

MEMO# 32938

November 23, 2020

Member Call to Discuss the Leverage-Related Questions in the EC's AIFMD Review - December 7 at 11:30 am (Eastern)

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November 23, 2020 TO: Derivatives Markets Advisory Committee
ICI Global Regulated Funds Committee RE: Member Call to Discuss the Leverage-Related Questions in the EC's AIFMD Review - December 7 at 11:30 am (Eastern)

As previously reported, the European Commission published a consultation on changes to the Alternative Investment Fund Managers Directive.^[1] An ICI Memorandum briefly describing the consultation is available at https://www.ici.org/my_ici/memorandum/memo32863.

As part of the consultation, the EC asks six questions related to leverage.^[2] These questions are:

No.

Question

79

Are the leverage calculation methods – gross and commitment – as provided in AIFMR appropriate?

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

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What is your assessment of the two-step approach as suggested by International Organisation 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?

82

Should the leverage calculation metrics be harmonised at EU level?

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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?

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

ICI will host a one-hour member call to discuss how to respond to these leverage-related questions on Monday, December 7 at 11:30 am (Eastern Time). If you would like to participate in the call, please contact Nadia Ishmael, at nadia.ishmael@ici.org, to receive call-in information.

To facilitate member discussion during the call, please review and be prepared to discuss your thoughts on the leverage-related questions.

Kenneth Fang
Associate General Counsel

endnotes

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

[2] The leverage-related questions follow the European Securities and Markets Authority's recent consultation setting forth guidelines for national competent authorities to regulate the use of leverage within the alternative investment fund sector. See ESMA, "ESMA Consults on Guidance to Address Leverage Risk in the AIF Sector," 27 Mar. 2020 (press release with link to the ESMA consultation: Guidelines on Article 25 of Directive 2011/61/EU), *available at* <https://www.esma.europa.eu/press-news/esma-news/esma-consults-guidance-address-leverage-risk-in-aif-sector>. For a summary of the ESMA consultation, see ICI Memorandum No. 32434 (4 May 2020), *available at* https://www.ici.org/my_ici/memorandum/memo32434. See also ICI Global's comment letter on the ESMA consultation, *available at* https://www.esma.europa.eu/press-news/consultations/consultation-guidelines-art-25-aifmd_TODO. For a summary of ICI Global's comment letter on the ESMA consultation, see ICI Memorandum No. 32721 (28 Aug. 2020), *available at* https://www.ici.org/my_ici/memorandum/memo32721.

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