

Corporate & Financial Weekly Digest

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ESMA Publishes Consultation Paper on AIFMD

On July 13, the European Securities and Markets Authority (ESMA) published a consultation paper on possible Level 2 implementing measures for the Alternative Investment Fund Managers Directive (AIFMD). The paper is entitled *ESMA's draft technical advice to the European Commission on possible implementing measures of the Alternative Investment Fund Managers Directive*.

The ESMA consultation sets out ESMA's proposals for advice to the European Commission for Level 2 regulations under AIFMD and also contains its commentary on the proposals as well as an Annex 1 which lists 72 questions posed by ESMA to market participants and other "external stakeholders." It follows on from the Discussion Paper that ESMA issued on April 15.

ESMA's general approach has been (as far as possible) to align AIFMD operational requirements with existing provisions in the EU Undertakings for Collective Investment in Transferable Securities Directive (2009/65/EC) (UCITS IV) and the Markets in Financial Instruments Directive (2004/39/EC) (MiFID).

Key issues addressed under the consultation include: general provisions, authorization and operating conditions, initial capital and own funds, general principles and organizational requirements, conflicts of interest, risk management, liquidity management, valuation, delegation of AIFM functions, depositaries, transparency requirements, leverage, annual reporting, disclosure to investors and supervision.

The response deadline is September 13, and in the light of feedback received, ESMA will finalize its proposals with a view to submitting its advice to the European Commission by November 16.

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