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Additional Information

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

Topic
MiFID services under Article 6(4) of the AIFMD

Additional Legal Reference
Article 6(4)

Subject Matter
AIFMs safekeeping client money

Question
Are AIFMs permitted to hold client money, taking into account also the wording of Article 6(4)(b)(ii) of the AIFMD?

Will the situation change in light of the legislative amendments introduced following the AIFMD Review (Directive 2024/927/EU)?

ESMA Answer

06-01-2025

Original language

Answer from the European Commission:

No.

Article 6(4)(b)(ii) of Directive 2011/61/EU (“AIFMD”) states that an AIFM may be authorized to provide safekeeping services in relation to shares or units of collective investment undertakings but does not permit AIFMs to safekeep clients’ money. Such a service is, therefore, not compatible with Article 6(4)(b)(ii) of AIFMD.

The situation will not change as a result of the extension of the scope of ancillary services under Article 6(4)(b) of the revised AIFMD (Directive (EU) 2024/927).

The answers clarify provisions already contained in the applicable legislation. They do not extend in any way the rights and obligations deriving from such legislation nor do they introduce any additional requirements for the concerned operators and competent authorities. The answers are merely intended to assist natural or legal persons, including competent authorities and Union institutions and bodies in clarifying the application or implementation of the relevant legal provisions. Only the Court of Justice of the European Union is competent to authoritatively interpret Union law. The views expressed in the internal Commission Decision cannot prejudge the position that the European Commission might take before the Union and national courts.