

## **European Commission public consultation on the review of the Alternative Investment Fund Managers Directive (AIFM Directive)**

### **[Public consultation on the review of the Alternative Investment Fund Managers Directive \(AIFMD\)](#)**

#### **1.- Target participants**

The aim of this public consultation is to gather views from alternative investment fund managers (AIFM), AIF distributors, industry representatives, investors and investor protection associations, financial market authorities and citizens on potential changes to the AIFM Directive.

Questions 1, 2 and 3 as well as the section on Investor protection (except for part (b) thereof) are available in all the EU official languages to gather citizens' views on these matters.

#### **2. - Information Note**

On 10 June 2020, the European Commission submitted its report on the scope and the application of the AIFM Directive to the European Parliament and the Council. The report concludes that while the AIFM Directive has contributed to the creation of the European AIF market, provided a high level of protection to investors and facilitated monitoring of risks to financial stability, there are a number of areas where the legal framework could be improved. This Consultation paper seeks to gather the views of stakeholders on how to achieve a more effective and efficient functioning of the AIF market.

The Consultation paper is divided into various parts.

Firstly, it focuses on improving the utility of the AIFM passport and the overall competitiveness of the European AIF industry. The information analysed indicates that the appropriate and balanced regulation of financial markets benefits investors as well as the overall economy. The questions in the section on **authorisation/scope** seek views from stakeholders on the scope of the AIFM licence, its potential extension to smaller AIFMs and level playing field concerns in relation to the regulation of other financial intermediaries, such as investment firms, credit institutions or UCITS management companies that provide similar services.

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

in the depositary passport regime. Stakeholders are also invited to comment on potential improvements to the rules on valuation contained in the AIFM Directive.

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

The section dedicated to **financial stability** seeks stakeholders' views on how to ensure NCAs and AIFMs have the tools necessary to effectively mitigate and deal with systemic risks. Respondents are invited to state their views regarding improvements to the supervisory reporting template provided in the Delegated Regulation of the AIFM Directive, with a particular focus on the increased activities of AIFs in the credit market. The paper suggests the potential for more centralised supervisory reporting and improved information sharing among the relevant supervisors. A revised supervisory set-up and cooperation measures among the competent authorities are another focus of this consultation paper.

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

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

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

Finally, stakeholders are welcome to raise other issues related to the AIFM Directive and to submit proposals on how to improve the legal framework with regard to any issues not directly addressed in the Consultation paper.

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

### **3.- Submission of comments**

The deadline for submitting comments is **29 January 2021**.

Stakeholders should send their contributions through an online questionnaire available on the [European Commission](#) website (place the cursor over the word to obtain the link) where the document to be consulted can also be found.

The forms are available in several official languages and replies can be sent in any official language. If you are unable to access the questionnaire, you may write to the following email address: [fisma-aifmd-review@ec.europa.eu](mailto:fisma-aifmd-review@ec.europa.eu)

The CNMV would also appreciate it if stakeholders could send a copy of their responses to the consultation to the following address: [documentosinternacional@cnmv.es](mailto:documentosinternacional@cnmv.es)

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