European Securities and Markets Authority

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# PRESS RELEASE

## ESMA seeks preliminary views on future rules for alternative investment fund managers

On 2 December 2010, the European Commission sent a request for assistance to the predecessor of ESMA, CESR, on the content of the implementing measures of the Alternative Investment Fund Managers Directive (AIFMD). Following receipt of this request, CESR published a call for evidence in order to gather input from external stakeholders (Ref. CESR/10-1459). ESMA publishes today a discussion paper (ESMA/2011/121) setting out its proposed approach, including alternative options where relevant, for developing the measures. Today's paper seeks views from market participants on the policy options ESMA has identified with regards to the Commission's mandate.

ESMA has published this discussion paper in order to narrow down the policy options for its future implementing measures of the AIFMD. However, at this stage the document does not include any formal proposals for advice on possible implementing measures. In particular, the discussion paper asks for stakeholders' views on:

- how to identify the portfolios of Alternative Investment Funds (AIFs) under management by a particular fund manager and the calculation of the total value of assets under management;
- how leverage influences the assets under management;
- how to determine the value of the assets under management by an AIF for a given calendar year;
- how to treat potential cases of cross-holding among the AIFs managed by a fund manager;
- how to treat AIFMs whose total assets under management occasionally exceed and/or fall below the relevant threshold;
- what the registration requirements for entities falling below the threshold should be;
- how the obligation to register with national competent authorities should be implemented and establishing what the suitable mechanisms for gathering information might look like; and
- what the procedures should be for small managers to 'opt-in' to the AIFMD.

Generally, the objective of the Directive is to provide robust and harmonised regulatory standards for all alternative investment managers that fall within the scope of the AIFMD. In particular, it aims to enhance transparency towards investors and national authorities regarding managers' investment management activities. These standards will also enable Member States to improve the macro-prudential oversight of the fund sector and to take co-ordinated action if necessary to ensure the proper functioning of financial markets.

### Consultation still to follow

Responses to this discussion paper will help ESMA in narrowing down its policy approach. Based on the responses to this discussion paper, ESMA will develop a formal proposal for possible implementing measures of the AIFMD in the summer of 2011. The proposal will be subject to a public consultation, the results of which will be used by ESMA to finalise its advice to the European Commission.

**Notes for editors**

1. In April 2009, the European Commission proposed a Directive on Alternative Investment Fund Managers (AIFMs) with the objective to create a comprehensive and effective regulatory and supervisory framework for AIFMs at the European level.

2. On 11 November 2010, a political agreement has been reached by the European Parliament and the Council of Ministers on the text for a Directive on Alternative Investment Fund Managers. Following this political agreement, on 2 December 2010 the Commission sent to the Committee of European Securities Regulators (CESR) a provisional request for technical advice on Level 2 measures concerning the future Directive on Alternative Investment Fund Managers.

3. The provisional character of this mandate was related to the fact that at that time the new Directive still awaited its final adoption. Due to the significant number of implementing powers the provisional request has been divided into four parts: Part I covers general provisions, authorisation and operating conditions. Part II is devoted to implementing measures regarding the depositary. Part III covers transparency requirements and leverage. Part IV covers implementing measures regarding supervision. The deadline for the delivery of the advice by ESMA is 16 November 2011.

4. ESMA is an independent EU Authority that was established on 1 January 2011 according to EU Regulation No. 1095/2010 as published on 15December 2010, in the Official Journal of the European Union (L 331/84). The Authority contributes to safeguarding the stability of the European Union's financial system by ensuring the integrity, transparency, efficiency and orderly functioning of securities markets, as well as enhancing investor protection. In particular, ESMA fosters supervisory convergence both amongst securities regulators, and across financial sectors by working closely with the other European Supervisory Authorities competent in the field of banking (EBA), and insurance and occupational pensions (EIOPA).

5. ESMA's work on securities legislation contributes to the development of a single rule book in Europe. This serves two purposes; firstly, it ensures the consistent treatment of investors across the Union, enabling an adequate level of protection of investors through effective regulation and supervision. Secondly, it promotes equal conditions of competition for financial service providers, as well as ensuring the effectiveness and cost efficiency of supervision for supervised companies. As part of its role in standard setting and reducing the scope of regulatory arbitrage, ESMA strengthens international supervisory co-operation. Where requested in European law, ESMA undertakes the supervision of certain entities with pan European reach.

6. ESMA also contributes to the financial stability of the European Union, in the short, medium and long-term, through its contribution to the work of the European Systemic Risk Board, which identifies potential risks to the financial system and provides advice to diminish possible threats to the financial stability of the Union. ESMA is also responsible for coordinating actions of securities supervisors or adopting emergency measures when a crisis situation arises.

7. ESMA replaced the Committee of European Securities Regulators (CESR), an advisory body comprised of EU securities regulators that advised the European Commission from 2001 to 2010 on policy issues around securities legislation.

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