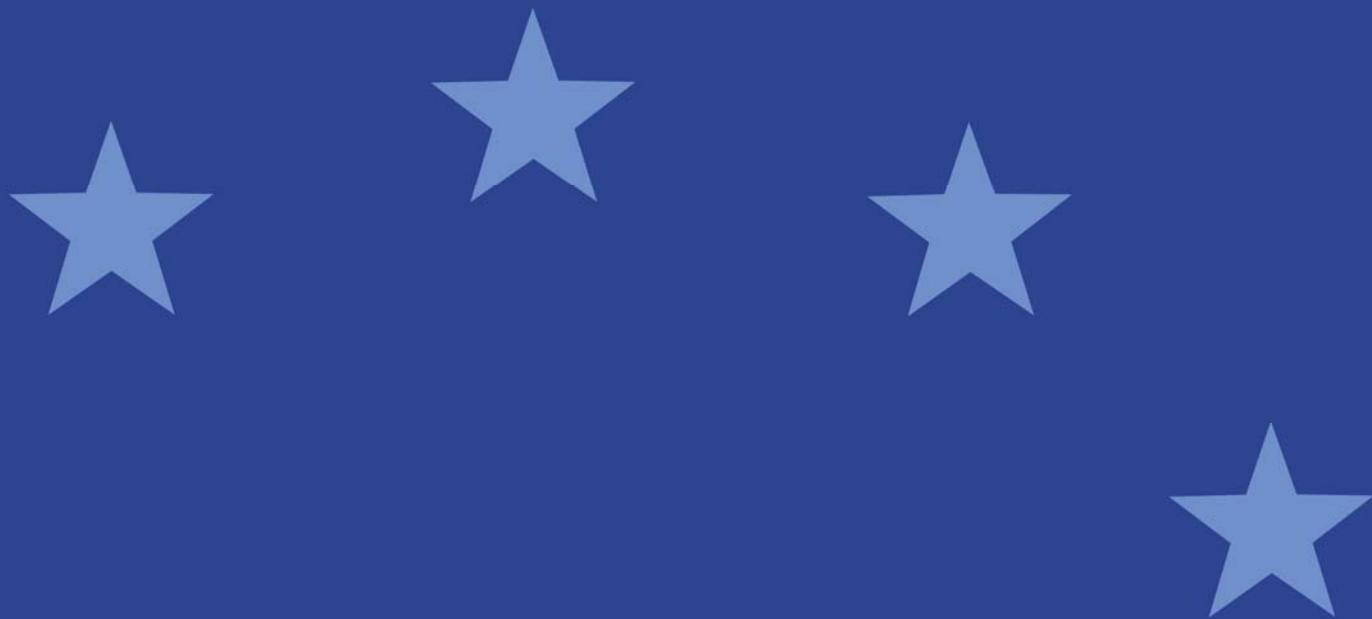




European Securities and
Markets Authority

Reply form for the Guidelines on asset segregation under the AIFMD



Responding to this paper

The European Securities and Markets Authority (ESMA) invites responses to the specific questions listed in the ESMA Consultation Paper - Guidelines on asset segregation under the AIFMD, published on the ESMA website.

Instructions

Please note that, in order to facilitate the analysis of the large number of responses expected, you are requested to use this file to send your response to ESMA so as to allow us to process it properly. Therefore, please follow the instructions described below:

- i. use this form and send your responses in Word format;
- ii. do not remove the tags of type <ESMA_QUESTION_G_AIFMD_1> - i.e. the response to one question has to be framed by the 2 tags corresponding to the question; and
- iii. if you do not have a response to a question, do not delete it and leave the text "TYPE YOUR TEXT HERE" between the tags.

Responses are most helpful:

- i. if they respond to the question stated;
- ii. contain a clear rationale, including on any related costs and benefits; and
- iii. describe any alternatives that ESMA should consider

Naming protocol:

In order to facilitate the handling of stakeholders responses please save your document using the following format:

ESMA_CE_G_AIFMD_NAMEOFCOMPANY_NAMEOFDOCUMENT.

E.g. if the respondent were ESMA, the name of the reply form would be ESMA_CE_G_AIFMD_AIXX_REPLYFORM or ESMA_CE_G_AIFMD_AIXX_ANNEX1

Responses must reach us by **30 January 2015**.

All contributions should be submitted online at www.esma.europa.eu under the heading 'Your input/Consultations'.

Publication of responses

All contributions received will be published following the end of the consultation period, unless otherwise requested. **Please clearly indicate by ticking the appropriate checkbox in the website submission form if you do not wish your contribution to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure.** Note also that a confidential response may be requested from us in accordance with ESMA's rules on access to documents. We may consult you if we receive such a request. Any decision we make is reviewable by ESMA's Board of Appeal and the European Ombudsman.

Data protection

Information on data protection can be found at www.esma.europa.eu under the heading 'Disclaimer'.

Q1: Which of the two identified options do you prefer?

<ESMA_QUESTION_G_AIFMD_1>

Assogestioni expresses a preference for Option 1, as proposed in the *Consultation Paper*.

Firstly, it is our view that this option, by requiring a segregation of AIF assets per depositary, grants higher protection to AIFs' investors and, therefore, better meets the policy objective of the relevant AIFMD asset segregation provisions, ensuring that the assets of the AIFs are not exposed to events, such as bankruptcy, which may affect the third party to whom safekeeping functions have been delegated by the depositary.

Secondly, the level of segregation indicated under Option 1 appears to be more in line with the provision of art. 99(1), letter *a*) of the Commission Delegated Regulation (EU) No 231/2013, which requires the third party to whom the safekeeping functions have been delegated to keep records and accounts, in order to also distinguish not only between the assets of the depositary's clients and the «*assets of its* (the third party's) *other clients*» (i.e. another depositary), but also, within the depositary's clients, between the depositary's AIF clients and the «*assets held for clients of the depositary which are not AIF*».

<ESMA_QUESTION_G_AIFMD_1>

Q2: Would you suggest any alternative option which is compatible with the AIFMD and its implementing measures? If yes, please provide details.

<ESMA_QUESTION_G_AIFMD_2>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_G_AIFMD_2>

Q3: Do you have knowledge of the impact that each of the two options identified would have on your business in terms of restructuring of existing delegation arrangements in Europe and third countries? Please quantify the one-off and ongoing costs as well as the type of costs for each of the two options or any alternative option that you may prefer.

<ESMA_QUESTION_G_AIFMD_3>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_G_AIFMD_3>

Q4: Do you see merit in foreseeing a specific treatment for certain types of arrangement (e.g. collateral management arrangements)? If yes, please specify how your proposal would ensure compliance with the relevant requirements of the AIFMD and Level 2 Regulation.

<ESMA_QUESTION_G_AIFMD_4>

It is our view that, as far as collateral management arrangements are concerned, and, in particular, in case where a fund receives financial instruments as collateral (e.g. in relation to securities lending operations), where such instruments are held in custody by the depositary and the depositary intends to delegate the safekeeping functions to a third party (provided that the borrower contractually agrees to do so), the third party shall adopt, also in relation to those instruments, the same level of segregation as per our response to Q1. In this sense, the third party shall keep, for that depositary, separated accounts for AIF clients and non-AIF clients.

<ESMA_QUESTION_G_AIFMD_4>

Q5: Do you agree with ESMA's approach to discarding the third, fourth and fifth options described in Section 5 of the CBA? If not please provide data and information that support your view.

<ESMA_QUESTION_G_AIFMD_5>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_G_AIFMD_5>