uploading data into any system is made more difficult and costly if the template is being constantly re-worked, even if only in small increments. Care should be taken to work out as many bugs as possible before a new template is released.

4. Consider changes to the Annex IV reporting framework to improve disclosure regarding leverage

The leverage measures calculated under the AIFMD (and being reported at Fields 294 and 295) are being used to assess systemic risk, which is unhelpful for this purpose, as the measures are over inclusive for some types of investments as, for example, some fairly low volatility strategies may appear more risky under the measures while other high volatility strategies may appear less risky.

Furthermore, the gross and commitment methods, when used in isolation, have resulted in distorted leverage numbers for AIFs that use interest rate, currency and other types of derivatives. AIFs that use these types of instruments are required to use notional amounts of such contracts in those calculations where the notional amounts do not reflect, for example, the maturity, the type and/or the underlying of a particular contract. The generated leverage figures under the gross and commitment methods are not reflective of the risk of those AIFs. These factors pose difficulties both for supervisory authorities when seeking to assess the build-up of systemic risk in the financial system and for investors in terms of making meaningful comparisons between different AIFs. They are not, therefore, useful for the purpose of measuring and monitoring market risk and economic exposure.

We welcome the Recommendations for a Framework Assessing Leverage in Investment Funds ('the Leverage Framework') by the International Organization of Securities Commissions ('IOSCO') and believe the changes in the definition and measurement of leverage should be integrated in the AIFMD framework in the Level 2 Regulation. We support collecting data about leverage in AIFs an asset class by asset class basis for risk monitoring purposes using consistent and comparable measures across different supervisory regimes. We agree with IOSCO's acknowledgement in the Leverage Framework that NCAs should consider circumstances and factors relevant in their jurisdictions and specific to the AIF, its size, characteristics and strategies to assess whether AIFs may or may not present leverage-related risk. We acknowledge that in order for NCAs to be able to do this though, they will need the information about an AIF's portfolio to be presented somewhat differently than currently provided in the Annex IV reports.

In the Leverage Framework, IOSCO recommends to retain the gross and commitment methods (although these are respectively referred to in the IOSCO paper as GNE without adjustments and Adjusted GNE) but encourages the revision of the data collection forms to facilitate review of the data on an asset class by asset class basis (e.g., equity securities, fixed income securities, interest rate derivatives), broken out by long and short exposures. This would allow NCAs to see an AIF's basic asset allocation and to distinguish between AIFs with exposure to higher risk assets and those with exposure to lower risk assets and the directionality of the AIF's exposures. This would permit NCAs to differentiate AIFs considering the risk profile - and not just the scale – of their investments. Fields 121-124 of the Annex IV reporting template, for example, currently require AIFMs to provide information on the individual exposures in which the AIF is trading and the main categories of assets in which the AIF invests in, broken down on a sub-asset type level asking for the gross value and the short and long values of the individual exposures. This could be supplemented by the form asking for the gross value for each asset type in Field 122 (which is not currently required) and perhaps adding Fields 123a and 124a to request the long and short values for each asset type to also be reported as a percentage of NAV as suggested by IOSCO. We believe it would be the easiest way to improve the ability to compare data across supervisory regimes and thus improve the supervisory authorities' understanding of the risk exposures generated by AIFs. We note, however, that we do not think it would be appropriate to aggregate the total amount of these asset classes, broken out by long and short exposures, into a single gross exposure number as we believe this number, on its own, is misleading in that it does not represent the amount of leverage or risk of an AIF's investment positions and it does not account for differences across different types of asset classes. The suggested breakdown would allow NCAs to consider implementing additional targeted measures aimed at the different asset classes, depending on their risk exposure.

There are, however, three areas where the current calculations for the gross method and commitment method figures reported at fields 294 and 295 should be adjusted even if the recommendation above is not taken:

a. Currently, cash and cash equivalents held in the base currency may be excluded from the calculation for the gross method but must be included in the calculation for the commitment method. These fields should be aligned to exclude cash and cash equivalents held in the base currency to simplify the calculations and to reduce the risk of reporting errors.

b. Currently, derivatives held in the base currency that are used to hedge the currency risk arising from investor subscriptions in non-base currency cash are excluded from the calculation for the commitment method but not for the calculation for the gross method. We believe these hedges should be excluded from both calculations.

c. Because the AUM used for purposes of reporting leverage on the Annex IV reporting template is the unadjusted gross notional exposure of the relevant AIFs, the figures can misrepresent actual risks, especially as related to fixed income investments, options and other derivatives. We believe that an adjusted gross notional exposure amount, calculated as the sum of the adjusted gross notional exposure amounts for different classes of assets and permitting adjustments for fixed income investments, options and other derivatives in terms of 10-year bond equivalents and delta adjustments, would provide more relevant risk information. IOSCO also recognises this in the Leverage Framework, nothing that adjusted GNE "limits the overstatement of an AIF's exposure to interest rate derivatives and options" (p.8-9). We also believe that including certain types of netting or hedging to be recognised in the calculation of the adjusted gross notional exposure with respect to these asset classes (or as an additional calculation alongside of the adjusted gross notional exposure for these classes) would provide an even more refined metric.

5. Add or refine some new Annex IV fields to help better understand the risks

Certain additions to the reporting template or refinements of existing reporting requirements could help NCAs and ESMA to better understand the relevant risks.

Revisiting the method of calculating AUM for general Annex IV reporting purposes

Because the AUM figure used as part of many of the calculations necessary to respond on the Annex IV reporting template is the unadjusted gross notional exposure of the relevant AIFs, the figures can misrepresent actual risks, especially as related to fixed income investments, options and other derivatives. Moreover, most other countries engaged in collecting comparable systemic risk reporting from their own regulated entities use either the basic NAV calculation or a figure representing the fund's assets from its balance sheet for calculations of a similar nature. As a result, the figures supplied to ESMA and the national competent authorities are generally not capable of being compared to those of other countries or of being aggregated with the data of other countries. However, if changes are made to the AUM calculation methodology, specific instructions about how such calculations are to be made will be important in order to make sure that AIFMs are all calculating the figure basis on the same assumptions and to ensure that the reported figures are comparable.

Seeking details on initial margin and variation margin posted as of the reporting date

Currently, fields 287-288 only require the AIFM to provide the value of borrowing embedded in financial instruments separated by derivatives traded on exchanges and derivates traded OTC. According to ESMA's Guidelines on reporting obligations, all borrowings embedded in financial instruments must represent the total gross notional exposure in relation to these instruments, minus all margin used (paragraph 125).

An additional set of data points that could assist NCAs in understanding the quantum of risk associated with derivatives transactions by AIFs is the amount of the AIF's outstanding posted initial margin as of the reporting date, separated by cleared derivatives and OTC/bi-lateral/uncleared derivatives of each major type of derivative instruments (credit, currency, interest rate, commodities, other).

Most AIFs are required to post initial margin for their cleared and uncleared derivatives positions, as well as their leveraged positions which are financed through borrowing. For many positions, AIFs must also exchange variation margin on a daily basis, and this will soon become mandatory for all large asset managers in the derivatives space. In addition to mandatory clearing, global derivatives rules also provide for strict risk-mitigation requirements for non-cleared trades. EMIR transaction reporting requirements currently in effect require a variety of data on margin to be reported to trade repositories on a daily basis. See for example fields/rows 24-35 in Table 1 of the Annex 'Details to be reported to trade repositories' in Delegated Regulation 2017/104 broken down by counterparty, contract type and asset class. The data required in those rows includes:

- Initial margin posted;
- Currency of the initial margin posted;

- Variation margin posted;
- Currency of the variation margin posted;
- Initial margin received;
- Currency of the initial margin received;
- Variation margin received;
- Currency of the variation margin received;
- Excess collateral posted;
- Currency of the excess collateral posted;
- Excess collateral received; and
- Currency of excess collateral received.

Breaking down certain metrics by derivatives vs cash exposures

There are some additional metrics that could be requested from AIFs which would allow supervisors to understand better an AIF's risk profile. These include:

- DV01, which shows the change in price in dollars per basis point of change in yield; and
- CS01, which shows the change in value of 1 basis point in the credit spread.

We note that IOSCO's Leverage Framework has also referred to DV01 and CS01 as an additional metrics to gather insightful data on analysing leverage-related risks in AIFs. To achieve the most clarity from these measures, they should be broken down as between cleared and non-cleared derivatives of each category and for each type of derivative instruments (credit, currency, interest rate, commodities, other) and separately for cash instruments.

Better defining categories of AIFs

We understand that ESMA and various NCAs have expressed concerns regarding the opaqueness of the types of funds that are included in the statistics under "Other" in Fields 57-61. This lack of clarity could be decreased by defining the characteristics of AIFs that make them fit into the specified categories (e.g., what characteristics make an AIF a "hedge fund" for this purpose). For information, the U.S. Securities Exchange Commission provides the following as its definition of hedge fund for purposes of its systemic risk reporting form – the Form PF:

> "Any private fund (other than a securitized asset fund):
>
> (a) with respect to which one or more investment advisers (or related persons of investment advisers) may be paid a performance fee or allocation calculated by taking into account unrealized gains (other than a fee or allocation the calculation

of which may take into account unrealized gains solely for the purpose of reducing such fee or allocation to reflect net unrealized losses);

(b) that may borrow an amount in excess of one-half of its net asset value (including any committed capital) or may have gross notional exposure in excess of twice its net asset value (including any committed capital); or

(c) that may sell securities or other assets short or enter into similar transactions (other than for the purpose of hedging currency exposure or managing duration).

Solely for purposes of this Form PF, any commodity pool about which you are reporting or required to report on Form PF is categorized as a hedge fund. For purposes of this definition, do not net long and short positions.

Include any borrowings or notional exposure of another person that are guaranteed by the private fund or that the private fund may otherwise be obligated to satisfy."

Some improvements could also be made by carving out some other sub-categories such as asking for money market funds (as defined by the Money Market Fund Regulation) to be segregated as a separate category rather than being part of fixed income under the "Other" category.

Improving the instructions to remove questions of interpretation

Overall, there are very few instructions for filling in the form, especially for a form of this length and complexity. The lack of instructions leads to the provision of data that is difficult to interpret as firms will have provided data based on different assumptions. Although ESMA has provided some guidance with the original template and in the form of Q&As, these instructions are still many matters open for interpretation. Centralising the reporting with ESMA (see above) could also have the benefit of freeing ESMA to set down clearer and more complete instructions for how many of the fields should be completed.

An example of where this arises is the supranational/multiple region fields 85-93. Where an investment cannot be tied to one country of domicile, it is left with the AIFM to decide whether it can identify a country code or report the investment under supranational/multiple region. Different AIFMs might report the same investment type under different countries (and hence different geographical region) or under supranational/multiple region. Clearer or more prescriptive instructions could remove this type of ambiguity.

Seeking some basic stress test comparative details

Fields 279 and 280 require the AIFM to provide a free text discussion of the results of their required stress testing. While we strongly believe that stress testing should not be required to be done on a uniform set of requirements, we also believe there can be supervisory value in being able to compare and contrast at least a minimum amount of data across different AIFs. One possibility would be to require AIFMs to report the impact on long and short components of a portfolio (as % of NAV) from specified changes to certain identified market factors such as:

- A decrease or increase by 20% on equity prices;
- A decrease or increase by 75 basis points on risk free interest rates;
- A decrease or increase by 250 basis points on credit spreads
- A decrease or increase by 20% on currency rates;
- A decrease or increase by 40% on commodity prices;
- A decrease or increase by 10 percentage points on option implied volatilities;
- A decrease or increase by 5 percentage points on default rates (ABS); and
- A decrease or increase by 5 percentage points on default rates (corporate bonds and CDS).

We believe that these stress test scenarios reflect rates of change that would be reflected in unusual market or economic risk conditions and would be easily compared among AIFs, making them a potentially more pertinent tool for the assessment of systemic risk than the current information requested through the free text fields of 279-280 in the AIF reporting file.

6. Simplify or eliminate Annex IV fields by minimising those fields that are duplicative or only tangentially related to systemic risk

Experience of responding to certain fields contained within Annex IV signals that they can often yield little useful data. Indeed, this issue was also identified in the KPMG report (p. 21), which states:

> *"Large volumes of data are submitted by AIFMs to national competent authorities (NCAs) under the AIFMD reporting requirements, but respondents and interviewees noted that not all the data may be essential, some may be insufficient and some are duplicative. There are also overlapping reporting obligations under other EU legislation."*

We believe that, in addition to the issues raised in points 1-3 of this position paper, some fields in Annex IV should be either removed or simplified, as doing so would considerably cut down on unnecessary reporting burdens. The below provides specific suggested edits to the following fields in line with this recommendation:

Fields 64-77 – Main instruments in which the AIF is trading
Fields 94-102 – 10 principal exposures
Fields 103-112 – Five most important portfolio concentrations
Fields 114-117 – Principal markets in which AIF trades

Issue:
In our view, these rankings requested by the indicated fields, when based on notional exposures, do not provide any meaningful insight to assessing systemic risk, especially on AIFs who are trading in derivative instruments. An AIF investing predominantly in short-term interest rate derivatives which have large notional values will be listing these derivatives in response to these

fields, but this does not mean that the market risk is correspondingly high. Moreover, the notional of a short-term interest rate future cannot be compared with that of a commodity contract, for example.

Furthermore, the data that is requested in each of the four rankings have a high degree of duplication as they identify the same instruments multiple times. Indeed, this was also reflected in the KPMG report (p. 85) where AIFM respondents indicated that data on instruments traded and individual exposures, as well as information on principal markets and instruments, was reported elsewhere in the Annex IV report.

Recommendation:
We, therefore, believe that either these rankings should be combined to reduce duplicating data at multiple reporting fields in the Annex IV report, or these fields should not be required for AIFs trading principally in derivatives contracts. This would significantly cut down on unnecessary reporting burdens.

Fields 103-112 - Five most important portfolio concentrations

Issue:
Concentrated positions are not necessarily a signal of risk, with certain investment strategies inherently and deliberately consisting of such holdings. This reality – alongside others – is, however, not reflected in the Annex IV fields.

Recommendation:
The Commission should, in particular, revise fields 103 and 108-109 by introducing a 10% threshold in order to better identify potential risks from concentrated investments, thereby reducing the reporting burden.

Field 120 – Investor Concentration percentage by retail investors

Issue:
While asking for a split between retail investors and professional investors provides a straightforward check on whether the AIF will be subject to PRIIPs and other requirements applicable with respect to marketing to retail investors, we recommend adding a break out from these figures for retail investors that are risk-taking staff for purposes of the remuneration guidelines. In the event that the number of risk takers identified is equal to the total number of retail investors indicated, we believe that the AIF ought to be excluded from the PRIIPs requirements.

Recommendation:
We recommend providing an exemption in PRIIPs for any AIF whose retail investors are solely risk-taking staff of the AIFM (or its delegates) and providing a method of verification of eligibility for this exemption through a new reporting field in the Annex IV report.

Fields 125-127 – Value of turnover in each asset class over the reporting months

Issue:
While asset class turnover data may be an interesting statistic, we do not believe that turnover data on general asset classes is particularly useful or relevant for measuring systemic risk as this does not differentiate between buying and selling at the time of trading.

Recommendation:
As Article 24 of the AIFMD does not require AIFMs to provide information on turnover, we recommend deleting these fields to simplify and reduce the burdens associated with Annex IV. This would, however, require amending Article 110(2)(e) of the Level 2 Regulation as follows:

Current text	Proposed amendment
(e) information on the main categories of assets in which the AIF invested including the corresponding short market value and long market value, the turnover and performance during the reporting period; and	(e) information on the main categories of assets in which the AIF invested including the corresponding short market value and long market value, ~~the turnover~~ and performance during the reporting period; and

Other possible sources for this information include the DTCC (as part of EMIR and MiFID transaction reporting) and SEF clearing houses.

Fields 148-156 - Trading and clearing mechanisms
Fields 157-159; 160-171 - Value of collateral, top five counterparty exposures

Issue:
We would suggest that the Commission re-evaluate the need for information reported for fields 148-171 in light of information available to competent authorities through reporting requirements established under other pieces of sectoral legislation. Our view is that these fields duplicate other sectoral reporting rules while providing less comprehensive information.

Recommendation:
We recommend deleting fields 148-171.

Specifically, competent authorities have at their disposal a comprehensive dataset regarding the activities of AIFs in various asset classes on the basis of:

EMIR: The obligation under Article 9 of EMIR to report the conclusion, modification or termination of any derivative contract extends to AIFs[29] and provides competent authorities (via an authorised

[29] The definition of Financial Counterparty captures "an alternative investment fund (AIF), as defined in point (a) of Article 4(1) of Directive 2011/61/EU, which is either established in the Union or managed by an alternative investment fund manager (AIFM) authorised or registered in accordance with that Directive, unless that AIF is set up exclusively for the purpose of serving one or more employee share purchase plans, or unless that AIF is a securitisation special purpose entity as referred to in point (g) of Article 2(3) of Directive 2011/61/EU, and, where relevant, its AIFM established in the Union".

trade repository) with information on: (i) the parties to the derivative contract and, where different, the beneficiary of the rights and obligations arising from it; and (ii) the main characteristics of the derivative contracts, including their type, underlying maturity, notional value, price, and settlement date. Counterparties must also report comprehensive collateral information.

MiFIR: The obligation under Article 26 of MiFIR to report transactions provides competent authorities with a broad set of data on financial instruments on a T+1 basis, including details of the names and numbers of the financial instruments bought or sold, the quantity, the dates and times of execution and the transaction prices. While a fund counterparty might not be in scope of the reporting obligation, it will typically face one or more MiFID investment firms in its trading activities, such that a competent authority will be able to review the profile of its trading activity on the basis of its LEI.

SFTR: The obligation under Article 4 of SFTR to report the conclusion, modification or termination of any SFTR extends to an AIF managed by AIFMs authorised or registered in accordance with AIFMD where that AIF is established in the EU and provides competent authorities (via an authorised trade repository) with information on: (i) the parties to the SFT and, where different, the beneficiary of the rights and obligations arising therefrom; (ii) the principal amount; the currency; the assets used as collateral and their type, quality, and value; the method used to provide collateral; whether collateral is available for reuse; in cases where the collateral is distinguishable from other assets, whether it has been reused; any substitution of the collateral; the repurchase rate, lending fee or margin lending rate; any haircut; the value date; the maturity date; the first callable date; and the market segment; (iii) depending on the SFT, details of the following: (a) cash collateral reinvestment; (b) securities or commodities being lent or borrowed. While a fund counterparty might not be in scope of the reporting obligation, it will typically face one or more authorised sell-side entities in its trading activities, such that a competent authority will be able to review the profile of its trading activity on the basis of its LEI.

Field 172 – Direct clearing flag

Issue:
This field does not maintain the same relevance as it has done previously, especially as AIFs are required to clear certain liquid products.

Recommendation:
We recommend removing this field.

Fields 178-185 - Portfolio liquidity profile

Issue:
These fields require the AIFM to report the percentage of the AIF's portfolio that is capable of being liquidated within each of the liquidity periods specified. This requirement, however, diminishes the usefulness of the data reported because it causes AIFMs to report that certain AIFs are less liquid than they actually are. For example, a position might be able to be partially liquidated between 1 and 30 days, but it might take up to 90 days to completely liquidate the position.

Currently, an AIFM must show that all in the 90-day category. Allowing AIFMs to spread the likely liquidity into the various categories will provide a more accurate view of AIF liquidity.

Recommendation:
We, therefore, ask the Commission to reconsider the requirements that each investment be assigned to only one period.

Field 197 - Side pocket percentage

Issue:
As there are other fields regarding the liquidity of the AIF's assets, we do not believe the percentage of an AIF subject to a side pocket is a relevant statistic as relates to systemic risk.

Recommendation:
We suggest removing this field as we do not believe it is relevant for assessing and monitoring systemic risk.

Fields 208-209 - Breakdown of the ownership of units in the AIF by investor group

Issue:
The information on the types of investors is not pertinent to the assessment of systemic risk. Fields 186-192, on the other hand, provide much more relevant information on the liquidity of the underlying investors.

Recommendation:
We believe these fields should be removed as fields 186-192 provide more useful and insightful information to assess systemic risk.

Field 218 - Total number of open positions

Issue:
This field does not provide any context for the open positions, nor does it differentiate between products. The responses to this field, we believe, will not be meaningful for evaluating or measuring systemic risk.

Recommendation:
We recommend that this field should be removed.

7. Incorporate alphanumeric identifiers to mitigate potential cyber breaches

The data submitted through the Annex IV report is highly (market) sensitive and confidential. Furthermore, should the information fall into the hands of cyber criminals, it could lead to irreversible financial and reputational damage to the AIFM, the AIF and its investors.

Therefore, the Commission should issue and require AIFMs to use confidential alphanumeric identifiers for the AIFM and its AIFs on Annex IV. Fields seeking AIFM and AIF identifying information should be removed.

The separation of data and identity would make it more difficult for cyber criminals to use this information for malicious purposes. Such safeguards would help ensure the Commission and NCAs are best able to protect the information gathered from cybersecurity threats.

To mitigate cyber breaches, AIMA recommends that the Commission incorporate protections within the design of the form and reporting systems. This could be achieved by replacing any identifying information with a centralised alphanumeric code of a single EU-wide style that can be issued by ESMA to individual AIFMs. The identity of the filer will only be known to the issuer, ESMA and the respective NCA.

Should this recommendation be implemented, it would replace fields 16-19 and 22-25 of the AIFM reporting file and fields 16-18, 24-32 and 33-40 of the AIF reporting file.

In the alternative, the AIFM/AIF national codes could be retained, the rest of the identifying fields above being removed. This would have a similar result but would leave the distribution of the codes de-centralised.