



ASSOGESTIONI

associazione del risparmio gestito

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ESMA
European Securities and
Market Authority
103 Rue de Grenelle
75007 Paris

Our ref. n. 66/13

Reply to ESMA's Consultation Paper on Draft regulatory technical standards on types of AIFMs

Assogestioni is grateful for the opportunity to provide a response on the Consultation paper on "Draft regulatory technical standards on types of AIFM".

We generally agree with the content of the document, except for the consideration that an AIFM should be specialized in managing open-ended or closed-ended AIFs.

Article 1(1) of the draft provides that: "An AIFM may be either of the following: an AIFM of open-ended AIF(s); an AIFM of closed-ended AIF(s). We consider that an AIFM should be authorized to manage both open-ended and closed-ended AIFs, and that no limitation should be posed at this regard. So the article should be clearly read as allowing the simultaneous management of both types of AIFs.

Q1: Do you agree with the approach suggested above on the topics which should be included in the draft regulatory technical standards? If not, please state the reasons for your answer and also suggest an alternative approach.

We generally agree with the content of the guidelines and with the choice of restricting the number of issues addressed by the document.

Q2: Do you agree with the proposed definition of AIFMs managing AIFs of the open-ended/closed-ended type? If not, do you have any alternative proposal, in particular as regards the relevant frequency of redemptions for the open-ended funds?

Yes, we agree with the definition of open-ended AIF suggested by ESMA, and with the consideration (coherent with our observation in the first consultation) that special arrangements for the management of liquidity such as lock-up periods, side pockets or gates should not be taken into account for determining whether the right of redemption is exercisable by investors at least once a year.

Q3: Please provide qualitative and quantitative data on the costs and benefits that the proposed definition of AIFMs managing AIFs of the open-ended/closed-ended type would imply.



Q4: Do you consider that any possibility to redeem the AIF's units/shares on the secondary market and not directly from the AIF should be taken into consideration when assessing whether an AIF is open-ended or closed-ended? Or do you consider that, as within the UCITS framework, only any action taken by an AIFM to ensure that the stock exchange value of the units of the AIF it manages does not significantly vary from their net asset value should be regarded as equivalent to granting to unitholders/shareholders the right to redeem their units or shares out of the assets of this AIF?

No, we do not consider that the possibility to redeem the AIF's unit/shares on a secondary market and not directly from the AIF should be taken into consideration when assessing whether an AIF is open-ended or closed-ended. Secondary market trading is common in different closed-ended products, but is usually conducted by third parties without closer involvement of the product provider or any implications for the product as such.

Q5: Do you agree with the proposed approach as regards the treatment of hybrid structures? If not, please explain why and, if possible, provide alternative proposals.

Yes, we agree with ESMA that any change in the redemption policy implying that the AIFM managing it may no longer be considered an AIFM of open-ended AIFs or closed-ended AIFs should lead the AIFM to cease to apply the rules relating to the old redemption policy of the AIF it manages.

Q6: Do you see merit in clarifying further the notion of contracts with prime brokers and/or the notion of internally or externally managed? If so, please provide suggestions. In particular, if your answer is yes for the notion of internally or externally managed, please indicate which of the criteria already in recital (20) of the AIFMD need additional clarifications.

No, we do not see merit in further clarifying the notion of contracts with prime broker and the notion of internally or externally managed.

Q7: Do you consider that there is a need to develop further typologies of AIFMs where relevant in the application of the AIFMD? If yes, please provide details on the additional typologies sought.

We hope that our observations will be helpful and remain at your disposal for any clarification on the comments made in this response.

Yours sincerely

The Director General