



Consultation response: Guidelines on reporting obligations under Article 3 and Article 24 of AIFMD

Introduction

The HFSB welcomes the opportunity to respond to the ESMA consultation on guidelines on reporting obligations under Article 3 and Article 24 of AIFMD¹. The Hedge Fund Standards Board (HFSB) is the guardian of the Standards drawn up by international investors and hedge fund managers to create a framework of discipline for the hedge fund industry. The HFSB's mission is to promote the Standards through collaboration with managers, investors and the regulatory community.

The HFSB actively engages with the regulatory community and has responded to consultations on hedge fund regulation and financial stability, including recent consultations from the FSB, European Commission, ESMA, IOSCO and others.

The HFSB is pleased to continue to play a role in the regulatory process and help ESMA develop a standardised data reporting template that enables aggregation and analysis of the data collected by national competent authorities (NCAs).

General observations

The HFSB has always been an advocate for greater transparency and consistency of risk reporting. In fact, the Hedge Fund Standards have a dedicated section on risk transparency, including disclosure of performance and risk measures to investors. Greater standardisation of risk disclosure benefits all involved and is a positive development for the industry. The current regulatory efforts to standardise risk reporting might well serve as a catalyst for more consistent disclosure to investors and facilitate better investment decisions, however, it is of particular importance that the data collection format is well structured and coherent.

There have been a number of regulatory and private initiatives on standardisation of risk reporting, including the US SEC Form PF for investment advisors to private funds, certain commodity pool operators and commodity trading advisors² and the Open Protocol Enabling Risk Aggregation framework, an industry driven initiative to standardise risk reporting to investors.³

The HFSB would like to encourage ESMA to take account of SEC's Form PF and the findings of the Open Protocol working group, thus ensuring consistency, improving usability (e.g. global aggregation by regulators) and minimising cost for industry participants.

¹ Consultation Paper: http://www.esma.europa.eu/system/files/2013-592_consultation_paper_on_esma_guidelines_on_aifmd_reporting_for_publication.pdf

² <http://www.sec.gov/rules/final/2011/ia-3308-formpf.pdf>

³ <http://www.theopenprotocol.org/top/>

Consultation responses

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

We agree with the approach (alignment with the calendar year).

Q2: Do you agree that ESMA should provide clarification on how AIFMs should manage change 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.

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

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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.

The approach should allow to report aggregate data at the master fund level. The master fund is where the investment management activity takes place (the feeders are simply legal structures often used to accommodate different types of investors).

Form PF, for example, allows for aggregation of master-feeder arrangements for reporting purposes, by collapsing the master-feeder structure and aggregating all investors in the master-feeder arrangement (but not counting the feeder funds themselves as investors).⁴

The approach provides a more accurate assessment of exposures/concentrations and should not cause relevant information loss due to data aggregation (e.g. range reduction). For example, in situations where the feeder funds exhibit different liquidity terms, the full information is still captured in the Liquidity Profile section (Q21).

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.

The HFSB agrees with the approach (identification of AIFs via national identification codes/ISIN/LEI etc. where applicable).

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 alternative approach to the identification of principal markets and instruments?

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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 that could be reported.

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⁴ See Section H: Master- Feeder Arrangements in Form PF Frequently Asked Questions: <http://www.sec.gov/divisions/investment/pfrd/pfrdfaq.shtml>

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

The proposed approach is in line with classifications commonly used in the industry. Form PF and Open Protocol provide a more granular classification of hedge fund strategies in the area of Macro strategies (e.g. Form PF sub-definitions: Macro- Active Trading, Macro – Commodity, Macro- Currency, Macro- Global Macro) and Relative Value Fixed Income Arbitrage (e.g. Form PF sub-definitions: RV-FI- Asset Backed, RV-FI-Corporate, RV-FI Sovereign).

Both, Form PF and Open Protocol classifications can be easily converted into the ESMA classification.

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

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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.

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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. Can you think of any other type of transactions that ESMA should add to the list?

- (relates to Private Equity AIF)

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?

Standardised risk measures can be of value in controlling certain risks, but can also provide false comfort when used inappropriately. The HFSB highlighted in the past that given the breadth of hedge fund strategies and emerging new risk profiles within the sector, there is no single risk measure appropriate in all circumstances and it would be unwise to rely on just one or a few measures. Therefore, the HFSB has no objection to broadening the types of measures collected, provided ESMA offers precise definitions for the calculation of these measures.