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ECB-PUBLIC
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Review of the AIFMD

23 March 2022

Dear Mr Bagot,

I am writing to you with regard to the European Commission's proposed amendments to the Directive on Alternative Investment Fund Managers (AIFMD) and the Directive on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS).¹ I welcome this opportunity to enhance the regulatory and supervisory framework for investment funds and would like to draw your attention to a number of elements identified by the European Systemic Risk Board (ESRB) which should be incorporated in the AIFMD review in order to make the financial system safer.

The AIFMD has contributed to the stability of the financial system, notably by providing a macroprudential tool that limits leverage in alternative investment funds (AIFs) and by establishing reporting requirements that allow the ESRB and supervisory authorities to monitor systemic risks.

The European Commission's proposal reflects most of the considerations that were presented by the ESRB in (i) its response to the European Commission consultation on the review of the AIFMD² and (ii) its 2017 recommendation.³ Were it to be adopted, that proposal would further reduce systemic risks in the asset management sector. I particularly welcome the proposal to increase the availability of liquidity management tools for fund managers, helping them to deal with redemption pressures when market liquidity becomes stressed, and the proposal to establish a harmonised reporting framework for UCITS and UCITS management companies. It is important that these elements, which are highly relevant to the stability of Europe's financial system, are not watered down in the course of the legislative review.

At the same time, I would like to draw your attention to three areas highlighted by the ESRB which have not yet been addressed, where EU co-legislators could take the opportunity to further enhance the proposal made.

¹ [Proposal for a Directive of the European Parliament and of the Council amending Directives 2011/61/EU and 2009/65/EC as regards delegation arrangements, liquidity risk management, supervisory reporting, provision of depositary and custody services and loan origination by alternative investment funds](#), 25 November 2021, COM/2021/721 final, 2021/0376 (COD).

² See the [ESRB's response to the European Commission consultation on the review of the AIFMD](#), 29 January 2021. That response also builds on other ESRB proposals communicated in the [ESRB considerations regarding the AIFMD](#), 3 February 2020.

³ [Recommendation of the European Systemic Risk Board of 7 December 2017 on liquidity and leverage risks in investment funds](#) (ESRB/2017/6).

1. **Addressing liquidity mismatches in open-ended AIFs remains a priority:** AIFs can engage in significant liquidity transformation when they invest in assets that are inherently less liquid (e.g. real estate, unlisted securities, loans and other alternative assets) while offering frequent redemption opportunities to investors. When faced with significant redemption pressures during periods of financial market turmoil, such AIFs can contribute to strong market falls, causing negative externalities in the financial system. *In addition to the proposals presented by the European Commission,⁴ the ESRB proposes that ESMA be given the power to draw up a list of inherently less liquid assets. Furthermore, the ESRB also proposes that managers of open-ended AIFs investing in such assets be required to demonstrate that they can follow their investment strategy in all foreseeable market conditions.*
2. **Access to data for monitoring systemic risk is needed in order to enhance the work of macroprudential authorities:** The ESRB monitors the investment fund sector in order to see how it could contribute to a build-up of systemic risk and develop appropriate policy responses if needed. However, a lack of access to data could affect the ESRB's ability to monitor and help address risks to financial stability relating to the investment fund sector – as the European Court of Auditors recently acknowledged.⁵ *In addition to the proposals presented by the European Commission, the ESRB proposes establishing data-sharing arrangements, as well as high-frequency reporting in crisis situations, for the benefit of all authorities with macroprudential mandates (including the ESRB).*
3. **More guidance is needed on the use of macroprudential leverage limits:** Investment funds' use of leverage can contribute to procyclicality and a build-up of systemic risk. This can materialise via fire sales, which can, in turn, amplify market movements, especially when combined with other structural vulnerabilities of investment funds (such as significant liquidity transformation). *In line with the ESRB's recommendation of 2017, ESMA has published guidance on addressing leverage risks in the AIF sector.⁶ In addition to the proposals presented by the European Commission, the ESRB calls for further clarification regarding the operationalisation of leverage limits.*

We remain available to you and your staff should you wish to discuss any of the points made above. Annexed to this letter is a table providing an overview of the various elements set out in the ESRB's response to the European Commission consultation on the review of the AIFMD, showing which of them were largely or partially incorporated in the Commission's proposal and which of them were not.

Finally, please be informed that the same letter has been sent to the Members of the European Parliament responsible for this legislative file, and this letter will be published on our Website.

Yours sincerely,



Francesco Mazzaferro

Head of the ESRB Secretariat

⁴ Namely, the requirement that at least one additional liquidity management tool is employed and loan-originating funds adopt a closed-ended structure if originated loans exceed 60% of their net asset value.

⁵ See "[Investment funds: EU actions have not yet created a true single market benefiting investors](#)", Special Report 04/2022, European Court of Auditors, 21 February 2022.

⁶ See "[Guidelines on Article 25 of Directive 2011/61/EU – Final Report](#)", ESMA, 17 December 2020.



Annex: Mapping of macroprudential measures advocated by the ESRB to the proposal made by the European Commission

Measures advocated by the ESRB	In Commission proposal?
1. Suitability of the reporting framework and access to data for monitoring systemic risk	~
1.1 Enhancement of reporting requirements under the AIFMD	✓
1.2 Reporting under the UCITS Directive	✓
1.3 Access to relevant data for institutions with financial stability mandates	✗
2. Operationalising existing policy instruments to address investment funds' contribution to systemic risk	~
2.1 The availability of liquidity management tools for fund managers under the AIFMD and the UCITS Directive	✓
2.2 The suspension of redemptions by authorities	✓
2.3 Leverage limits	✗
2.4 Additional provisions to reduce the likelihood of excessive liquidity mismatches in open-ended AIFs	~
3. The ongoing development of the macroprudential policy framework "beyond banking" (particularly for investment funds)	✓

Notes: A tick or cross in the end column indicates whether a measure advocated by the ESRB has (i) largely been incorporated in the Commission's proposal or (ii) been omitted. A tilde indicates that parts of the measure have been incorporated and/or that their implementation should be enhanced.