

13th September 2011

Dear Sir/Madam,

Consultation Paper 2011/209 – Implementing measures of the AIFMD

International Financial Data Services (“IFDS”) provides a range of services to the collective investment scheme industry. International Financial Data Services (UK) Limited (“IFDS UK”) provides outsourced dealing and, in conjunction with International Financial Data Services Limited, registration services to UK collective investment scheme and stakeholder pension products, supporting over 7 million accounts across 46 fund management companies (over 40% of the UK market). IFDS Managers Limited (“IFDS ML”) operates CIS products (unit trusts/OEICs) designed in conjunction with external asset management firms and product distributors.

Given our position in the UK market, IFDS is pleased to respond to ESMA's Consultation Paper 2011/209 – Implementing measures of the AIFMD. We respond with a focus on the administration implications for non-UCITS Collective Investment Schemes, rather than private equity or other aspects of the AIFM regime.

While we understand that some proposals are more closely aligned to the traditional “Transfer Agency” role effected in some other EU jurisdictions, there would be significant disturbance costs if the UK industry is required to adopt that model, and clear benefits must be demonstrated. We therefore do not consider AIFMD as requiring such upheaval and welcome the balance ESMA shows in its proposed advice to uphold existing national, legal & regulatory infrastructure.

Detailed responses to the individual questions are provided below, though we would note some key points here:

- We are concerned that Depositaries do not have the regulatory or operational capability to cope with the demands of administering cash accounts
- AIFM's will have additional costs arising from the Depositary conducting additional verification in line with the proposal
- Depositaries opening, recording and reconciling cash accounts will result in large costs and no additional benefit to the investor
- We suggest ESMA consider whether AIFs that are themselves directly authorised in their home jurisdictions be effectively excluded from various measures. We note that the UK regulatory regime includes a category of “Non-UCITS Retail Funds” (NURS) which are authorised by the Financial Services Authority and available to retail investors. It is worth noting that AIFMs of UCITS like funds will also be UCITS Managers. Any non-alignment of processes between these two types of funds will be uneconomic for the Manager and Investor.
- We propose that ESMA seek to align with UCITS in the case of “UCITS like” funds, rather than MiFID.

- We are grateful for ESMA's efforts to align MiFID and UCITS where possible.

Should you wish to discuss any of our responses further please call me on 01268 444989. Alternatively please call Leigh Pegrum, Compliance Technical Team, on 01268 396749.

Yours sincerely,

A handwritten signature in black ink that reads "C J Shelton". The signature is written in a cursive, flowing style.

C J Shelton Chartered FCSI
Risk & Compliance Director

IFDS response to questions raised within 2011/209

Q1: Does the requirement that net asset value prices for underlying AIF's must be produced within 12 months of the threshold calculation cause any difficulty for AIFM's, particularly those in start-up situations?

There will be no issue with the requirement that net asset prices be produced with 12 months of the threshold calculation.

Q2: Do you think there is a merit in ESMA specifying a single date, for example 31 December 2011 for the calculation of the threshold?

We do not feel that there is a merit with specifying a single date for calculation and feel that the AIFM should be able to choose the date which is most suitable for them. There is usually an annual external audit conducted on the value of the assets and this date will differ per AIFM but this is the date many will want to use when calculating the threshold, although we suggest this date should be fixed by the AIFM in order to avoid cherry-picking.

Q3: Do you consider that using the annual net asset value calculation is an appropriate measure for all types of AIF, for example private equity or real estate? If you disagree with this proposal please specify an alternative approach.

The NAV is appropriate for many AIF's but will invariably follow the methodology set by domestic recognised accountancy standards. Therefore, this should remain attributable to the national regulators.

Q11: Please note that the term 'relevant income' used in Box 8 does not include the sum of commission and fees payable in relation to collective portfolio management activities. Do you consider this as practicable or should additional own funds requirements rather be based on income including such commissions and fees (gross income)?

We accept that it is practicable to discount the sum of commission and fees payable and is in line with the current UCITS requirements.

Box 64 (d)

Clarification would be welcome in this instance as definition of 'applicable law'. If a delegate / sub-delegate were in another jurisdiction, the AIFM should not be expected to understand and adhere to their local regulations as well as those in their own jurisdiction.

Q24: Do you prefer Option 1 or Option 2 of Box 65? Please provide reasons for your view.

We prefer Option 1 in box 65 as this is currently in line with the UCITS Directive and we feel that this approach should remain consistent with the current Directive requirements.

Q25: How difficult would it be to comply with a requirement by which the general operating account and the subscription / redemption account would have to be opened at the depositary? Would that be feasible?

We approach this question from the perspective of the administration of UK authorised NURS funds. In the UK, the investors will send both their application form and payment to the AIFM. The AIFM will then agree the creation and liquidation of units with the Depositary and then pay across the aggregated money on a daily basis. It would create confusion for the UK investor if they were required to submit an application form to the AIFM and their payment to the Depositary

Option 1 is a lot more in depth than any other legislation requires and we have great concern that Depositaries do not have the regulatory or operational capability to cope with the demands of administering these accounts in such a way as third party administrators have strived to achieve.

There are multiple issues they would need to consider under this option which we are not sure Depositaries have the time to deal with on a daily basis.

There are lots of adverse arguments for Option 1 and very little benefit for investors including:

1. There will be a requirement to change the current process flow in relation to cash flows which would include redirecting monies to a 'Trust' account and segregating Corporate monies
2. If there is a requirement to open an account at fund level, this would be extremely difficult and complex due to platforms, multi-funded deals and multi-people deals both in and out
3. Multiple Trustees / Depositaries are used by an AIFM which would then require clarification surrounding responsibility of lost funds for example, and authorisation for splitting out combined sums
4. The removal of client money protection for monies received in error or awaiting deal could result in the investor being disadvantaged should the Depositary fail before the deal is assigned
5. There will be a requirement to compile new procedures and provide new training to existing staff in the new way of working and there is also a potential for additional staffing requirements especially if the accounts will be at fund level
6. There will be additional requirements for auditing and monitoring of these accounts as they will be more complicated if combined sums are received and unable to identify along with processing changes and system changes. The need for all of these changes and the additional staffing will all be additional cost to the AIFM / Depositaries and this will undoubtedly be passed on to the underlying investor
7. There will be issues when it comes to ownership and liability as they will be outside of fund property

We are therefore in favour of Option 2 as this is in line with current legislation.

Q26: At what frequency is the reconciliation of cash flows performed in practice? Is there a distinction to be made depending on the type of asset in which the AIF invests?

Within our existing service to Management Companies, IFDS reconcile cash accounts on a daily basis. These reconciliations of corporate dealing accounts include UCITS-like funds and are not dependant on the type of asset in which the AIF invests.

Q29: Do you prefer Option 1 or Option 2 of Box 76? Please provide reasons for your view.

Option 2 is preferable as this is in line with current UK legislation, although AIF's will have additional costs to cover the Depositary conducting additional verification in line with the proposal that they

currently use auditor services for. There is a concern that this cost will then be passed on to the customers without any clear benefit being demonstrated.

However, under Option 2, if the third party reconciles the cash accounts on a daily basis then as stated in explanatory text 9 under Box 76, the Depositary would be required to perform verification on a weekly basis. It is not yet explained how they will conduct this verification but there could be additional costs to be borne by both Depositary and third party to allow for this function and there will be no advantage to the investor. We welcome further clarification on what this verification process actually is.

Option 1 will provide no additional benefit to investors but will come at a greater cost to the AIFM/Depositary. Trying to implement cash mirroring will mean unnecessary cost being burdened and no advantage seen.

Q30: What would be the estimated costs relating to the implementation of Option 1 or Option 2 of Box 76?

Option 2 would have minimal costs other than the additional verification requirements. Option 1 would have extremely large costs associated to it with no obvious additional benefit to the investor. These costs would include the disaggregation of dealing accounts and extensive disturbance costs.

Q31: What would be the estimated costs related to the implementation of cash mirroring as required under Option 1 or Option 2 of Box 76?

To implement cash mirroring under Option 1, the costs will be overwhelming for both the Depositary and the third party entity. There is also the concern that these additional costs will be passed onto the investors.

There will be possibly system builds or report building required which could be very costly depending on how the mirroring would work. Consideration is also needed for third parties who deal with multiple Depositaries who conceivably have different systems and reporting requirements.

The outcomes trying to be achieved in the above questions (29 – 31) are all currently met or achieved by the current UCITS and MiFID Directives which we believe provides appropriate benefit and protection to the consumer.