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Additional Information

Level 1 Regulation
Alternative Investment Fund Managers Directive (AIFMD) Directive 2011/61/EU

Topic
Costs and fees

Additional Legal Reference
Guidelines on performance fees

Subject Matter
Performance fees

Question
Question 2 [last update 30 March 2021]: Paragraphs 40 and 41 of the Guidelines on performance fees recommend that the length of the performance reference period (if this is

shorter than the whole life of the fund) should be set equal to at least 5 years. How should the
performance reference period be set for the first time in light of the application date of the guidelines?

ESMA Answer

30-03-2021

Original language

Managers of any funds already compliant with paragraphs 40) and 41) of the Guidelines on performance fees before the application date of the guidelines should look at the past 5 years/whole life of the fund for the purpose of setting the performance reference period (i.e. they should not reset the performance reference period after the application date of the guidelines). In all the other cases, managers should apply the performance reference period starting from the beginning of the financial year following 6 months from the application date of the Guidelines (i.e. the performance reference period should start at the beginning of the financial year following 5 July 2021; by way of example, if the financial year of the fund starts on 1 September 2021, the period 1 September 2021 – 1 September 2022 should be considered as the first year of the performance reference period).

Re. paragraph 40 see also Public Statement (ESMA32-384-5209 on SPACs

Re. paragraph 41 see also Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (“European Markets Infrastructure Regulation”)

Re. Performance reference period: This is defined as “the time horizon over which the performance is measured and compared with that of the reference indicator, at the end of which the mechanism for the compensation for past underperformance (or negative performance) can be reset”.