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**Improving Regulatory Reporting under the AIFMD**

This position paper seeks to outline the views of the Alternative Investment Management Association (AIMA)[1] 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).

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[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. 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.[2]

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,[3] 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[4] 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 more effectively assess systemic risk 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.

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[2] 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.

[3] 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.

[4] 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

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[5] and provides competent authorities (via an authorised 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.

[5] 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".

**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.