



Alternative Investment Management Association

Fund Management Company Effectiveness - Delegate Oversight consultation
Markets Policy Division
Central Bank of Ireland
Block D
Iveagh Court
Harcourt Road
Dublin 2

Sent by email to: fundspolicy@centralbank.ie

4 December 2014

Dear Sir/Madam

AIMA's response to the CBI's consultation on Fund Management Company Effectiveness - Delegate Oversight

The Alternative Investment Management Association Limited¹ (AIMA) welcomes the opportunity to submit its comments to the Central Bank of Ireland (CBI) in relation to its consultation paper regarding Fund Management Company Effectiveness - Delegate Oversight (the 'Consultation Paper').

AIMA supports policies and regulations designed to enhance the effectiveness of fund management companies,² their boards and investment fund boards. We agree with the CBI that this is now more important than ever. We also agree with much of the content of the Consultation Paper. In particular, we support the initiative to remove the requirement for two Irish resident directors and agree that at present this requirement unduly limits the pool of individuals available for appointment as directors. AIMA would also welcome the extension of this relaxation of the Irish residency requirements to the designated persons requirements and to any types of regulated funds such as QIAIFs which have a two Irish resident director requirement.

Although we do agree with much of what is included in the Consultation Paper, we do have some concerns which relate to the following points:

- **Documenting the rationale for board composition:** We do not consider that requiring fund management companies to document the rationale for the board composition is necessary or helpful and a more proportionate approach would be to focus on the CBI having the ability to require fund management companies to justify the appointment of directors at any time;
- **Managerial oversight tasks:** Broadly speaking, the breakdown of managerial functions seems fine. However, we would note that complaints may also be relevant under the regulatory compliance task. In addition, we believe that on balance the whole of the liquidity management/liquidity risk task would be more appropriately placed in the risk management task; and

¹ As the global hedge fund association, the Alternative Investment Management Association (AIMA) has over 1,400 corporate members (with over 7,000 individual contacts) worldwide, based in over 50 countries. Members include hedge fund managers, fund of hedge funds managers, prime brokers, legal and accounting firms, investors, fund administrators and independent fund directors. AIMA's manager members manage a combined \$1.5 trillion in assets (as of March 2014).

² As with the Consultation Paper, in this response we refer to 'fund management company' as a UCITS management company, an authorised alternative investment fund manager ('AIFM'), a self-managed UCITS investment company and an internally managed alternative investment fund which is an authorised AIFM.

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- **Extension to investment companies:** The Consultation Paper is clearly intended to relate only to the boards of fund management companies. However, Appendix 1 of the Consultation Paper, which the CBI is considering publishing as guidance relates not only to fund management companies but also to investment companies. As the consultation does not extend to investment companies, we consider that it would be confusing to publish the document in Appendix 1 as guidance without removing all of the references to “investment companies”.

We set out our response to the questions posed in the Consultation Paper in the annex to this response. We hope you find our comments useful and would be more than happy to answer any questions you may have in relation to this submission.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "J. Król", is written over a light blue grid background.

Jiří Król
Deputy Chief Executive Officer
Head of Government & Regulatory Affairs



Appendix
AIMA's response to the questions posed in the Consultation Paper

- 1. Is publishing a delegate oversight good practice document along the attached lines a good approach to encouraging the development of the supervision of delegates by fund management companies?**

We agree that publishing guidance is a good approach to encouraging the development of the supervision of delegates by fund management companies. However, Appendix 1 of the Consultation Paper, which the CBI is considering publishing as guidance relates not only to fund management companies but also to investment companies. This is inconsistent with the title of the Consultation Paper which suggests that the guidance would only apply to fund management companies. As the consultation does not extend to investment companies, we consider that it would be confusing to publish the document in Appendix 1 as guidance without removing all of the references to "investment companies". If the guidance is intended to extend to investment companies we consider that there should also be a consultation on how it may affect investment companies.

- 2. Is the breakdown of revised managerial functions correct? Should other managerial functions be provided for? What are your observations about what the operational effectiveness function might entail and how this might be performed? Do you see any obstacles to the Chairperson performing the operational effectiveness function?**

Broadly speaking, the breakdown of managerial functions seems fine. However, we would note that complaints may also be relevant under the regulatory compliance task. In addition, we believe that on balance the whole of the liquidity management/liquidity risk task would be more appropriately placed in the risk management task.

- 3. Is relaxing the two Irish resident director requirement the correct approach? Will relaxing this requirement have an adverse impact on the ability of the Central Bank to have issues with distressed investment funds resolved? If so, how could this be addressed?**

We agree that relaxing the two Irish resident director requirement is a good approach to enhancing fund management company effectiveness. It will provide welcome flexibility for board composition decisions. At present the two Irish resident director requirement limits the pool of directors eligible to participate on an Irish fund management company's board. We consider that allowing a company to have two directors who are in Ireland for not less than 110 working days per year and the ability to substitute for one of these directors, an individual who

- affirms that they are available to engage with Central Bank supervisors on request within any 24 hour working day period and is available to attend meetings at the Central Bank at reasonable notice,
- is unconnected to the depository or a service provider, and
- is competent in one of the six designated tasks

is more proportionate. This change will allow boards to include directors from other countries with relevant expertise without having to increase the size of the board and consequently costs.

AIMA would also welcome the extension of this relaxation of the Irish residency requirements to the designated persons requirements and to any types of regulated funds such as QIAIFs which have a two Irish resident director requirement.

- 4. What are your views on the proposed approach to measuring time spent in Ireland? Can you suggest any alternatives or any enhancements to the definition proposed by the Central Bank?**

No comment.



5. Is there a downside to requiring fund management companies to document the rationale for the board composition? Will fund management companies require a transitional period during which they can alter their board composition to ensure they have sufficient expertise and how long do you consider would be a reasonable timeframe for such adjustments?

We do not consider that requiring fund management companies to document the rationale for the board composition is necessary or helpful. A potential downside to requiring such documentation process is that it will result in paperwork whose legal status is unclear. A more proportionate and useful approach would be to focus on the CBI having the ability to require fund management companies to justify the appointment of directors at any time.

If the guidance is to have legal status, we consider that fund management companies should be given a lengthy period in which to come into compliance with the guidance and make any necessary adjustments to their board.

6. Are there any other elements which should be included by the Central Bank in a Fund Management Company Effectiveness - Delegate Oversight initiative?

As stated above, if the guidance is intended to extend to investment companies we consider that there should also be a consultation on how it may affect investment companies.