

PRESS RELEASE

ESMA proposes remuneration guidelines for alternative investment fund managers

The European Securities and Markets Authority (ESMA) has published today a consultation paper on proposed [*Guidelines on remuneration of alternative investment fund managers*](#) (AIFMs). ESMA's future guidelines will apply to managers managing alternative investment funds (AIFs) including hedge funds, private equity funds and real estate funds. These funds will be asked to introduce sound and prudent remuneration policies and structures with the aim of increasing investor protection and avoiding conflicts of interest that may lead to excessive risk taking.

The Alternative Investment Fund Managers Directive (AIFMD) establishes a set of rules that AIFMs have to comply with when establishing and applying a remuneration policy for certain categories of their staff. The AIFMD also requires ESMA to develop guidelines on sound remuneration policies to further clarify the Directive's provisions. Overall, the guidelines are aligned with remuneration policies in other financial sectors and deliver against the G20 commitments on sound remuneration as set out in the Financial Stability Forum's Principles for Sound Compensation Practices.

Steven Maijoor, ESMA Chair, stated:

"The proposed remuneration guidelines for alternative investment funds are an important step in creating a single EU rulebook by ensuring the consistent application of the AIFMD remuneration requirements across member states.

"Given our co-operation with the European Banking Authority on remuneration principles, we expect that the future guidelines will ensure consistency of the rules for remuneration across financial sectors. This consistency will help strengthen the protection of investors and avoid the creation of adverse incentives for those managing alternative investment funds."

The key elements of the guidelines include:

AIFs' internal governance

- The governing body of each AIFM has to ensure sound and prudent remuneration policies and structures exist and are not improperly circumvented;
- AIFMs should select the type of staff for which a remuneration policy is put in place and disclose according to which criteria the staff was selected;

Types of remuneration

- For the purposes of the guidelines, remuneration consists of all forms of payments or benefits paid by the AIFM, of any amount paid by the AIF itself, including carried interest, and of any transfer of units or shares of the AIF, in exchange for professional services rendered by the AIFM staff;
- All remuneration shall be divided into either fixed remuneration (payments or benefits without consideration of any performance criteria) or variable remuneration (additional payments or benefits depending on performance or, in certain cases, other contractual criteria). Both components of remuneration (fixed and variable) may include:
 - monetary payments; or
 - benefits (such as cash, shares, options, cancellation of loans to staff members at dismissal, pension contributions, remuneration by AIFs e.g. through carried interest models) or non-monetary benefits (such as, discounts, fringe benefits or special allowances for car, mobile phone, etc);

Other payments

- Ancillary payments or benefits that are part of a general, non-discretionary, AIFM-wide policy and pose no incentive effects in terms of risk assumption can be excluded from this definition of remuneration for the purposes of the AIFMD-specific risk alignment remuneration requirements;
- Any payment made directly by the AIF to the benefit of the selected staff which consists of a pro-rata return on any investment made by those staff members into the AIF should not be subject to any of the remuneration requirements;

Bonuses and fees

- A "retention bonus" should be considered as a form of variable remuneration and only be allowed to the extent that risk alignment requirements are properly applied; and
- Fees and commissions received by intermediaries and external service providers in case of outsourced activities are not covered by the guidelines.

The consultation runs until the end of September and ESMA aims to publish a final report before the end of 2012, so that they will be in place in advance of the AIFMD transposition deadline of 22 July 2013.

Notes for editors

1. The AIFMD remuneration requirements are largely inspired by the provisions of the Capital Requirements Directive (CRD). In accordance with the AIFMD, ESMA has closely cooperated with EBA in elaborating the Consultation Paper. In 2010 EBA's predecessor issued the CEBS Guidelines on remuneration which ESMA took as a starting point for our draft guidelines given the broad alignment between the AIFMD and CRD Level 1 provisions on remuneration. However, the content of the CEBS Guidelines has been tailored to take into account the specificities of AIFMs and the existence of particular remuneration structures, such as carried interest.
2. The proposed rules are not new within the context of the European financial sector: indeed, not only are the AIFMD rules broadly equivalent to the ones under the CRD, but the CRD remuneration principles were in turn based on the Commission Recommendation 2009/384/EC which set out general principles applicable to remuneration policy in the financial sector and is relevant to all financial undertakings operating in the financial services industry.
3. ESMA is an independent EU Authority that was established on 1 January 2011 and works closely with the other European Supervisory Authorities responsible for banking (EBA), and insurance and occupational pensions (EIOPA).
4. ESMA's mission is to enhance the protection of investors and promote stable and well-functioning financial markets in the European Union (EU). As an independent institution, ESMA achieves this aim by building a single rule book for EU financial markets and ensuring its consistent application across the EU. ESMA contributes to the regulation of financial services firms with a pan-European reach, either through direct supervision or through the active co-ordination of national supervisory activity.

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