



Mairead McGuinness
European Commissioner for Financial Stability,
Financial Services and the Capital Markets Union
European Commission
1049 Bruxelles / Brussels

15 July 2021

Dear Commissioner McGuinness,

Joint trade associations' call for regulatory stability of investment management policy

We, the undersigned associations,¹ are writing to you in the context of the European Commission's ongoing work on financial services and alternative investment fund management in particular. As trade associations actively engaged in supporting the Commission's objective to deepen and further develop the EU capital markets in the interest of EU companies and citizens, we would like to reiterate some key recommendations for the benefit of the European economy.

1. The EU benefits from the global nature of the fund management industry

Open and modern capital markets allow EU market participants to invest and operate globally, regardless of size or sophistication. This frictionless environment is notably underpinned by the ability of EU fund managers – in the service of their investors or customers – to access the required skills and local expertise (whether investment, administrative and/or marketing expertise) across the world via the portfolio delegation model.

The delegation model offers multiple advantages to the EU:

- (1) it gives EU investors access to a broader range of investment options and opportunities, which is important for both the returns and risk diversification;
- (2) it channels investments in EU economies/corporates and deepens EU capital markets; and

¹ The contributing associations are the Alternative Credit Council (ACC), the Alternative Investment Manager Association (AIMA), Bundersverband Alternative Investments (BAI), International Capital Market Association (ICMA), Invest Europe, the European Association for Investors in Non-Listed Real Estate Vehicles (INREV), the Managed Funds Association (MFA) and the Securities Industry and Financial Markets Association (SIFMA). More information on each of the contributing associations appears in the Annex.

(3) it allows European asset managers to achieve operational efficiency by building on internal and external expertise and to remain competitive vis-à-vis overseas managers. Curbing delegation beyond what is currently authorised under the AIFMD could potentially be a serious setback for EU investors and asset managers and would be detrimental to the global attractiveness and competitiveness of EU capital markets.

We stand ready to continue to cooperate with the Commission on how to further strengthen the fund management industry in the EU and look forward to a fruitful dialogue in this area.

2. The EU fund management regulatory framework is robust and fit for purpose

The AIFMD was adopted in 2011 and established a solid and effective framework governing all levels of a fund management company. Areas covered include the management of conflicts of interest, liquidity risk management, the use of leverage, the way entire segments of staff are remunerated, how funds are distributed within the EU or from outside the EU, detailed supervisory reporting from EU and non-EU firms and disclosures to investors. Our members have adapted to these rules, which have become part of their day-to-day operations.

While we appreciate the need to review legislative frameworks on a regular basis, in the case of AIFMD, this has been an on-going process. Indeed, the finetuning of this Directive via level 2, 3 and 4 measures has not stopped since the level 1² legislation was adopted, most recently demonstrated by the level 2 amendments to the AIFMD Delegated Regulation in relation to sustainability risks and factors. In addition, the AIFMD has been amended and/or supplemented by specific requirements in other pieces of legislation in the field of sustainable investments (SFDR and the EU Taxonomy), marketing (as adopted by the CBDF package) and cyber-related risks (in the context of the DORA proposal).³

The AIFMD has proven efficient when it comes to investor protection and risk mitigation and no failure of the framework itself has been reported. On the contrary, we would like to highlight that during the unprecedented market downturn experienced in March/April 2020, ESMA found that, out of the 174 AIFs studied (with €1.3 trillion of AUM), none had to suspend redemption.

We therefore respectfully urge the Commission to opt for an objective of maximum legislative stability and certainty, and to assess carefully the existing, or soon to be applied, overall requirements before considering any further changes.

3. The fund management industry is focused on a sustainable economic recovery for the EU

We support and encourage the current focus of the Commission on the post-COVID 19 recovery and the Sustainable Finance action plan and welcome the publication of the Strategy for Financing the Transition to a Sustainable Economy.

If the EU economic recovery is well underway in the short term, there could be challenges further down the line. As noted in the Commission's report on the Capital Markets Union: "Banks have so

² The "level 1" Directive has been complemented and completed by level 2 regulations and standards, a number of Q&As that are being updated several times a year as well as specific EU or local supervisory guidance.

³ Respectively Regulation (EU) 2019/2088; Regulation (EU) 2020/852; Directive (EU) 2019/1160; Regulation 2019/1156 and Regulation proposal 2020/0266.

far broadly continued lending to businesses. However, this financing – despite being absolutely essential for Europe’s short-term recovery – *will not be sufficient given the magnitude and expected duration of financing needs. Market financing will be the lifeblood that sustains the recovery and future growth over the long-term* (emphasis added).⁴ Some Member States have linked the fund management industry to recovery plans,⁵ and we agree that the next five years will be crucial for both the public and the private sector to work together and support EU corporates as well as EU citizens and consumers to get over an unprecedented crisis.

The Commission’s Sustainable Finance action plan is both ambitious and dependent on a very rapid pace, in a constantly evolving environment. Sustainable finance is welcomed by our organisations, but the bulk of the action of the Commission has been essentially focused on the buy-side, with a wave of new regulations which have a profound impact on investment managers, asset owners as well as regulators’ current operations and allocation of resources.

We therefore call on the Commission to focus on fostering growth in European capital markets and a sustainable and long-term economic recovery rather than amending already long-lasting regulatory frameworks which have been successful in ensuring the EU’s competitiveness and attractiveness so far.

We hope the above elements will be helpful in your current considerations on the future of fund management in the EU. We would be interested in further discussing those points with you in a meeting in the course of this summer.

Yours sincerely,

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⁴ A Capital Markets Union for people and businesses-new action plan, European Commission, September 2020, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52020DC0590&from=EN>

⁵ See the French 2020 Recovery Plan “participative loans” scheme, involving both banks and fund managers.

ANNEX

ACC - The Alternative Credit Council

The Alternative Credit Council (ACC) is a global body that represents asset management firms in the private credit and direct lending space. It currently represents 170 members that manage over \$450bn of private credit assets. The ACC is an affiliate of AIMA and is governed by its own board which ultimately reports to the AIMA Council. ACC members provide an important source of funding to the economy. They provide finance to mid-market corporates, SMEs, commercial and residential real estate developments, infrastructure as well the trade and receivables business. The ACC's core objectives are to provide guidance on policy and regulatory matters, support wider advocacy and educational efforts and generate industry research with the view to strengthening the sector's sustainability and wider economic and financial benefits. Alternative credit, private debt or direct lending funds have grown substantially in recent years and are becoming a key segment of the asset management industry. The ACC seeks to explain the value of private credit by highlighting the sector's wider economic and financial stability benefits.

AIMA - The Alternative Investment Management Association

The Alternative Investment Management Association (AIMA) is the global representative of the alternative investment industry, with around 2,000 corporate members in over 60 countries. AIMA's fund manager members collectively manage more than \$2 trillion in hedge fund and private credit assets. AIMA draws upon the expertise and diversity of its membership to provide leadership in industry initiatives such as advocacy, policy and regulatory engagement, educational programmes and sound practice guides. AIMA works to raise media and public awareness of the value of the industry. AIMA set up the Alternative Credit Council (ACC) to help firms focused in the private credit and direct lending space. The ACC currently represents over 170 members that manage \$400 billion of private credit assets globally. AIMA is committed to developing skills and education standards and is a co-founder of the Chartered Alternative Investment Analyst designation (CAIA) – the first and only specialised educational standard for alternative investment specialists. AIMA is governed by its Council (Board of Directors).

BAI - The Bundesverband Alternative Investments

The Bundesverband Alternative Investments e. V. (BAI) is the central interest group of the alternative investments industry in Germany. The federation understands itself as catalyst between professional German investors and recognized offerers of alternative Investments products worldwide. It is committed to ensuring that German institutional and professional investors are able to diversify their capital investments more easily and effectively with regard to alternative investments, in particular with a view to securing German old-age provision in the long term. The BAI promotes public awareness and understanding of alternative investments and is committed to scientific research. It conducts a dialogue with political decision-makers and the responsible supervisory authorities and cultivates exchanges with national and international organisations and associations. The association pursues the goal of achieving legal reforms and further legal education in the interests of its members and their investors and of creating attractive and internationally competitive framework conditions for investing in alternative investments. The circle of BAI members recruited from all areas of the professional alternative investment business has grown to 250 businesses.

ICMA - International Capital Market Association

ICMA promotes well-functioning cross-border capital markets, which are essential to fund sustainable economic growth. It is a not-for-profit membership association with offices in Zurich, London, Paris, Brussels and Hong Kong, serving around 600 member firms in 65 jurisdictions globally. Among its members are private and official sector issuers, banks, broker-dealers, asset managers, pension funds, insurance companies, market infrastructure providers, central banks & law firms. It provides industry-driven standards and recommendations, prioritising four core fixed income market areas: primary, secondary, repo & collateral and sustainable finance. ICMA works with regulatory and governmental authorities, helping to ensure that financial regulation supports stable and efficient capital markets.

INREV - The European Association for Investors in Non-Listed Real Estate Vehicles

INREV is the European Association for Investors in Non-Listed Real Estate Vehicles. We provide guidance, research, data and information related to the development and harmonisation of professional standards within the non-listed property funds industry across Europe. INREV has more than 460 members, including institutional investors from around the globe such as pension funds, insurance companies and sovereign wealth funds, as well as investment banks, fund managers, fund of funds managers and advisors representing all facets of investing into non-listed real estate vehicles across Europe. Our fund manager members manage more than 500 non-listed real estate investment funds, as well as joint ventures, club deals and separate accounts for institutional investors.

Invest Europe

Invest Europe is the association representing Europe's private equity, venture capital and infrastructure sectors, as well as their investors. Our members take a long-term approach to investing in privately held companies, from start-ups to established firms. They inject not only capital but dynamism, innovation and expertise. This commitment helps deliver strong and sustainable growth, resulting in healthy returns for Europe's leading pension funds and insurers, to the benefit of the millions of European citizens who depend on them. Invest Europe aims to make a constructive contribution to policy affecting private capital investment in Europe. We provide information to the public on our members' role in the economy. Our research provides the most authoritative source of data on trends and developments in our industry. Invest Europe is the guardian of the industry's professional standards, demanding accountability, good governance and transparency from our members. Invest Europe is a non-profit organisation with 25 employees in Brussels, Belgium.

MFA - Managed Funds Association

Managed Funds Association (MFA) represents the global alternative investment industry and its investors by advocating for regulatory, tax, and other public policies that foster efficient, transparent, and fair capital markets. MFA's more than 130 member firms collectively manage nearly \$1.6 trillion across a diverse group of investment strategies. Member firms help pension plans, university endowments, charitable foundations, and other institutional investors to diversify their investments, manage risk, and generate attractive returns over time. MFA has a global presence and is active in Washington, London, Brussels, and Asia. www.managedfunds.org.

SIFMA AMG

SIFMA's Asset Management Group (SIFMA AMG) brings the asset management community together to provide views on U.S. and global policy and to create industry best practices. SIFMA AMG's members represent U.S. and global asset management firms whose combined assets under management exceed \$45 trillion. The clients of SIFMA AMG member firms include, among others, tens of millions of individual investors, registered investment companies, endowments, public and private pension funds, UCITS and private funds such as hedge funds and private equity funds. For more information, visit <http://www.sifma.org/amg>.