ZIA Zentraler Immobilien Ausschuss e.V. - Wallstraße 16 - 10179 Berlin

European Securities and Markets Authority
To whom it may concern
11-13 avenue de Friedland
75008 Paris

May 16, 2011

Comments on the discussion paper on ESMA´s policy orientations on possible implementing measures under Article 3 of the Alternative Investment Fund Managers Directive (ESMA/2011/121)

Dear Sirs,

First of all, we would like to thank you for the opportunity to respond to the questions of the abovementioned discussion paper.

The German Property Federation (ZIA) was founded by a number of well-known property companies in June 2006. With over 130 members ZIA provides comprehensive and uniform representation of the interests of the real estate industry and is a member of the Federation of German Industries (Bundesverband der Deutschen Industrie). ZIA is also represented in Brussels with an office of its own in order to integrate itself at European level and to advocate the interests of the German real estate industry successfully vis-à-vis the political decision makers in Brussels.

Among our members are numerous open-end and closed-end real estate funds that fall under the scope of the AIFM Directive and are therefore affected by the discussion paper and the future measures under Article 3. Our comments refer in particular to the relevant questions about the valuation of assets under management (questions 2 and 9-11).

We are concerned, that the evaluation of the thresholds in article 3 (2) of the directive would force the AIFs to valuate their assets more frequently than foreseen by article 19 of the directive.

1. The valuation requirements for funds that clearly fall under the scope of the directive and for funds for which the application of the directive is limited according to Article 3(2) have to be compared. It does not make

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sense that small funds benefiting from the exemption have to valuate their assets under management more often than big funds that fall clearly within the scope of the directive and for which article 19 only requires an annual valuation. A level playing field is needed.

2. Question 2: ESMA should allow different valuation methodologies for the various asset classes. In particular, established and approved methods, e.g. for illiquid assets such as real estate, should continue to be accepted in the future. It is important that funds do not have to use different valuation methods depending on whether they valuate according to the requirements foreseen in article 3 or in article 19. ESMA should refer to the wording of article 19 and not create additional obstacles, especially for smaller funds.

3. Questions (9 and) 10: It would in our view be counterproductive to stipulate the calculation of the total value of assets under management on a quarterly basis, only to test if funds are exempted or not. This would only increase the burden and costs for smaller funds. In accordance with article 19 the valuation should take place on an annual basis at most.

In addition we fully support the position paper of the VGF Association of Non-Tradeable Closed-End Funds.

We would very much appreciate it if these comments were taken into account in the further development of the measures under Article 3 of the Alternative Investment Fund Managers Directive. Please do not hesitate to contact us if further advice on these matters is required.

Sincerely yours

Axel von Goldbeck
Managing Director