



July 1, 2013

European Securities and Markets Authority  
103 Rue de Grenelle  
Paris  
75007  
France

Submitted via the ESMA website

Dear Sirs,

Citco Fund Services (Malvern), Inc. ("CFS") appreciates the opportunity to provide responses to the ESMA Consultation Paper on Guidelines on Reporting Obligations Under Article 3 and Article 24 of the AIFMD. The following outlines our comments to date:

**Q1: Do you agree with the proposed approach for the reporting periods? If not, please state the reasons for your answer.**

CFS agrees with the ESMA proposed approach that the reporting periods be aligned with the calendar year.

**Q2: Do you agree that ESMA should provide clarification on how AIFMs should manage changes in reporting frequency? Do you agree with the scenario identified by ESMA and the guidelines provided? If not please state the reasons for your answer.**

CFS does believe that ESMA should provide guidelines as to how AIFMs should manage changes in frequency with regards to reporting. Further, CFS believes that the scenarios that are detailed in the consultation paper make clear the ways to respond to a change in reporting frequency and should be included in the final guidance.

**Q3: Do you think ESMA should provide further clarification? If yes, please provide examples.**

CFS believes that ESMA does need to provide further clarification with regards to changes in the reporting frequency. Specifically, ESMA should provide guidance as to the frequency with which an AIFM must measure itself against the thresholds. Is this measured monthly, quarterly, or annually?

For the purposes of consistency across various reporting agencies, CFS would recommend applying a month-end test, as adopted by other regulators. A second option would be for the timing to



occur as often as the NAV is struck (with a minimum frequency of one month) with a one quarter lag in reporting.

**Q4: Do you agree with the proposed approach for the reporting obligations for feeder AIFs and umbrella AIFs? If not, please state the reasons for your answer.**

CFS does not agree with the proposed approach for reporting obligations for feeder AIFs and umbrella AIFs. It is our belief that master/feeder structures should be provided the options to report separately or aggregate.

**Q5: Do you agree with the approach proposed by ESMA? If not, please state the reasons for your answer? Do you think ESMA should provide further clarification? If yes, please give examples.**

CFS would like ESMA to clarify some of their guidelines with respect to NAV. Specifically, provide further guidance on how different account standards are treated. Is it acceptable to calculate NAV using applicable accounting standards for audited financial statements or will NAV be required to be calculated under the applicable accounting standard of the country in which the AIFM is reporting?

For further clarification, with a 30 day reporting deadline following the end of a quarter, CFS would like further guidance on whether or not estimated data is to be used for the filing? If so, would filings need to be amended in the event of any data changes? There is concern that given the small window between the end of the quarter and the filing deadline, obtaining NAVs in a manner timely enough to meet the reporting requirements may be cumbersome, if not impossible.

**Q6: Do you agree with the proposed approach for the principal markets and instruments in which AIFMs are trading on behalf of the AIFs they manage? If not, what would you propose as an alternative approach for the identification of principal markets and instruments?**

CFS agrees with ESMA with regards to the proposed approach for the principal markets and instruments in which AIFMs are trading on behalf of the AIFs they manage.

**Q7: Do you agree that AIFMs should report information on high frequency trading? If not, please state the reasons for your answer. If yes, do you agree that this information should be expressed as a percentage of the NAV of the AIF? If not, please state the reasons for your answer and identify more meaningful information could be reported.**

The current definition does not speak to the frequency of the trading, but only to the manner of its execution. CFS would recommend clarification of the definition of HFT. Guidance from ESMA on a standard definition would allow member states within the EU to adopt one standard to be used in every



reporting template. In addition, CFS would recommend further clarification on the calculation of this answer. Are all instruments to be measure at their "value" as identified in Article 2 of the Regulation? If yes, in most cases, the calculated sum would not add up to 100% (e.g. the absolute notional value of derivative instruments and securities will almost never sum to the NAV, which nets cash, receivables/payable as well as financial instruments on most AIF balance sheets).

**Q8: Do you think that the list of investment strategies should be widened? If yes, please provide EMS with suggestions of additional investment strategies.**

CFS does not believe that the list of investment strategies should be widened. Related to the calculation of this question, however, CFS would recommend further clarification. Are all instruments to be measured at their "value" as identified in Article 2 of the Regulation? If yes, in most cases, the calculated sum would not add up to 100%.

**Q9: Do you agree that AIFMs should also calculate the geographical focus based on the total value of the assets of the AIF?**

While CFS agrees that the total value of assets may be a more representative measurement of geographical focus, as it allows derivatives to be measured as at the same methodology as contemplated within Article 2 of the Directive, we are concerned that the proposed guidelines still require further clarification. As per our response to the Q8, we do not feel a meaningful measure could be calculated here that would sum to 100%, either as a percentage of NAV or total value of assets.

**Q10: Do you agree that information on the turnover should also be expressed in number of transactions? If not, please state the reasons for your answer.**

CFS feels that information about turnover should be expressed in number of trades. This measure of trade volume should be used instead of notional value for derivatives trades. As has been demonstrated in similar requirements for US regulators (i.e. Form PF), the requirement to calculate delta-adjusted notional values as of trade date has proven an onerous requirement that is technically infeasible for certain AIFMs. As US regulators are currently reconsidering certain guidance related to this topic, we feel this would be advisable as well for ESMA.

**Q11: Do you agree with the proposed list of types of transactions and the respective definitions? If not, please state the reason for your answer. Are there any other types of transaction that ESMA should add to the list?**

CFS agrees with the proposed list of types of transactions and their definitions.



**Q12: Do you agree with the introduction of additional measures of market risks? If not, please state the reason for your answer. If yes, do you believe that ESMA should further clarify how these measures should be computed?**

CFS agrees with the introduction of additional measures of market risk. However, CFS would like to see some clarification on the net FX Delta calculation and reporting. Specifically, we suggest breaking down the sensitivity measures by currency to provide further clarity on exposures for relative-value trades.

#### **Further Clarification**

CFS requests additional clarification about the following aspects of the consultation paper, not specifically noted within the enumerated questions for response:

##### **Stress Tests**

- CFS requests further guidelines on the format/content of the individual stress tests. CFS recommends making use of existing protocols (i.e. Open Protocol Enabling Risk Aggregation).

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##### **Non-EU AIFMs**

- Further guidance is requested regarding precisely when non-EU AIFMs reporting obligations will commence. Guidance from the UK seems to effectively treat non-EU AIFMs in a manner similar to EU AIFMs; however, the Directive and Level 2 regulations do not seem to treat such non-EU AIFMs in the same manner.

##### **Assumptions**

- CFS would welcome the ability of the AIFMs to further explain the rationale supporting their responses to certain questions; especially where use of their own internal methodologies and processes might influence their response.



We appreciate the opportunity to respond to the Consultation Paper and would welcome the opportunity to further discuss the contents of our response should ESMA find such an exercise useful.

Regards,

A handwritten signature in black ink, appearing to be "Bill Andreoni", written in a cursive style.

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