

Questions and answers on the application of the AIFMD

Additional questions added on 12 May 2015



Section III:
Reporting to national
competent authorities under
Articles 3, 24 and 42.

Question 56:

How do the reporting obligations apply to AIFMs that are sister companies and that are owned by another AIFM?

Answer 56:

The reporting obligations apply to each individual AIFM for the AIFs they manage and/or market in the Union. This means that each AIFM should report individually to the competent authorities of their home Member State according to their own reporting frequency as calculated pursuant to Article 110 of the implementing Regulation.

Question 57:

Should AIFMs consider commitments or actual capital drawdowns when they report information on subscriptions over the reporting period for AIFs pursuing private equity strategies (questions 255 to 266 of the consolidated reporting template)?

Answer 57:

AIFMs should consider actual capital drawdowns and not commitments when they report information on subscriptions for AIFs pursuing private equity strategies.

Question 58:

What are the reporting obligations for a registered AIFM that decides to opt in under the Directive?

Answer 58:

Once a registered AIFM has opted in under the Directive it has to comply with the Directive in its entirety. Therefore, an AIFM that has opted in has to report to its national competent authorities the information listed in Article 24 of the Directive. However, the fact that the AIFM has opted into the Directive does not impact the reporting frequency. Indeed, the AIFM should

continue to report on an annual basis to its national competent authorities.

However, if at a later stage the total value of assets under management of the AIFM that has opted in exceeds the thresholds of Article 110 of the implementing Regulation, the AIFM will have to report on a more frequent basis to its national competent authorities.

In certain Member States, all AIFMs have to be authorised under the Directive. Therefore, in these jurisdictions, AIFMs whose total value of assets under management is under the thresholds of Article 3(2)(a) and (b) of the Directive have to report to their national competent authorities the information listed in Article 24 of the Directive.

Question 59:

What information should a non-EU AIFM whose total value of assets under management does not exceed the thresholds of Article 3(2)(a) and (b) of the Directive and that markets its AIFs in the Union under a national private placement regime report to the competent authorities?

Answer 59:

Article 3 of the AIFMD does not make any distinction between EU AIFMs and non-EU AIFMs. Therefore, non-EU AIFMs whose total value of assets under management does not exceed the thresholds of Article 3(2)(a) and (b) and that market their AIFs in the Union under a national private placement regime should at least report to the competent authorities where they market their AIFs the information listed in Article 3(3)(d) of the Directive. Indeed, the national private placement regimes of the Member States where the non-EU AIFM markets its AIFs may require non-EU AIFMs to report additional information.

Question 60:

What information should an AIFM report for questions 128 to 130 of the consolidated reporting template when an AIF invests exclusively in assets denominated in the base currency of the AIF?

Answer 60:

The AIFM should report the long and short positions in the base currency of the AIF.

Question 61:

Should AIFMs consider distribution of dividends to investors as redemptions for the purpose of questions 267 to 278 of the consolidated reporting template?

Answer 61:

No.

Question 62:

Should AIFMs always apply the same reporting frequency to AIFs that are sub-funds of the same umbrella AIFs?

Answer 62:

No. The reporting frequency of an AIF is not affected by the legal structure of the AIF. Each AIF, being sub-funds of the same umbrella AIFs or not, has to be treated separately for the purpose of the reporting obligations (including for the reporting frequency).

Question 63:

Should AIFMs take into account cash and cash equivalents for the purpose of the main instruments in which the AIF is trading (questions 64 to 77 of the consolidated reporting template), the principal exposures of the AIF (questions 94 to 102 of the consolidated reporting template) and the five most important portfolio concentrations (questions 103 to 112 of the consolidated reporting template)?

Answer 63:

Yes

Question 64:

What should be the procedure for the first reporting on AIFs?

Answer 64:

The procedure should be the same procedure as for the first reporting on AIFMs. This procedure is detailed in paragraphs 11 to 13 of ESMA's guidelines on reporting obligations under Articles 3(3)(d) and 24 (1), (2) and (4) of the AIFMD.

**Section VII:
Calculation of leverage****Question 5:**

Which positions should AIFMs take into account when calculating their exposure under the commitment approach pursuant to Article 8 of the Implementing Regulation?

Answer 5:

AIFMs should take into account the absolute value of all the positions of their AIFs valued in accordance with Article 19 of the AIFMD and the criteria laid down in paragraphs 2 to 9 of Article 8 of the Implementing Regulation. For derivative instruments, as required under Article 8(2)(a), AIFMs should convert each position into an equivalent position in the underlying assets using the methodologies set out in Article 10 (which refers to Annex II of the implementing Regulation) and points (4) to (9) and (14) in Annex I of the implementing Regulation.

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