

MEMO# 32863

October 27, 2020

European Commission AIFMD Consultation

[32863]

October 27, 2020 TO: ICI Members

ICI Global Members SUBJECTS: MiFID, EMIR, AIFMD, UCITS V RE: European Commission AIFMD Consultation

On 22 October 2020, the European Commission (“the Commission”) published[\[1\]](#) a consultation[\[2\]](#) on changes to the Alternative Investment Fund Managers Directive.[\[3\]](#) The consultation follows preparatory work that has been undertaken by the Commission over the last couple of years.[\[4\]](#) The Commission is accepting comments on the consultation by 29 January 2021.[\[5\]](#) ICI Global intends to respond to the consultation.

Structure of the consultation

The consultation is wide ranging and contains 102 questions split into the following 7 sections, many of which relate to aspects of the UCITS regime:

- **Functioning of the AIFMD regulatory framework, scope and authorisation requirements (Questions 1-20)** – containing various questions about the functioning and scope of the AIFMD, and the capital and authorisation requirements for AIFMs;
- **Investor Protection (Questions 21-46)** – containing questions regarding investor classification and access, the depositary regime, transparency, conflicts of interest and valuation rules;
- **International relations (Questions 47 - 55)** – containing questions regarding the competitiveness of the EU AIF industry, and delegation and substance requirements;
- **Financial stability (Questions 56 - 85)** – containing questions regarding macroprudential tools, supervisory reporting, liquidity risk management tools, legal entity identifiers, loan originating AIFs and leverage calculation;
- **Investing in private companies (Questions 86-89)** – containing questions regarding private equity funds and other AIF which acquire control over non-listed companies;
- **Sustainability/ESG (Questions 90-95)** – containing questions regarding the quantification of sustainability risks by AIFMs, the integration of sustainability factors and the assessment of non-financial materiality and the role of the EU Taxonomy when AIFMs are making investment decisions;
- **Miscellaneous (Questions 96-102)** – containing questions regarding ESMA and NCA

competences and powers, including for the supervision of cross-border entities, alignment of the UCITS and AIFM regimes and other regulatory issues.

Next Steps

The Commission is accepting comments in response to the consultation by 29 January 2021, after which it will consider the next steps, including whether the issue legislative proposals.

Giles Swan
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endnotes

[1] Public consultation on the review of the alternative investment fund managers directive (AIFMD), *available from*
<https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12648-Alternative-Investment-Fund-Managers-review-of-EU-rules/public-consultation>

[2] Consultation document: Public consultation on the review of the alternative investment fund managers directive (AIFMD), 22 October 2020, *available from*
https://ec.europa.eu/info/files/2020-aifmd-review-consultation-document_en

[3] Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC, *available from*
<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32011L0061>

[4] See Memorandum No. 32802, RE: Recent Publications in the EU's AIFMD Review, dated 2 October 2020, *available from*
<https://www.iciglobal.org/iciglobal/pubs/memos/ci.memo32802.global>

[5]
https://ecas.ec.europa.eu/cas/login?loginRequestId=ECAS_LR-3390791-Ojbb54s2PJEyoC16AFormXgRXTCoTy7bjqbwZtqlP3LxLTvHu8o56mF3ozNSmSilJ4UtKQ3lByRxYorPHCtA7q-jpjZscgsw0KAzPUk3f9zLsW-UzcuZaclgpzdu6WbgcvF7lyX0ARUlvjq9zoULqzt0jbgDL5fmPdpUohjF9zNry4w1zVwj8s7FkShslQzkjFcGyyu