

## CP152 – Proposed Response

### **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 welcome the opportunity to engage with the CBI on the own funds requirements and are supportive of ensuring a level playing field and reducing complexity for management companies with MiFID top up permissions.

We understand the need to align the own funds requirements applicable to UCITS management companies and AIFMS with MiFID investment firms but have a concern that by introducing a new regime in advance of an EU-wide approach that this may result in further divergence.

The current conditions of authorisation requiring management companies with portfolio management services to comply with the own funds' requirements under:

*Regulation 17 of the UCITS Regulations and Regulations 10 of the AIFM regulation and Regulation 18(2) of Capital Adequacy of Investment Firms Regulation*

in our view, addresses the full range of risks applicable to firms with UCITS, AIFM and IPM activities.

The proposal to introduce an additional “higher of” calculation to establish the own funds requirement from either;

- the aggregated K factors or
- UCITS / AIFs AUM requirement or
- fixed overhead requirement

could reduce the desired simplicity and standardisation of requirements.

Many firms that have an even split of CIS management and discretionary investment management may find they “flip” from UCITS requirement to K factor requirement throughout the year. In such instances, we would appreciate further guidance on how firms should internally assess the risks not covered under the UCITS requirement or K-factor requirement when it is subject to change.

The introduction of K-factor calculations proposed in the consultation paper could create complexity for a similar outcome as both calculations are based on a co-efficient of 0.02% of AUM. As mentioned in the consultation, most firms will ONLY be required to calculate K-AUM due to the exclusion of transactions that are already included in the calculation of AUM, therefore the value in changing approach may be minimal.

Further guidance would be welcome ahead of the introduction of any new requirements, including a minimum 12-month implementation period.

### **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?**

We acknowledge the use of gross values and rolling average AUM figures under the IFR/IFD and although the use of gross values instead of net asset values are, for many firms, not standard internal reporting methodologies this approach would standardise calculations for firms undertaking MiFID activities.

***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?***

We do agree, however, it is not clear from the text what transitional arrangements will be for firms that were subject to the UCITS regime with additional reporting in the form of the MMR and ICAAP. The proposed transitional provisions limit firms own funds requirements to twice the fixed overhead requirement (FOR) under the CRR or IFR.

We would appreciate further clarity on whether Management companies with UCITS, AIFM and IPM top up permissions will be required to replace the expenditure-based requirement with the fixed overhead requirement.

***Question 4 – Do you agree that:***

- a) The frequency of submission of the MCR report should remain as that currently in place and***

We agree that bi-annually is appropriate

- b) The format of the MCR report should be amended to allow for reporting and compliance with the updated own funds requirements?***

Yes, agree that the existing reporting form should continue to be used.

***Questions 5 – Do you agree that the requirements to undertake an assessment of internal capital be set out in the Central Bank UCITS Regulations and the AIF Rulebook?***

For many firms there is a large degree of interconnectivity across the business streams and the risks are addressed across the portfolio management services whether for pooled funds or segregated mandates. By introducing an “either” / “or” approach for the Own funds requirements depending on the value of the portfolio of collective investments schemes OR the aggregated value of segregated portfolios, firms may be subject to constant flux in assessing the additional risks not covered by the base requirement as part of their internal assessment of capital needs.