

AIFMD

Consultation on Draft regulatory technical standards on types of AIFMs

ref.2012/844

KBC Asset Management (KBC AM) welcomes the possibility to reply to ESMA's Consultation Papers mentioned in reference.

KBC Asset Management is the asset management company of KBC Group, being the largest asset manager in Belgium and mid-sized player in Europe. Since its launch as a separate legal entity within the KBC Group, it has been constantly expanding its activities and its assets.

KBC Asset Management NV is recognized by the Belgian Banking and Finance Commission and is accordingly authorized to offer asset management and related services to the investment public.

KBC AM has its registered head office in Brussels but also owns managing entities (100%-owned) in Luxembourg (KBC Asset Management SA) , Ireland (KBC Fund Management Ltd Dublin) and Poland (KBC Towarzystwo Funduszy Inwestycyjnych S.A.)

KBC AM has affiliates in its second "home market": CSOB Asset Management (Czech Republic, Slovakian Republic), K&H Asset Management (Hungary). These entities are active in the local markets in brokerage, research and fund management of local funds/mandates.

In the Asian Pacific region, KBC AM is involved in a joint venture with Union Bank of India: Union - KBC AM in Mumbai (India).

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Q1: Do you agree with the approach suggested above on the topics which should be included in the draft regulatory technical standards? If not, please state the reasons for your answer and also suggest an alternative approach.

YES

Q2: Do you agree with the proposed definition of AIFMs managing AIFs of the open-ended/closed-ended type? If not, do you have any alternative proposal, in particular as regards the relevant frequency of redemptions for the open-ended funds?

YES

Q4: Do you consider that any possibility to redeem the AIF's units/shares on the secondary market and not directly from the AIF should be taken into consideration when assessing whether an AIF is open-ended or closed-ended? Or do you consider that, as within the UCITS framework, only any action taken by an AIFM to ensure that the stock exchange value of the units of the AIF it manages does not significantly vary from their net asset value should be regarded as equivalent to granting to unitholders/shareholders the right to redeem their units or shares out of the assets of this AIF?

Preference to have alignment with UCITS framework

Q5: Do you agree with the proposed approach as regards the treatment of hybrid structures? If not, please explain why and, if possible, provide alternative proposals.

YES

Q6: Do you see merit in clarifying further the notion of contracts with prime brokers and/or the notion of internally or externally managed? If so, please provide suggestions. In particular, if your answer is yes for the notion of internally or externally managed, please indicate which of the criteria already in recital (20) of the AIFMD need additional clarifications.

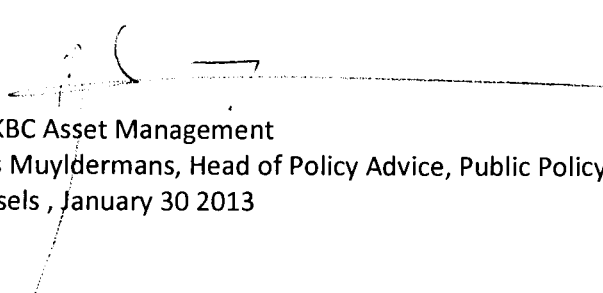
We do not see added value in clarifying the notion of 'contracts with prime brokers'. Rather we see an ESMA clarification on the actual definition of a 'prime broker', as in the Level 1 Directive this definition is conceived so broadly as to suggest that any broker / counterparty with whom transactions are concluded is a prime broker. We fear that when the interpretation is being left to local regulators, possibly an unlevel playing field is created and therefore it could be useful to have a European approach on this.

Q7: Do you consider that there is a need to develop further typologies of AIFMs where relevant in the application of the AIFMD? If yes, please provide details on the additional typologies sought.

YES

We see a need in differentiating capital protected structured AIFs versus non-capital protected structured AIFs and non-structured. A lot of the rules related to global exposure and leverage give false signals when applied to capital protected AIFs, given their asymmetric pay-off profile. Depending on the pay-off formula that determines the upside pay-off (in favourable market conditions), the global exposure and leverage calculation could give a high number (e.g. pay-off formula with discrete jump) although the investor always benefits from the capital protection built in the product. Next to that, mark-to-market evolutions of the capital protection during the lifetime of the product could also lead to - although limited - increases of the global exposure.

We believe it would be justified to set capital protected products with asymmetric pay-off profiles apart.



For KBC Asset Management
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