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Submitted to fundspolicy@centralbank.ie

23 February 2023

Dear Sir or Madam,

AIMA response to CP152 on Own Fund Requirements for UCITS ManCos and AIFMs authorised to perform discretionary portfolio management

The Alternative Investment Management Association (“AIMA”)¹ welcomes the opportunity to respond to the Central Bank of Ireland on its consultation proposing to amend the own funds requirements for UCITS management companies (“UCITS ManCos”) and alternative investment fund managers (“AIFMs”) that carry out discretionary portfolio management services.²

It is challenging to respond to CP152 and provide commentary on its likely effect given the lack of detail in relation to the impact of what is being proposed. It would be helpful to have more detail of the harm or market failure the change is intended to address as well as the number of firms affected and the cost to them of the change. Without this detail it is hard to assess the cost, benefit and proportionality of the proposal.

The closest CP152 comes to providing a quantification of any cost is in its discussion of the proposed transitional arrangements in Section II. Here it proposes that the increase in the level of extra own

¹ AIMA, the Alternative Investment Management Association, is the global representative of the alternative investment industry, with around 2,100 corporate members in over 60 countries. AIMA's fund manager members collectively manage more than \$2.5 trillion in hedge fund and private credit assets. AIMA draws upon the expertise and diversity of its membership to provide leadership in industry initiatives such as advocacy, policy and regulatory engagement, educational programmes and sound practice guides. AIMA works to raise media and public awareness of the value of the industry. AIMA is committed to developing skills and education standards and is a co-founder of the Chartered Alternative Investment Analyst designation (CAIA) – the first and only specialised educational standard for alternative investment specialists. AIMA is governed by its Council (Board of Directors). For further information, please visit AIMA's website, www.aima.org.

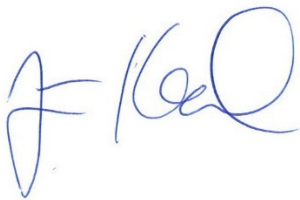
² Consultation Paper No. 152, “[Own Funds Requirements for UCITS Management Companies and AIFMs authorised to perform discretionary portfolio management](#)” (December 2022) (“CP152”).

funds should be limited to only being twice its fixed overheads for the period ending on 30 June 2026.³ The implication is that the amount required could exceed that cap thereafter.

The reasoning put forward in CP152 is that while the Prudential Requirements for Investment Firms (“IFR”) applies to MIFID firms which carry out discretionary portfolio management services, it does not itself apply to UCITS ManCos and AIFMs in relation to the own funds they must hold when performing services under the applicable MiFID top up. CP152 posits without supporting data that, “[therefore,] UCITS Management Companies and AIFMs may not hold sufficient own funds to reflect the risks to the firm and the risks to clients arising from the provision of such additional services”.⁴

Noting these concerns we have set out our response to CP152 in the annex below. We would be happy to elaborate further on any of the points raised in this letter. For further information, please contact James Hopegood, Director of Asset Management Regulation, by email at jhopegood@aima.org.

Yours faithfully,



Jiří Król
Deputy CEO and Global Head of Government Affairs

³ CP152 states at paragraph 34 that “[i]n the interests of consistency of application, the Central Bank proposes that UCITS Management Companies and AIFMs should also be able to limit the increase in their own funds requirement arising from the introduction of a K-Factor requirement to twice their fixed overheads requirement for the period up to end June 2026.” CP152, *supra* note 2, at 13.

⁴ CP152, *supra* note 2, at 3, paragraph 3.

ANNEX

Question 1: Do you agree with the proposal to update the own fund requirements applicable to Management Companies and AIFMs given the application of the IFR to MiFID portfolio managers?

We are unable to agree with this proposal as it appears to impose an unspecified level of cost on an unquantified number of AIFMs and UCITS ManCos.

Question 2: Do you agree with the manner in which the Risk to Client K-Factors are to be calculated and that the Risk to Client K-Factor requirement is not subject to a limit?

The proposed calculations include a conscious effort to avoid any double counting of assets which is a welcome approach. However, the uncapped nature of the proposed calculation is of concern and further analysis of its potential impact would be welcome.

Question 3: Do you agree that UCITS Management Companies and AIFMs should be able to benefit from transitional arrangements up to the period ending 30 June 2026?

AIMA appreciates the transition period but believes it should be longer given the additional burdens that compliance with IFR entails.

Question 4: Do you agree that a) the frequency of submission of the Minimum Capital Requirement Report should remain as that currently in place; and b) the format of the Minimum Capital Requirement Report should be amended to allow for reporting of compliance with the updated own funds requirements?

AIMA agrees that there is no reason to make this additional reporting more regular. Given no template has been provided, it is difficult to quantify the cost of compliance and the time it will take to amend systems.

Question 5: Do you agree that the requirement to undertake an assessment of internal capital be set out in the Central Bank UCITS Regulations and the AIF Rulebook?

For AIFMs, rules for initial capital and own funds sit in Part 2, paragraph 10 of SI No.257/2013.⁵ This would be the most appropriate place for the proposed new rules.

⁵ <https://www.irishstatutebook.ie/eli/2013/si/257/made/en/print?q=Alternative+Investment+Fund+Managers&=&=>