



2025/0382(COD)

11.6.2026

*****I**

DRAFT REPORT

on the proposal for a directive of the European Parliament and of the Council amending Directives 2009/65/EC, 2011/61/EU and 2014/65/EU as regards the further development of capital market integration and supervision within the Union

(COM(2025)0942 – C10-0327/2025 – 2025/0382(COD))

Committee on Economic and Monetary Affairs

Rapporteur: Eero Heinäluoma

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the **■** symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a directive of the European Parliament and of the Council amending Directives 2009/65/EC, 2011/61/EU and 2014/65/EU as regards the further development of capital market integration and supervision within the Union (COM(2025)0942 – C10-0327/2025 – 2025/0382(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2025)0942),
 - having regard to Article 294(2) and Articles 53 and 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C10-0327/2025),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the reasoned opinions submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the Czech Chamber of Deputies and the Italian Chamber of Deputies, asserting that the draft legislative act does not comply with the principle of subsidiarity,
 - having regard to the opinion of the European Central Bank of 9 April 2026¹,
 - having regard to the opinion of the European Economic and Social Committee of 18 March 2026²,
 - having regard to Rule 60 of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs (A10-0000/2026),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

¹ OJ C, C/2026/2837, 28.5.2026, ELI: <http://data.europa.eu/eli/C/2026/2837/oj>.

² Not yet published in the Official Journal.

Amendment 1

Proposal for a directive

Recital 1

Text proposed by the Commission

(1) The Savings and Investments Union (SIU) strategy is part of the Commission strategy to provide a vision of the Union as an economic powerhouse. For that purpose, it is necessary to establish a single market for financial services by addressing market inefficiencies resulting from fragmentation and to create the truly integrated European capital markets which are accessible to all citizens and businesses across the Union. It is also important that financial markets potential of the Union is unlocked by providing access to more efficient capital-market based financing and by facilitating cross-border capital flows, which in turn should support the economy of the Union, stimulate job creation and enhance competitiveness.

Amendment

(1) The Savings and Investments Union (SIU) strategy is part of the Commission strategy to provide a vision of the Union as an economic powerhouse. For that purpose, it is necessary to establish a single market for financial services by addressing market inefficiencies resulting from fragmentation and to create the truly integrated European capital markets which are accessible to all citizens and businesses across the Union. It is also important that financial markets potential of the Union is unlocked by providing access to more efficient capital-market based financing and by facilitating cross-border capital flows, which in turn should support ***in the first place*** the economy of the Union, stimulate job creation and enhance competitiveness.

Or. en

Amendment 2

Proposal for a directive

Recital 2

Text proposed by the Commission

(2) It is necessary to foster a seamless capital market across the EU by strengthening the supervisory framework and addressing regulatory fragmentation, thereby ensuring better integration of capital markets throughout the Union. In particular, while the integration of capital markets in the Union should ultimately be a market-driven process, certain barriers stemming notably from the Union legislative framework ***can*** obstruct

Amendment

(2) It is necessary to foster a seamless capital market across the EU by strengthening the supervisory framework and addressing regulatory fragmentation, thereby ensuring better integration of capital markets throughout the Union. In particular, while the integration of capital markets in the Union should ultimately be a market-driven process, certain barriers stemming notably from the Union legislative framework obstruct

progress. The Union should *therefore* focus on removing barriers in the sectors of trading, post-trading and asset management, and barriers hindering the uptake of new technologies. As market integration deepened, it is also crucial for the Union supervisory framework to evolve in accordance with it.

progress. *While* the Union should focus on removing barriers in the sectors of trading, post-trading and asset management, and barriers hindering the uptake of new technologies, *it should at the same time build in the necessary safeguards to protect financial stability and investor protection*. As market integration deepened, it is also crucial for the Union supervisory framework to evolve in accordance with it.

Or. en

Amendment 3

Proposal for a directive

Recital 3

Text proposed by the Commission

(3) In the context of the political objective of simplifying financial services legislation and delivering more effective and efficient implementation of Union policies, the Commission, after having consulted the European Supervisory Authorities, AMLA, the Council and the European Parliament, sent a letter on 1 October 2025 deprioritising empowerments non-essential for the effective functioning of the Level 1 legislations. For those deprioritised empowerments where the Commission would be legally required to act ('shall + a date') legal clarity for stakeholders would be enhanced when the basic act is also amended.

Amendment

(3) In the context of the political objective of simplifying financial services legislation and delivering more effective and efficient implementation of Union policies, the Commission, after having consulted the European Supervisory Authorities, AMLA, the Council and the European Parliament, sent a letter on 1 October 2025 deprioritising empowerments non-essential for the effective functioning of the Level 1 legislations. For those deprioritised empowerments where the Commission would be legally required to act ('shall + a date') legal clarity for stakeholders would be enhanced when the basic act is also amended. *At the same time, to ensure that the reforms proposed are effective and impactful, it is critical that the essential empowerments are accompanied by a clear deadline.*

Or. en

Amendment 4

Proposal for a directive
Recital 5

Text proposed by the Commission

(5) Directive 2009/65/EC and Directive 2011/61/EU do not recognise the notion of an asset management group and the hereto related synergies and risks. Currently, asset management groups that operate across the Union are required to maintain standalone human and technical resources at each group entity level and the delegation of functions to other entities within the same group is subject to the full scope of delegation requirements. To facilitate the operations of asset management groups in the Single Market, Directive 2009/65/EC and Directive 2011/61/EU should recognise the notion of an EU group of management companies and Alternative Investment Fund Managers ('AIFMs'), which should comprise all authorised management companies and AIFMs, as well as investment firms and credit institutions that are established in the Union and that are duly authorised under Directive 2014/65/EU of the European Parliament and of the Council⁴ and Directive 2013/36/EU of the European Parliament and of the Council⁵, respectively. To facilitate the sharing of group-wide resources and to avoid unnecessary duplication of resources across different EU entities within the group, it should be further specified that management companies and AIFMs should be able to utilise the human and technical resources of other entities within their EU group to conduct their business. ***Moreover, to reduce the regulatory burden of management companies and AIFMs that rely on other entities within their EU group to carry out their functions or services, those arrangements should no longer qualify as a delegation and should not be subject to the requirements on the delegation of functions, other than the requirement to duly inform the competent***

Amendment

(5) Directive 2009/65/EC and Directive 2011/61/EU do not recognise the notion of an asset management group and the hereto related synergies and risks. Currently, asset management groups that operate across the Union are required to maintain standalone human and technical resources at each group entity level and the delegation of functions to other entities within the same group is subject to the full scope of delegation requirements. To facilitate the operations of asset management groups in the Single Market, Directive 2009/65/EC and Directive 2011/61/EU should recognise the notion of an EU group of management companies and Alternative Investment Fund Managers ('AIFMs'), which should comprise all authorised management companies and AIFMs, as well as investment firms and credit institutions that are established in the Union and that are duly authorised under Directive 2014/65/EU of the European Parliament and of the Council⁴ and Directive 2013/36/EU of the European Parliament and of the Council⁵, respectively. To facilitate the sharing of group-wide resources and to avoid unnecessary duplication of resources across different EU entities within the group, it should be further specified that management companies and AIFMs should be able to utilise the human and technical resources of other entities within their EU group to conduct their business. The provisions of Directive 2009/65/EC and Directive 2011/61/EU as regards EU groups of management companies and AIFMs shall not affect the liability of management companies and AIFMs over the functions performed by other entities of the EU group or the prudential consolidation requirements for credit institutions and investment firms pursuant

authorities of the home Member State of the management company or AIFM that functions or services are performed by other entities within the EU group. To ensure that all entities within the same group operate under a common legal, regulatory, and supervisory framework, which is essential for maintaining a high level of investor protection and effective oversight, it should be further clarified that those rules will only benefit delegation arrangements and resource sharing between entities within the same group that are established in the Union and should apply regardless of whether the parent company of an EU group is located inside or outside the Union. The provisions of Directive 2009/65/EC and Directive 2011/61/EU as regards EU groups of management companies and AIFMs shall not affect the liability of management companies and AIFMs over the functions performed by other entities of the EU group or the prudential consolidation requirements for credit institutions and investment firms pursuant to Regulation (EU) No 575/2013.

to Regulation (EU) No 575/2013.

⁴ Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (recast) OJ L 173, 12.6.2014, p. 349, ELI: <http://data.europa.eu/eli/dir/2014/65/oj>).

⁴ Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (recast) OJ L 173, 12.6.2014, p. 349, ELI: <http://data.europa.eu/eli/dir/2014/65/oj>).

⁵ Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19, ELI: <http://data.europa.eu/eli/dir/2013/34/oj>).

⁵ Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19, ELI: <http://data.europa.eu/eli/dir/2013/34/oj>).

j).

j).

Or. en

Amendment 5

Proposal for a directive Recital 6

Text proposed by the Commission

(6) To reduce national disparities in the legal and operational conditions applicable to asset managers and investment funds across the Union, national discretions in the transposition and implementation of certain provisions that allow Member States to interpret, supplement, or derogate from core rules and which impose barriers to the development of the Single Market as currently laid down in Directive 2009/65/EC and Directive 2011/61/EU should be removed.

Amendment

(6) To reduce national disparities in the legal and operational conditions applicable to asset managers and investment funds across the Union, national discretions in the transposition and implementation of certain provisions that allow Member States to interpret, supplement, or derogate from core rules and which impose barriers to the development of the Single Market as currently laid down in Directive 2009/65/EC and Directive 2011/61/EU should be removed, ***at the latest by 31 December 2028.***

Or. en

Amendment 6

Proposal for a directive Recital 7

Text proposed by the Commission

(7) Each Member State currently draws up national rules of conduct and prudential rules with which management companies and AIFMs are required to comply, leading to diverging national rulebooks that hinder the development of a true Single Market for fund managers. To ensure a uniform application and a consistent implementation of the prudential rules and rules conduct for management companies and AIFMs across the Union, ESMA ***may***

Amendment

(7) Each Member State currently draws up national rules of conduct and prudential rules with which management companies and AIFMs are required to comply, leading to diverging national rulebooks that hinder the development of a true Single Market for fund managers. To ensure a uniform application and a consistent implementation of the prudential rules and rules ***of*** conduct for management companies and AIFMs across the Union,

develop *guidelines* to specify the content of those rules.

ESMA *should be required to* develop *Union-wide rules of conduct* to specify the content of those rules.

Or. en

Amendment 7

Proposal for a directive

Recital 8

Text proposed by the Commission

(8) To reduce the regulatory burden of management companies and AIFMs that manage or intend to manage UCITS and AIFs at the initiative of a third party, it is necessary to require management companies and AIFMs to disclose the fact that they manage or intend to manage UCITS and AIFs at the initiative of a third party to the competent authorities of their home Member State at the time of authorisation and to be in a position to demonstrate to them *only upon request* that they have taken all reasonable steps to prevent, manage, monitor or, where applicable, disclose conflicts of interest.

Amendment

(8) To reduce the regulatory burden of management companies and AIFMs that manage or intend to manage UCITS and AIFs at the initiative of a third party, it is necessary to require management companies and AIFMs to disclose the fact that they manage or intend to manage UCITS and AIFs at the initiative of a third party to the competent authorities of their home Member State at the time of authorisation and to be in a position to demonstrate to them that they have taken all reasonable steps to prevent, manage, monitor or, where applicable, disclose conflicts of interest.

Or. en

Amendment 8

Proposal for a directive

Recital 10

Text proposed by the Commission

(10) To facilitate integration in view of achieving the full potential of the Single Market, complement the existing management and marketing passports for UCITS, management companies and AIFMs and remove regulatory barriers that hinder the cross-border provision of

Amendment

(10) To facilitate integration in view of achieving the full potential of the Single Market, complement the existing management and marketing passports for UCITS, management companies and AIFMs and remove regulatory barriers that hinder the cross-border provision of

depository services, it is appropriate to introduce an EU depository passport. Such depository passport should remove the current restriction requiring the depository to be established in the same Member State as the fund and will allow AIFMs and UCITS to appoint a depository established anywhere in the Union. To better protect investors and mitigate financial stability risks, the depository passport should be applicable only to depositaries that are authorised as credit institutions under Directive 2013/36/EU or as investment firms under Directive 2014/65/EU and which are subject to prudential requirements *and supervision* that *already* ensure consistent safeguards across Member States.

depository services, it is appropriate to introduce an EU depository passport. Such depository passport should remove the current restriction requiring the depository to be established in the same Member State as the fund and will allow AIFMs and UCITS to appoint a depository established anywhere in the Union. To better protect investors and mitigate financial stability risks, the depository passport should be applicable only to depositaries that are authorised as credit institutions under Directive 2013/36/EU or as investment firms under Directive 2014/65/EU and which are subject to prudential requirements that ensure consistent safeguards across Member States. ***In addition, given their size and systemic nature, and in order to increase supervisory consistency and ensure cross-border legal certainty, ESMA should exercise direct supervisory powers over depositories as regulated under this Directive, including ongoing compliance with organisational requirements, safekeeping duties, cash flow monitoring and oversight and other obligations.***

Or. en

Amendment 9

Proposal for a directive Recital 11

Text proposed by the Commission

(11) To recognise the inherently diversified nature and regulatory requirements of securitisations and to allow greater flexibility for UCITS to invest in those products, it is necessary to increase the current 10% limit on debt securities issued by a single entity to 15% for UCITS investing in securitisations issued in accordance with Regulation

Amendment

deleted

Amendment 10

Proposal for a directive

Recital 14

Text proposed by the Commission

(14) To enhance the efficiency of large asset management groups in structuring their operations and remove barriers to their cross-border activity, it is essential to establish a permanent supervisory framework whereby ESMA, in cooperation with the relevant competent authorities, **carries out reviews of the largest asset management groups** at least on an annual basis to effectively identify and address divergent, duplicative, redundant, or deficient supervisory practices in specific cases. Such annual reviews should be confined to the analysis of data, information and documentation already available to ESMA and national competent authorities through existing reporting channels. This review should aim to remove any obstacle to the functioning of the Single Market for **large** asset management groups and facilitate their cross-border operations. **This framework should therefore not be understood as a mandate for ESMA to develop new group level risk models or new supervisory approaches that do not already derive from Directive 2009/65/EC and Directive 2011/61/EU but instead as an arrangement to enhance supervisory efficiencies for groups of management companies and AIFMs. The scope of this review should be confined to the requirements applicable to management companies and AIFMs within EU groups and is therefore not intended to include any requirements on authorisation or**

Amendment

(14) To enhance the efficiency of large asset management groups in structuring their operations and remove barriers to their cross-border activity, it is essential to establish a permanent supervisory framework whereby ESMA **is made directly responsible for the authorisation and supervision of large asset management groups in the Union. ESMA should identify such groups based on the significant size of their market presence and impact within the Union, as measured by their net asset values and the extent of their cross-border operations and activities. For asset management groups that are not significant, ESMA should**, in cooperation with the relevant competent authorities, **carry out reviews at least on an annual basis to effectively identify and address divergent, duplicative, redundant, or deficient supervisory practices in specific cases. Such annual reviews should be confined to the analysis of data, information and documentation already available to ESMA and national competent authorities through existing reporting channels. This review should aim to remove any obstacle to the functioning of the Single Market for asset management groups and facilitate their cross-border operations, as well as to identify risks to investor protection, financial stability, or the integrity of the market. ESMA should carry out the review on a more frequent basis in the event of justified concerns in respect of risks to investor protection,**

supervision of the investment funds that are managed by those management companies and AIFMs. It is also appropriate and proportional to concentrate these efforts on the largest asset management groups in the EU, where operational and supervisory synergies can be achieved most effectively. ESMA should identify these groups based on the significant size of their market presence and impact within the Union, as measured by their net asset values and the extent of their cross-border operations and activities.

financial stability, or the integrity of the market.

Or. en

Amendment 11

Proposal for a directive Recital 15

Text proposed by the Commission

(15) In order to ensure that the costs incurred by ESMA in **carrying out the reviews of** large EU groups of management companies and AIFMs **are borne by those entities that benefit from an enhanced supervisory coordination**, ESMA should charge those groups proportionate fees. **Such fees should cover the reasonable costs related to the preparation, conduct and follow-up of the reviews. These reviews will involve significant analytical and coordination work, including the collection and consolidation of group-level data, the assessment of supervisory approaches across several Member States and sectors, and the formulation of recommendations to ensure consistent and effective supervision within the Union. Charging fees for those reviews is justified as this ensures that entities benefiting from a harmonised, predictable and streamlined supervisory environment contribute fairly to the costs** of its

Amendment

(15) In order to ensure that the costs incurred by ESMA in **supervising** large EU groups of management companies and AIFMs, ESMA should charge those groups proportionate fees **in order to cover ESMA's necessary expenditure relating to their supervision. The amount of an individual supervisory fee charged to an EU group of management companies and AIFMs that is of significant importance to the Union should be fully proportionate to its size, calculated on the basis of its total assets under management, and should reflect the complexity and risk profile of the investment strategies pursued.**

delivery.

Or. en

Amendment 12

Proposal for a directive Recital 23 a (new)

Text proposed by the Commission

Amendment

(23a) Directives 2009/65/EC and 2011/61/EU allow management companies and AIFMs to engage in the use of efficient portfolio management techniques, such as securities lending in order to generate additional income for investors. Studies by ESMA and the European Federation of Investors and Financial Services Users (Better Finance) demonstrate large variations in the gross revenues generated by securities lending transactions that were returned to UCITS investors in certain Member States. This raises concerns with regards to investor protection and the compliance of management companies with ESMA guidelines on ETFs and other UCITS issues that require all revenues arising from efficient portfolio management techniques to be returned to the fund, net of direct and indirect operational costs. To ensure more legal certainty and investor protection, clearer provisions around the use of efficient portfolio management techniques should be introduced in Directives 2009/65/EC and 2011/61/EU.

Or. en

Amendment 13

Proposal for a directive Article 1 – paragraph 1 – point 1 a (new) Directive 2009/65/EC

Article 1 – paragraph 7

Text proposed by the Commission

Amendment

1a. in Article 1, paragraph 7 is deleted;

Or. en

Amendment 14

Proposal for a directive

Article 1 – paragraph 1 – point 3 – point a

Directive 2009/65/EC

Article 5 – paragraph 6 – subparagraph 2

Text proposed by the Commission

Amendment

If the competent authorities of the UCITS home Member State decide to impose restrictions or reject those changes, they shall, within 1 month of receipt of the notification referred to in the first subparagraph, inform the UCITS thereof. The competent authorities may prolong that period for up to **1 month** where they consider that to be necessary because of the specific circumstances of the case and after having notified the UCITS thereof. The changes shall be implemented if the relevant competent authorities do not oppose the changes within the relevant assessment period.

If the competent authorities of the UCITS home Member State decide to impose restrictions or reject those changes, they shall, within 1 month of receipt of the notification referred to in the first subparagraph, inform the UCITS thereof. The competent authorities may prolong that period for up to **15 days** where they consider that to be necessary because of the specific circumstances of the case and after having notified the UCITS thereof. The changes shall be implemented if the relevant competent authorities do not oppose the changes within the relevant assessment period.

Or. en

Amendment 15

Proposal for a directive

Article 1 – paragraph 1 – point 3 – point b

Directive 2009/65/EC

Article 5 – paragraph 8 – subparagraph 3

Text proposed by the Commission

Amendment

ESMA shall submit those draft regulatory technical standards to the Commission by [Please insert date = **12** months after the entry into force of this Directive].

ESMA shall submit those draft regulatory technical standards to the Commission by ... [**six** months after the entry into force of this Directive].

Or. en

Amendment 16

Proposal for a directive

Article 1 – paragraph 1 – point 7 – point b

Directive 2009/65/EC

Article 12 – paragraph 3 – subparagraph 2

Text proposed by the Commission

In order to ensure a uniform application of the prudential rules for management companies and to ensure a consistent implementation across Member States, ESMA *may* adopt **guidelines** to specify the content of those rules.

Amendment

In order to ensure a uniform application of the prudential rules for management companies and to ensure a consistent implementation across Member States, ESMA **shall** adopt **regulatory technical standards** to specify the content of those rules.

Or. en

Amendment 17

Proposal for a directive

Article 1 – paragraph 1 – point 7 – point b

Directive 2009/65/EC

Article 12 – paragraph 3 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

ESMA shall submit those draft regulatory technical standards to the Commission by ... [six months from the date of entry into force of this amending Directive].

Or. en

Amendment 18

Proposal for a directive

Article 1 – paragraph 1 – point 7 – point b

Directive 2009/65/EC

Article 12 – paragraph 3 – subparagraph 2 b (new)

Text proposed by the Commission

Amendment

Power is delegated to the Commission to supplement this Directive by adopting the regulatory technical standards referred to in the second subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

Or. en

Amendment 19

Proposal for a directive

Article 1 – paragraph 1 – point 8 – point b

Directive 2009/65/EC

Article 13 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Amendment

(b) in paragraph 3, the following subparagraph is added:

deleted

‘By way of derogation from paragraph 1, where a management company relies on an entity within its EU group for the performance of the functions referred to in Annex II or the services referred to in Article 6(3), such arrangement shall not be considered as a delegation subject to the requirements set out in paragraph 1, where all of the following conditions are fulfilled:

(a) the entity belongs to the EU group of the management company;

(b) the management company has notified the competent authorities of its home Member State of the fact that it relies on another entity within its EU group to perform its functions or services;

(c) the entity has been duly authorised to

perform those functions or services on behalf of the management company.’;

Or. en

Amendment 20

Proposal for a directive

Article 1 – paragraph 1 – point 9 – point a

Directive 2009/65/EC

Article 14 – paragraph 1 – introductory part

Text proposed by the Commission

Management companies authorised in a Member State shall comply at all times with rules of conduct. Those rules of conduct shall ensure that a management company;

Amendment

Management companies authorised in a Member State shall comply at all times with ***Union-wide*** rules of conduct. Those rules of conduct shall ensure that a management company:

Or. en

Amendment 21

Proposal for a directive

Article 1 – paragraph 1 – point 9 – point a a (new)

Directive 2009/65/EC

Article 14 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

(aa) in paragraph 1, the following subparagraphs are added:

‘ESMA shall develop draft regulatory technical standards specifying the rules of conduct referred to in the first subparagraph.’

Or. en

Amendment 22

Proposal for a directive

Article 1 – paragraph 1 – point 9 – point a a (new)

Directive 2009/65/EC

Article 14 – paragraph 1 – subparagraph 1 b (new)

Text proposed by the Commission

Amendment

ESMA shall submit those draft regulatory technical standards to the Commission by ... [six months from the date of entry into force of this amending Directive].

Or. en

Amendment 23

Proposal for a directive

Article 1 – paragraph 1 – point 9 – point a a (new)

Directive 2009/65/EC

Article 14 – paragraph 1 – subparagraph 1 c (new)

Text proposed by the Commission

Amendment

Power is delegated to the Commission to supplement this Directive by adopting the regulatory technical standards referred to in the second subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

Or. en

Amendment 24

Proposal for a directive

Article 1 – paragraph 1 – point 9 – point b

Directive 2009/65/EC

Article 14 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

In order to ensure a uniform application of the rules of conduct referred to in paragraph 1 and to ensure a consistent implementation across Member States, ESMA may adopt guidelines, to specify the content of those rules.

deleted

Or. en

Amendment 25

Proposal for a directive

Article 1 – paragraph 1 – point 9 a (new)

Directive 2009/65/EC

Article 14b – paragraph 1 – point g

Present text

(g) where remuneration is performance-related, the total amount of remuneration is based on a combination of the assessment as to the performance of the individual and of the business unit or UCITS concerned and as to their risks and of the overall results of the management company when assessing individual performance, taking into account financial and non-financial criteria;

Amendment

(9a) in Article 14b, paragraph 1, point (g) is replaced by the following:

‘(g) where remuneration is performance-related, the total amount of remuneration is based on a combination of the assessment as to the performance of the individual and of the business unit or UCITS concerned and as to their risks and of the overall results of the management company when assessing individual performance, taking into account financial and non-financial criteria **in equal measure**;’;

Or. en

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02009L0065-20260416>

Amendment 26

Proposal for a directive

Article 1 – paragraph 1 – point 9 b (new)

Directive 2009/65/EC

Article 14b – paragraph 1 – point j

Present text

(j) fixed and variable components of total remuneration are appropriately balanced and the fixed component represents a sufficiently high proportion of the total remuneration to allow the operation of a fully flexible policy on variable remuneration components, including the possibility to pay no variable remuneration

Amendment

(9b) in Article 14b, paragraph 1, point (j) is replaced by the following:

‘(j) fixed and variable components of total remuneration are appropriately balanced and the fixed component represents a sufficiently high proportion of the total remuneration to allow the operation of a fully flexible policy on variable remuneration components, including the possibility to pay no variable remuneration

component;

component; *management companies shall set the appropriate ratios between the fixed and the variable component of the total remuneration, whereby the variable component shall not exceed 100 % of the fixed component of the total remuneration for each individual. Member States may set a lower maximum percentage;*;

Or. en

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02009L0065-20260416>

Amendment 27

Proposal for a directive

Article 1 – paragraph 1 – point 9 c (new)

Directive 2009/65/EC

Article 14b – paragraph 1 – point 1

Present text

(l) the measurement of performance used to calculate variable remuneration components or pools of variable remuneration components includes a comprehensive adjustment mechanism to integrate all relevant types of current and future risks;

Amendment

(9c) in Article 14b, paragraph 1, point (l) is replaced by the following:

‘(l) the measurement of performance used to calculate variable remuneration components or pools of variable remuneration components includes a comprehensive adjustment mechanism to integrate all relevant types of current and future risks, *including climate and transition risks;*’;

Or. en

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02009L0065-20260416>

Amendment 28

Proposal for a directive

Article 1 – paragraph 1 – point 9 d (new)

Directive 2009/65/EC

Article 14b – paragraph 1 – point r

Present text

Amendment

(r) variable remuneration is not paid through vehicles or methods that facilitate the avoidance of the requirements laid down in this Directive.

(9d) in Article 14b, paragraph 1, point (r) is replaced by the following:

‘(r) variable remuneration is not paid through vehicles or methods that facilitate the avoidance of the requirements laid down in this Directive **or that have the effect of reducing the tax liability of the employee.**’;

Or. en

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02009L0065-20260416>

Amendment 29

Proposal for a directive

Article 1 – paragraph 1 – point 15 – point a

Directive 2009/65/EC

Article 20a – paragraph 3 – subparagraph 1

Text proposed by the Commission

The competent authorities of the UCITS home Member State shall ensure that all information gathered under this Article in respect of all UCITS that they supervise is made available to other relevant competent authorities, ESMA, EBA, EIOPA **and** the European Systemic Risk Board (ESRB), whenever necessary for the purpose of carrying out their duties, by means of the procedures set out in Article 101.

Amendment

The competent authorities of the UCITS home Member State shall ensure that all information gathered under this Article in respect of all UCITS that they supervise is made available to other relevant competent authorities, ESMA, EBA, EIOPA, the European Systemic Risk Board (ESRB) **and the members of the European System of Central Banks**, whenever necessary for the purpose of carrying out their duties, **in accordance with Union or national law**, by means of the procedures set out in Article 101.

Or. en

Amendment 30

Proposal for a directive

Article 1 – paragraph 1 – point 15 – point b

Directive 2009/65/EC

Article 20a – paragraph 3 – subparagraph 3

Text proposed by the Commission

Amendment

(b) the third subparagraph is replaced by the following:

deleted

The competent authorities of the UCITS home Member State or of the management company's home Member State shall, without delay, provide information by means of the procedures set out in Article 101, and bilaterally to the competent authorities of other Member States directly concerned, if a management company under their responsibility, or a UCITS managed by that management company, potentially constitutes an important source of counterparty risk to a credit institution or other systemically relevant institutions in other Member States, or to the stability of the financial system in another Member State.

Or. en

Amendment 31

Proposal for a directive

Article 1 – paragraph 1 – point 16 a (new)

Directive 2009/65/EC

Article 23 – paragraph 2 – subparagraph 2 – introductory part

Present text

Amendment

A legal entity as referred to in point (c) of the first subparagraph shall be subject to prudential regulation and ongoing supervision and shall satisfy the following minimum requirements:

(16a) in Article 23, paragraph 2, second subparagraph, the introductory part is replaced by the following:

‘A legal entity as referred to in point (c) of the first subparagraph shall be subject to ongoing and direct supervision and enforcement by ESMA in respect of its compliance with obligations laid down in this Directive, irrespective of the prudential regulation and ongoing supervision exercised by national central

banks or banking authorities under Directive 2013/36/EU and shall satisfy the following minimum requirements:’;

Or. en

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02009L0065-20260416>

Amendment 32

Proposal for a directive

Article 1 – paragraph 1 – point 18 – point b

Directive 2009/65/EC

Article 31 – paragraph 2

Text proposed by the Commission

2. In order to ensure a uniform application of the prudential rules for investment companies and to ensure a consistent implementation across Member States, ESMA ***may*** adopt guidelines to further to specify the content of the rules referred to in paragraph 1.

Amendment

2. In order to ensure a uniform application of the prudential rules for investment companies and to ensure a consistent implementation across Member States, ESMA ***shall*** adopt guidelines ***by 31 December 2027 in accordance with Article 16 of Regulation (EU) No 1093/2010*** to further to specify the content of the rules referred to in paragraph 1.

Or. en

Amendment 33

Proposal for a directive

Article 1 – paragraph 1 – point 22 a (new)

Directive 2009/65/EC

Article 51 a (new)

Text proposed by the Commission

Amendment

(22a) the following article is inserted:

‘Article 51a

1. A UCITS shall inform investors clearly in the prospectus of its intention to use efficient portfolio management techniques and instruments referred to in Article

51(2) of this Directive and Article 11 of Commission Directive 2007/16/EC^{1a}. The prospectus shall include a detailed description of the risks involved in those activities, including counterparty risk and potential conflicts of interest, and the impact they are expected to have on the performance of the UCITS. The use of those techniques and instruments shall be in line with the best interests of the UCITS.

2. In accordance with Article 11 of Directive 2007/16/EC, UCITS employing efficient portfolio management techniques shall ensure that the risks arising from their activities are adequately captured by the risk management process of the UCITS.

3. The UCITS shall disclose in the prospectus and its annual report the policy regarding direct and indirect operational costs/fees arising from efficient portfolio management techniques that may be deducted from the revenue delivered to the UCITS. Those costs and fees shall not include hidden revenue. The UCITS shall disclose the identity of the entities to which the direct and indirect costs and fees are paid and indicate if those are related parties to the management company or the depositary.

4. All the revenues arising from efficient portfolio management techniques, net of direct and indirect operational costs, shall be returned to the UCITS. Direct and indirect operational costs shall not include any profit-sharing or revenue-splitting arrangements for the management company or any entity within the same group. In any case, at least 90% of the revenues arising from efficient portfolio management techniques shall be returned directly to the UCITS fund for the benefit of its investors.

5. A UCITS shall ensure that it is able at any time to recall any security that has been lent out or to terminate any

securities lending agreement into which it has entered.

^{1a} Commission Directive 2007/16/EC of 19 March 2007 implementing Council Directive 85/611/EEC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) as regards the clarification of certain definitions OJ L 79, 20.3.2007, p. 11, ELI: <http://data.europa.eu/eli/dir/2007/16/oj>.’;

Or. en

Amendment 34

Proposal for a directive

Article 1 – paragraph 1 – point 26 – point a

Directive 2009/65/EC

Article 55 – paragraph 1

Text proposed by the Commission

1. Competent authorities shall allow a UCITS to acquire the units of UCITS or other collective investment undertakings referred to in Article 50(1), point (e), provided that no more than **20** % of its assets are invested in units of a single UCITS or other collective investment undertaking.

Amendment

1. Competent authorities shall allow a UCITS to acquire the units of UCITS or other collective investment undertakings referred to in Article 50(1), point (e), provided that no more than **10** % of its assets are invested in units of a single UCITS or other collective investment undertaking.

Or. en

Amendment 35

Proposal for a directive

Article 1 – paragraph 1 – point 27 – point a

Directive 2009/65/EC

Article 56 – paragraph 2 – subparagraph 3

Text proposed by the Commission

Amendment

By way of derogation from the first subparagraph, point (b), a UCITS may acquire no more than 15% of the securitisations issued in accordance with Regulation (EU) 2017/2402 by a single issuing body.

deleted

Or. en

Amendment 36

Proposal for a directive

Article 1 – paragraph 1 – point 33 – point a a (new)

Directive 2009/65/EC

Article 69 – paragraph 3 – subparagraph 2 – point b a (new)

Text proposed by the Commission

Amendment

(aa) in paragraph 3, subparagraph 2, the following point is inserted:

‘(ba) information concerning the exposure obtained through efficient portfolio management techniques, including:

(a) the identity of the counterparty or counterparties to those efficient portfolio management techniques;

(b) the type and amount of collateral received by the UCITS to reduce counterparty exposure;

(c) a clear breakdown, in absolute monetary terms, of the total gross revenue generated from efficient portfolio management techniques, the total costs deducted by the management company or third parties, and the final net revenue credited to the UCITS;’;

Or. en

Amendment 37

Proposal for a directive
Article 1 – paragraph 1 – point 41 a (new)
Directive 2009/65/EC
Article 97 a (new)

Text proposed by the Commission

Amendment

(41a) the following article is inserted:

‘Article 97a

1. By ... [12 months from the date of entry into force of this amending Directive] ESMA shall, in consultation with the ESRB, identify each EU group of management companies and AIFMs that are of significant importance to the Union (‘significant EU groups of management companies and AIFMs’). An EU group of management companies and AIFMs shall be considered significant where it meets the following conditions:

(a) the aggregate Union-wide net asset values of management companies and AIFMs within the group are above EUR 100 billion;

(b) the management companies and AIFMs within the group are established in more than one Member State, or those management companies and AIFMs manage or market UCITS and AIFs in more than one Member State.

2. For the purposes of paragraph 1, first subparagraph, point (a), aggregate Union-wide assets under management shall include EU assets under management within the scope of this Directive or of Directive 2011/61/EU.

3. ESMA shall publish a list of the EU groups of management companies and AIFMs identified as significant in accordance with the first paragraph and shall update that list every year. Where ESMA designates an EU group of management companies and AIFMs as significant, it shall assume the supervisory tasks and duties assigned under this Directive to the competent

authority of the home Member State, including for their authorisation and supervision.’;

Or. en

Amendment 38

Proposal for a directive

Article 1 – paragraph 1 – point 44 a (new)

Directive 2009/65/EC

Article 101 a (new)

Text proposed by the Commission

Amendment

(44a) the following article is inserted:

‘Article 101a

Direct supervisory powers of ESMA over depositaries

1. For the purposes of ensuring compliance with Chapter IV of this Directive and with Article 21 of Directive 2011/61/EU, ESMA shall exercise the powers of direct supervision over depositaries, including the power:

(a) to request information from depositaries, their employees, and related third-party delegates;

(b) to conduct general investigations and on-site inspections;

(c) to issue supervisory warnings, order the cessation of non-compliant practices, or temporarily ban individuals from management functions;

(d) to impose administrative fines and periodic penalty payments.

2. ESMA shall coordinate its supervisory activities with the competent banking authorities responsible for the prudential supervision of credit institutions acting as depositaries.’;

Or. en

Amendment 39

Proposal for a directive

Article 1 – paragraph 1 – point 44 b (new)

Directive 2009/65/EC

Article 101 b (new)

Text proposed by the Commission

Amendment

(44b) the following article is inserted:

‘Article 101b

1. ESMA shall charge fees to each significant EU group of management companies and AIFMs.

2. The fees referred to in paragraph 1 shall fully cover ESMA’s necessary expenditure relating to the direct management, ongoing oversight, onsite inspections, and enforcement in relation to significant EU groups of management companies and AIFMs and shall cover all costs incurred by ESMA for the performance of its supervisory tasks under this Directive.

3. The amount of an individual supervisory fee charged to a significant EU group of management companies and AIFMs shall be fully proportionate to its size, calculated on the basis of its total assets under management, and shall reflect the complexity and risk profile of the investment strategies pursued.

4. The Commission is empowered to adopt delegated acts to supplement this Article by specifying:

(a) the types of fees;

(b) the matters for which fees are due;

(c) the method of calculation of the fees;
and

(d) the manner in which fees are to be paid.’;

Or. en

Amendment 40

Proposal for a directive

Article 1 – paragraph 1 – point 47

Directive 2009/65/EC

Article 110b – title

Text proposed by the Commission

ESMA review of large EU groups of management companies and AIFMs

Amendment

Annual review of large EU groups of management companies and AIFMs

Or. en

Amendment 41

Proposal for a directive

Article 1 – paragraph 1 – point 47

Directive 2009/65/EC

Article 110b – paragraph 1 – subparagraph 1 – point a

Text proposed by the Commission

(a) the aggregate EU-wide net asset values of management companies and AIFMs within the group are **above EUR 300** billion;

Amendment

(a) the aggregate EU-wide net asset values of management companies and AIFMs within the group are **between EUR 50 and EUR 150** billion;

Or. en

Amendment 42

Proposal for a directive

Article 1 – paragraph 1 – point 47

Directive 2009/65/EC

Article 110b – paragraph 3 – subparagraph 1

Text proposed by the Commission

ESMA shall, in cooperation with the competent authorities of the home Member States of the management companies and, where relevant, the competent authorities of the home Member States of the AIFMs

Amendment

ESMA shall, in cooperation with the competent authorities of the home Member States of the management companies and, where relevant, the competent authorities of the home Member States of the AIFMs,

that are part of the EU group, carry out at least annually a review of *each EU group identified* pursuant to *paragraph 1*.

carry out at least annually a review of *management companies and AIFMs under paragraph 1 that do not fall under the direct supervision of ESMA* pursuant to *Article 97a*.

Or. en

Amendment 43

Proposal for a directive

Article 1 – paragraph 1 – point 47

Directive 2009/65/EC

Article 110b – paragraph 3 – subparagraph 2

Text proposed by the Commission

During the review referred to in the first subparagraph, ESMA shall assess the supervisory approaches in the application of the requirements of this Directive and of Directive 2011/61/EU *that are taken by the competent authorities of the management companies and, where relevant, AIFMs within each EU group*. For the purpose of that review, ESMA shall use a methodology that ensures comparability and consistency of those supervisory approaches.

Amendment

During the review referred to in the first subparagraph, ESMA shall assess the supervisory approaches in the application of the requirements of this Directive and of Directive 2011/61/EU. For the purpose of that review, ESMA shall use a methodology that ensures comparability and consistency of those supervisory approaches.

Or. en

Amendment 44

Proposal for a directive

Article 1 – paragraph 1 – point 47

Directive 2009/65/EC

Article 110b – paragraph 3 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

ESMA shall carry out the review referred to in the first subparagraph on a more frequent basis in the event of justified concerns in respect of investor protection,

financial stability or the integrity of the market.

Or. en

Amendment 45

Proposal for a directive

Article 1 – paragraph 1 – point 47

Directive 2009/65/EC

Article 110b – paragraph 4 – introductory part

Text proposed by the Commission

4. The review referred to in paragraph 3 shall, in particular, assess the supervisory approaches regarding each **EU group's**:

Amendment

4. The review referred to in paragraph 3 shall, in particular, assess the supervisory approaches regarding each **AIFM's and each management company's**:

Or. en

Amendment 46

Proposal for a directive

Article 1 – paragraph 1 – point 47

Directive 2009/65/EC

Article 110b – paragraph 4 – point b

Text proposed by the Commission

(b) resources and their allocation **inside and outside the EU group**, including the functions of the persons effectively conducting the business of the management companies and, where relevant, AIFMs, **within the EU group**;

Amendment

(b) resources and their allocation including the functions of the persons effectively conducting the business of the management companies and, where relevant, AIFMs;

Or. en

Amendment 47

Proposal for a directive

Article 1 – paragraph 1 – point 47

Directive 2009/65/EC
Article 110b – paragraph 5 – point b

Text proposed by the Commission

(b) the programmes of activities of the management companies and, where relevant, AIFMs ***within the EU group***.

Amendment

(b) the programmes of activities of the management companies and, where relevant, AIFMs.

Or. en

Amendment 48

Proposal for a directive

Article 1 – paragraph 1 – point 47

Directive 2009/65/EC

Article 110b – paragraph 6 – subparagraph 1

Text proposed by the Commission

Following each review, as referred to in paragraph 3, ESMA shall, after having consulted the competent authorities of the home Member States of the management companies and, where relevant, those of the home Member States of the AIFMs ***within the EU group***, conclude on whether it identified any diverging, duplicative, redundant or deficient supervisory approaches.

Amendment

Following each review, as referred to in paragraph 3, ESMA shall, after having consulted the competent authorities of the home Member States of the management companies and, where relevant, those of the home Member States of the AIFMs conclude on whether it identified any diverging, duplicative, redundant or deficient supervisory approaches, ***in particular those that could jeopardise the functioning of the internal market, the integrity of financial markets, financial stability or investor protection.***

Or. en

Amendment 49

Proposal for a directive

Article 1 – paragraph 1 – point 47

Directive 2009/65/EC

Article 110b – paragraph 6 – subparagraph 2

Text proposed by the Commission

Amendment

ESMA shall include the findings referred to in the first subparagraph in a review report, issued by the Executive Board which shall be addressed to the competent authorities of the home Member States of the management companies and, where relevant, those of the home Member States of the AIFMs *within the EU group*.

ESMA shall include the findings referred to in the first subparagraph in a review report, issued by the Executive Board which shall be addressed to the competent authorities of the home Member States of the management companies and, where relevant, those of the home Member States of the AIFMs.

Or. en

Amendment 50

Proposal for a directive

Article 1 – paragraph 1 – point 47

Directive 2009/65/EC

Article 110b – paragraph 7 – subparagraph 1

Text proposed by the Commission

Where during the review referred to in paragraph 3, ESMA identifies areas that require supervisory action, *its Executive board shall issue a recommendation for corrective actions to* the competent authorities concerned *that is to be implemented within a reasonable time, not exceeding one year*.

Amendment

Where during the review referred to in paragraph 3, ESMA identifies areas that require supervisory action, *or if other information available to it reveals unaddressed supervisory risks, divergent or deficient supervisory practices or barriers to cross-border activities, ESMA may issue a decision to take specific supervisory action or to refrain from action, with binding effects for* the competent authorities concerned, *including on authorisation decisions or their withdrawal, adjustments to authorisation conditions, execution of on-site inspections by national competent authorities or cooperation with joint supervisory teams established and coordinated by ESMA or enforcement actions*.

Or. en

Amendment 51

Proposal for a directive

PE789.867v01-00

36/72

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Article 1 – paragraph 1 – point 47

Directive 2009/65/EC

Article 110b – paragraph 7 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Where necessary to ensure compliance with Union law or ensure the orderly functioning and integrity of the financial system or removing market barriers established by national competent authorities, ESMA may adopt an individual decision addressed to a financial market participant to grant authorisations, enable cross-border business activities or require it to take all necessary action to comply with its obligations under this Directive and Directive 2011/61/EU, including the cessation of any practice. The market participant shall make every effort to comply with the ESMA decision within the specified timeframe.

Or. en

Amendment 52

Proposal for a directive

Article 1 – paragraph 1 – point 47

Directive 2009/65/EC

Article 110b – paragraph 7 – subparagraph 1 b (new)

Text proposed by the Commission

Amendment

The ESMA decisions referred to under the first and second subparagraphs shall be issued by its Executive Board and shall be taken by a simple majority of the Board's members.

Or. en

Amendment 53

Proposal for a directive

Article 1 – paragraph 1 – point 47

Directive 2009/65/EC

Article 110b – paragraph 7 – subparagraph 2

Text proposed by the Commission

Amendment

ESMA shall also inform the competent authorities of the management companies' host Member States and, where relevant, those of the host Member States of the AIFMs of its findings, including any recommendation for corrective actions that it has issued pursuant to the first subparagraph. ***deleted***

Or. en

Amendment 54

Proposal for a directive

Article 2 – paragraph 1 – point 1 – point -a (new)

Directive 2011/61/EU

Article 4 – paragraph 1 – point g – point i

Present text

Amendment

(i) if the depositary is a credit institution authorised under Directive 2006/48/EC, ***the component authority as defined in point 4 of Article 4 thereof;***

(-a) in point (g), point (i) is replaced by the following:

‘(i) if the depositary is a credit institution authorised under Directive 2006/48/EC, ESMA;’;

Or. en

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02011L0061-20260416>

Amendment 55

Proposal for a directive

Article 2 – paragraph 1 – point 1 – point -a a (new)

Directive 2011/61/EU

Article 4 – paragraph 1 – point g – point ii

Present text

Amendment

(ii) if the depositary is an investment firm authorised under Directive 2004/39/EC, **the component authority as defined in point 22 of Article 4 (1)**;

(-aa) in point (g), point (ii) is replaced by the following:

‘(ii) if the depositary is an investment firm authorised under Directive 2004/39/EC, **ESMA**;’;

Or. en

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02011L0061-20260416>

Amendment 56

Proposal for a directive

Article 2 – paragraph 1 – point 6 – point a

Directive 2011/61/EU

Article 12 – paragraph 1 – subparagraph 1 – introductory part

Text proposed by the Commission

Amendment

1. Member States shall ensure that AIFMs authorised in that Member State comply at all times with rules of conduct. Those rules of conduct shall ensure that AIFMs;

1. Member States shall ensure that AIFMs authorised in that Member State comply at all times with **Union-wide** rules of conduct. Those rules of conduct shall ensure that AIFMs:

Or. en

Amendment 57

Proposal for a directive

Article 2 – paragraph 1 – point 6 – point b

Directive 2011/61/EU

Article 12 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Amendment

In order to ensure **a** uniform application of the rules of conduct **referred to in paragraph 1** and to ensure **a** consistent implementation across Member States, ESMA **may adopt guidelines**, to specify the content of those rules.

In order to ensure uniform application of the rules of conduct and to ensure consistent implementation across Member States, ESMA **shall develop draft regulatory technical standards in order to** specify the content of those rules.

Amendment 58

Proposal for a directive

Article 2 – paragraph 1 – point 6 – point b

Directive 2011/61/EU

Article 12 – paragraph 3 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

ESMA shall submit those draft regulatory technical standards to the Commission by ... [six months from the date of entry into force of this amending Directive].

Or. en

Amendment 59

Proposal for a directive

Article 2 – paragraph 1 – point 6 – point b

Directive 2011/61/EU

Article 12 – paragraph 3 – subparagraph 2 b (new)

Text proposed by the Commission

Amendment

Power is delegated to the Commission to supplement this Directive by adopting the regulatory technical standards referred to in the second subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

Or. en

Amendment 60

Proposal for a directive

Article 2 – paragraph 1 – point 6 a (new)

Directive 2011/61/EU

Article 12 a (new)

(6a) the following article is inserted:

'Article 12a

Efficient portfolio management techniques

1. An AIFM shall, for each of the AIFs it manages, inform investors clearly in the disclosures to investors referred to in Article 23 of its intention to use efficient portfolio management techniques and instruments. The disclosures shall include a detailed description of the risks involved in those activities, including counterparty risk and potential conflicts of interest, and the impact they are expected to have on the performance of the AIF. The use of those techniques and instruments shall be in line with the best interests of the AIF and its investors.

2. An AIFM that employs efficient portfolio management techniques for an AIF shall make sure that the risks arising from those activities are adequately captured by the risk management process of the AIFM.

3. The AIFM shall disclose in the disclosures to investors referred to in Article 23 and the AIF's annual report referred to in Article 22 the policy regarding direct and indirect operational costs/fees arising from efficient portfolio management techniques that may be deducted from the revenue delivered to the AIF. Those costs and fees shall not include hidden revenue. The AIFM shall disclose the identity of the entities to which the direct and indirect costs and fees are paid and indicate if those are related parties to the AIFM or the depositary.

4. All the revenues arising from efficient portfolio management techniques, net of direct and indirect operational costs, shall be returned to the AIF. Direct and indirect operational costs shall not

include any profit-sharing or revenue-splitting arrangements for the AIFM or any entity within the same group. In any case, at least 90% of the revenues arising from efficient portfolio management techniques shall be returned directly to the AIF fund for the benefit of its investors.

5. An AIFM shall ensure that, for each AIF it manages, it is able at any time to recall any security that has been lent out or to terminate any securities lending agreement into which it has entered.’;

Or. en

Amendment 61

Proposal for a directive

Article 2 – paragraph 1 – point 6 b (new)

Directive 2011/61/EU

Article 13 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

(6b) in Article 13, paragraph 1, the following subparagraph is inserted after the first subparagraph:

‘AIFMs shall set the appropriate ratios between the fixed and the variable component of the total remuneration, whereby the variable component shall not exceed 100 % of the fixed component of the total remuneration for each individual.’;

Or. en

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02011L0061-20260416>

Amendment 62

Proposal for a directive

Article 2 – paragraph 1 – point 7

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42/72

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Text proposed by the Commission

2a. Where an AIFM manages or intends to manage an AIF at the initiative of a third party, including cases where that AIF uses the name of a third-party initiator or where an AIFM appoints a third-party initiator as a delegate pursuant to Article 20, the AIFM shall ***inform the competent authorities of its home Member State thereof at the time of authorisation and, taking account of any conflicts of interest, upon request demonstrate to the competent authorities of its home Member State that it complies*** with paragraphs 1 and 2 of this Article. In particular, the AIFM shall demonstrate the reasonable steps it has taken to prevent conflicts of interest arising from the relationship with the third party or, where those conflicts of interest cannot be prevented, how it identifies, manages, monitors and, where applicable, discloses those conflicts of interest in order to prevent them from adversely affecting the interests of the AIF and its investors.

Amendment

2a. Where an AIFM manages or intends to manage an AIF at the initiative of a third party, including cases where that AIF uses the name of a third-party initiator or where an AIFM appoints a third-party initiator as a delegate pursuant to Article 20, the AIFM shall, taking account of any ***conflict*** of interest, ***submit detailed explanations and evidence*** of its ***compliance*** with paragraphs 1 and 2 of this Article ***to the competent authorities of the home Member State***. In particular, the AIFM shall demonstrate the reasonable steps it has taken to prevent conflicts of interest arising from the relationship with the third party or, where those conflicts of interest cannot be prevented, how it identifies, manages, monitors and, where applicable, discloses those conflicts of interest in order to prevent them from adversely affecting the interests of the AIF and its investors.

Or. en

Amendment 63

Proposal for a directive

Article 2 – paragraph 1 – point 8 a (new)

Directive 2011/61/EU

Article 16 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

(8a) in Article 16, the following paragraph is added:

‘3a. AIFMs shall, for each open-ended AIF that they manage investing into inherently less liquid assets, demonstrate that the investment strategy can be

maintained in all foreseeable market conditions.

ESMA shall develop draft regulatory technical standards to specify a list of inherently less liquid assets and to ensure uniform conditions of application of this paragraph.

ESMA shall submit those draft regulatory technical standards to the Commission by ... [36 months after the date of entry into force of this amending Directive].

ESMA, in close cooperation with the European Systemic Risk Board (ESRB) and the European Central Bank (ECB), shall develop a harmonised framework for conducting regular system-wide stress tests of open-ended AIFs investing into inherently less liquid assets. ESMA shall publish the results of its system-wide stress test on at least an annual basis.

Competent authorities shall require AIFMs to provide the necessary data to ESMA for the purpose of carrying out its stress testing. Where stress tests reveal systemic risk, structural liquidity mismatches or other financial stability concerns, ESMA shall issue guidelines or recommendations on addressing structural liquidity mismatches in AIFs to national competent authorities pursuant to Article 16 of Regulation (EU) No 1095/2010.

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the second subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.’;

Or. en

Amendment 64

Proposal for a directive Article 2 – paragraph 1 – point 9 – point b

Directive 2011/61/EU
Article 18 – paragraph 2 – subparagraph 2

Text proposed by the Commission

In order to ensure a uniform application of the prudential rules for AIFMs and to ensure a consistent implementation across Member States, ESMA *may* adopt guidelines to specify the content of those rules.

Amendment

In order to ensure a uniform application of the prudential rules for AIFMs and to ensure a consistent implementation across Member States, ESMA *shall* adopt guidelines *by 31 December 2027 in accordance with Article 16 of Regulation (EU) No 1093/2010* to specify the content of those rules.

Or. en

Amendment 65

Proposal for a directive

Article 2 – paragraph 1 – point 11 – point a – point b a (new)

Directive 2011/61/EU

Article 21 – paragraph 3 – subparagraph 3 a (new)

Text proposed by the Commission

Amendment

(ba) the following subparagraph is added:

‘A legal entity as referred to in point (a) and (b) of the first subparagraph shall be subject to ongoing and direct supervision and enforcement by ESMA in respect of its compliance with obligations laid down in this Directive and shall satisfy the following minimum requirements:

(a) it shall have the infrastructure necessary to keep in custody financial instruments that can be registered in a financial instruments account opened in the depository’s books;

(b) it shall establish adequate policies and procedures sufficient to ensure compliance of the entity, including its managers and employees, with its obligations under this Directive;

c) it shall have sound administrative and

accounting procedures, internal control mechanisms, effective procedures for risk assessment and effective control and safeguard arrangements for information processing systems;

(d) it shall maintain and operate effective organisational and administrative arrangements with a view to taking all reasonable steps designed to prevent conflicts of interest;

(e) it shall arrange for records to be kept of all services, activities and transactions that it undertakes, which shall be sufficient to enable the competent authority to fulfil its supervisory tasks and to perform the enforcement actions provided for in this Directive;

(f) it shall take reasonable steps to ensure continuity and regularity in the performance of its depositary functions by employing appropriate and proportionate systems, resources and procedures, as well as to perform its depositary activities;

(g) all members of its management body and senior management shall, at all times, be of sufficiently good repute, possess sufficient knowledge, skills and experience;

(h) its management body shall possess adequate collective knowledge, skills and experience to be able to understand the depositary's activities, including the main risks;

(i) each member of its management body and senior management shall act with honesty and integrity.';

Or. en

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02011L0061-20260416>

Amendment 66

Proposal for a directive

Article 2 – paragraph 1 – point 12 a (new)
Directive 2011/61/EU
Article 22 – paragraph 2 – point c a (new)

Text proposed by the Commission

Amendment

(12a) in Article 22, paragraph 2, the following point is inserted:

‘(ca) information concerning the exposure obtained through efficient portfolio management techniques, including:

(a) the identity of the counterparties to these efficient portfolio management techniques;

(b) the type and amount of collateral received by the AIF to reduce counterparty exposure;

(c) a clear breakdown, in absolute monetary terms, of the total gross revenue generated from efficient portfolio management techniques, the total costs deducted by the management company or third parties, and the final net revenue credited to the AIF;’;

Or. en

Amendment 67

Proposal for a directive
Article 2 – paragraph 1 – point 12 b (new)
Directive 2011/61/EU
Article 25 a (new)

Text proposed by the Commission

Amendment

(12b) the following article is inserted:

‘Article 25a

Macroprudential liquidity requirements for open-ended AIFs

1. Competent authorities shall have the power to require managers of open-ended AIFs to maintain redemption

arrangements consistent with the time required to liquidate portfolio assets under stressed market conditions.

2. For the purposes of paragraph 1, competent authorities may impose one or more of the following measures:

(a) minimum notice periods for redemptions;

(b) minimum holding periods;

(c) limits on redemption frequency;

3. ESMA shall develop regulatory technical standards specifying methodologies for assessing the consistency between asset liquidity and redemption terms.

ESMA shall submit those draft regulatory technical standards to the Commission by ... [six months from the date of entry into force of this amending Directive].

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

4. Where competent authorities identify systemic risks arising from a category of funds, they may apply the measures referred to in paragraph 2 to a class of funds on a sector-wide basis.

5. Measures adopted under this Article shall pursue the objective of safeguarding financial stability and mitigating systemic liquidity risks.’;

Or. en

Amendment 68

Proposal for a directive

Article 2 – paragraph 1 – point 12 c (new)

Directive 2011/61/EU

Article 25b (new)

(12c) the following article is inserted:

‘Article 25b

Macroprudential leverage limits

1. Competent authorities shall have the power to impose leverage limits on AIFs where leverage may contribute to the build-up of systemic risk.

2. In exercising the powers referred to in paragraph 1, competent authorities shall consider:

(a) the size of the fund sector;

(b) interconnectedness with credit institutions and financial markets;

(c) concentration in specific asset classes;

(d) potential spillovers to the real economy.

3. Competent authorities may impose leverage limits at fund level or for categories of funds sharing similar investment strategies.

4. For real estate investment funds, leverage limits shall be calibrated with reference to the ratio of total debt to total assets.

For the purposes of this paragraph, ‘total debt’ shall include all forms of borrowing and leverage exposure incurred directly or indirectly by the AIF, including, without limitation, bank borrowings, debt instruments issued, repurchase agreements, securities financing transactions and any other arrangement which has the effect of creating leverage at the level of the AIF.

5. ESMA, in cooperation with the ESRB, shall develop regulatory technical standards on the calibration of leverage limits under this Article.

ESMA shall submit those draft regulatory technical standards to the Commission by

... [six months from the date of entry into force of this amending Directive].

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

6. Measures adopted under this Article shall be designed to reduce procyclicality and mitigate risks to financial stability.'

Or. en

Amendment 69

Proposal for a directive

Article 2 – paragraph 1 – point 17 a (new)

Directive 2011/61/EU

Article 35 – paragraph 2 – subparagraph 1 – point c

Present text

(c) the third country where the non-EU AIF is established has signed an agreement with the home Member State of the authorised AIFM and with each other Member State in which the units or shares of the non-EU AIF are intended to be marketed which fully complies with the standards laid down in Article 26 of the OECD Model Tax Convention on Income and on Capital and ensures an effective exchange of information in tax matters, including any multilateral tax agreements, and that third country is not mentioned in Annex I to the Council conclusions on the revised EU list of non-cooperative jurisdictions for tax purposes.

Amendment

(17a) in Article 35, paragraph 2, subparagraph 1, point (c) is replaced by the following:

‘(c) the third country where the non-EU AIF is established has signed an agreement with the home Member State of the authorised AIFM and with each other Member State in which the units or shares of the non-EU AIF are intended to be marketed which fully complies with the standards laid down in Article 26 of the OECD Model Tax Convention on Income and on Capital and ensures an effective exchange of information in tax matters, including any multilateral tax agreements, and that third country is not mentioned in Annex I **or Annex II** to the Council conclusions on the revised EU list of non-cooperative jurisdictions for tax purposes, **nor on the EU list in relation to third countries which have strategic deficiencies in their AML/CFT regimes.**’;

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02011L0061-20260416>

Amendment 70

Proposal for a directive

Article 2 – paragraph 1 – point 18 a (new)

Directive 2011/61/EU

Article 36 – paragraph 1 – point c

Present text

(c) the third country where the non-EU AIF is established ***is not identified as a high-risk*** third country ***pursuant to Article 9(2) of Directive (EU) 2015/849;***

Amendment

(18a) in Article 36, paragraph 1, point (c) is replaced by the following:

‘(c) the third country where the non-EU AIF is established has signed an agreement with the home Member State of the authorised AIFM and with each other Member State in which the units or shares of the non-EU AIF are intended to be marketed, which fully complies with the standards laid down in Article 26 of the OECD Model Tax Convention on Income and on Capital and ensures an effective exchange of information in tax matters, including any multilateral tax agreements, and that the third country is not mentioned in Annex I or Annex II to the Council conclusions on the revised EU list on non-cooperative jurisdictions for tax purposes, nor on the EU list in relation to third countries which have strategic deficiencies in their AML/CFT regimes.’;

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02011L0061-20260416>

Amendment 71

Proposal for a directive

Article 2 – paragraph 1 – point 18 b (new)

Directive 2011/61/EU

Article 37 – paragraph 7 – subparagraph 1 – point f

Present text

(f) the third country where the non-EU AIFM is established has signed an agreement with the Member State of reference which fully complies with the standards laid down in Article 26 of the OECD Model Tax Convention on Income and on Capital and ensures an effective exchange of information in tax matters, including any multilateral tax agreements, and that third country is not mentioned in Annex I to the Council conclusions on the revised EU list of non-cooperative jurisdictions for tax purposes.

Amendment

(18b) in Article 37, paragraph 7, first subparagraph, point (f) is replaced by the following:

‘(f) the third country where the non-EU AIFM is established has signed an agreement with the Member State of reference which fully complies with the standards laid down in Article 26 of the OECD Model Tax Convention on Income and on Capital and ensures an effective exchange of information in tax matters, including any multilateral tax agreements, and that third country is not mentioned in Annex I ***or Annex II*** to the Council conclusions on the revised EU list of non-cooperative jurisdictions for tax purposes, ***nor on the EU list in relation to third countries which have strategic deficiencies in their AML/CFT regimes.***’;

Or. en

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02011L0061-20260416>

Amendment 72

Proposal for a directive

Article 2 – paragraph 1 – point 18 c (new)

Directive 2011/61/EU

Article 40 – paragraph 2 – subparagraph 1 – point c

Present text

(c) the third country where the non-EU AIF is established has signed an agreement with the Member State of reference and with each other Member State in which the units or shares of the non-EU AIF are intended to be marketed which fully complies with

Amendment

(18c) in Article 40, paragraph 2, first subparagraph, point (c) is replaced by the following:

‘(c) the third country where the non-EU AIF is established has signed an agreement with the Member State of reference and with each other Member State in which the units or shares of the non-EU AIF are intended to be marketed which fully

the standards laid down in Article 26 of the OECD Model Tax Convention on Income and on Capital and ensures an effective exchange of information in tax matters including any multilateral tax agreements, and that third country is not mentioned in Annex I to the Council conclusions on the revised EU list of *non-cooperative* jurisdictions for tax purposes.

complies with the standards laid down in Article 26 of the OECD Model Tax Convention on Income and on Capital and ensures an effective exchange of information in tax matters including any multilateral tax agreements, and that third country is not mentioned in Annex I *or Annex II* to the Council conclusions on the revised EU list of *non-cooperative* jurisdictions for tax purposes, *nor on the EU list in relation to third countries which have strategic deficiencies in their AML/CFT regimes.*';

Or. en

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02011L0061-20260416>

Amendment 73

Proposal for a directive

Article 2 – paragraph 1 – point 18 d (new)

Directive 2011/61/EU

Article 42 – paragraph 1 – subparagraph 1 – point d

Present text

(d) the third country where the non-EU AIFM or non-EU AIF is established has signed an agreement with the Member State in which the units or shares of the non-EU AIF are intended to be marketed which fully complies with the standards laid down in Article 26 of the OECD Model Tax Convention on Income and on Capital and ensures an effective exchange of information in tax matters, including any multilateral tax agreements, and that third country is not mentioned in Annex I to the Council conclusions on the revised EU list of non-cooperative jurisdictions for tax purposes.

Amendment

(18d) in Article 42, paragraph 1, subparagraph 1, point (d) is replaced by the following:

‘(d) the third country where the non-EU AIFM or non-EU AIF is established has signed an agreement with the Member State in which the units or shares of the non-EU AIF are intended to be marketed which fully complies with the standards laid down in Article 26 of the OECD Model Tax Convention on Income and on Capital and ensures an effective exchange of information in tax matters, including any multilateral tax agreements, and that third country is not mentioned in Annex I *or Annex II* to the Council conclusions on the revised EU list of non-cooperative jurisdictions for tax purposes, *nor on the EU list in relation to third countries which have strategic deficiencies in their*

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02011L0061-20260416>

Amendment 74

Proposal for a directive

Article 2 – paragraph 1 – point 19 a (new)

Directive 2011/61/EU

Article 44 a (new)

Text proposed by the Commission

Amendment

(19a) the following article is inserted:

‘Article 44a

1. By ... [12 months from the date of entry into force of this amending Directive] ESMA shall, in consultation with the ESRB, identify each EU group of management companies and AIFMs that are of significant importance to the Union (‘significant EU groups of management companies and AIFMs’). An EU group of management companies and AIFMs shall be considered significant where it meets the following conditions:

(a) the aggregate Union-wide net asset values of the UCITS management companies and AIFMs within the group are above EUR 150 billion;

(b) the UCITS management companies and AIFMs within the group are established in more than one Member State, or those UCITS management companies and AIFMs manage or market UCITS and AIFs in more than one Member State.

2. For the purposes of paragraph 1, first subparagraph, point (a), aggregate Union-wide assets under management shall include EU assets under management within the scope of Directive

2009/65/EC or of this Directive.

3. ESMA shall publish a list of the EU groups of management companies and AIFMs identified as significant in accordance with the first subparagraph and shall update that list every year. Where ESMA designates an EU group of management companies and AIFMs as significant, it shall assume the supervisory tasks and duties assigned under this Directive to the competent authority of the home Member State, including for their authorisation and supervision.’;

Or. en

Amendment 75

Proposal for a directive

Article 2 – paragraph 1 – point 19 b (new)

Directive 2011/61/EU

Article 44 b (new)

Text proposed by the Commission

Amendment

(19b) the following article is inserted:

‘Article 44b

Supervisory fees

1. ESMA shall charge fees to each significant EU group of management companies and AIFMs.

2. The fees referred to in paragraph 1 shall fully cover ESMA’s necessary expenditure relating to the direct management, ongoing oversight, onsite inspections, and enforcement of significant EU groups of management companies and AIFMs and shall cover all costs incurred by ESMA for the performance of its supervisory tasks under this Directive.

3. The amount of an individual supervisory fee charged to a significant

EU group of management companies and AIFMs shall be fully proportionate to its size, calculated on the basis of its total assets under management, and shall reflect the complexity and risk profile of the investment strategies pursued.

4. The Commission is empowered to adopt delegated acts to supplement this Article by specifying:

(a) the types of fees;

(b) the matters for which fees are due;

*(c) the method of calculation of the fees;
and*

(d) the manner in which fees are to be paid.’;

Or. en

Amendment 76

Proposal for a directive

Article 2 – paragraph 1 – point 21

Directive 2011/61/EU

Article 47a – title

Text proposed by the Commission

Amendment

ESMA review *of large EU groups* of AIFMs and management companies

ESMA review of AIFMs and management companies

Or. en

Amendment 77

Proposal for a directive

Article 2 – paragraph 1 – point 21

Directive 2011/61/EU

Article 47a – paragraph 1 – subparagraph 1 – point a

Text proposed by the Commission

Amendment

(a) the aggregate EU-wide net asset values of AIFMs and management

(a) the aggregate EU-wide net asset values of AIFMs and management

companies within the group are **above EUR 300** billion;

companies within the group are **between EUR 50 and EUR 150** billion;

Or. en

Amendment 78

Proposal for a directive

Article 2 – paragraph 1 – point 21

Directive 2011/61/EU

Article 47a – paragraph 3 – subparagraph 1

Text proposed by the Commission

ESMA shall, in cooperation with the competent authorities of the home Member States of the AIFMs and, where relevant, the competent authorities of the home Member States of the management companies that are part of the EU group, carry out at least annually a review of **each EU group identified** pursuant to **paragraph 1**.

Amendment

ESMA shall, in cooperation with the competent authorities of the home Member States of the AIFMs and, where relevant, the competent authorities of the home Member States of the management companies that are part of the EU group, carry out at least annually a review of **UCITS management companies and AIFMs under paragraph 1 and that do not fall under the direct supervision of ESMA** pursuant to **Article 44a**.

Or. en

Amendment 79

Proposal for a directive

Article 2 – paragraph 1 – point 21

Directive 2011/61/EU

Article 47a – paragraph 3 – subparagraph 2

Text proposed by the Commission

During the review referred to in the first subparagraph, ESMA shall assess the supervisory approaches in the application of the requirements of this Directive and of Directive 2009/65/EC **that are taken by the competent authorities of the AIFMs and, where relevant, management companies within each EU group**. For the

Amendment

During the review referred to in the first subparagraph, ESMA shall assess the supervisory approaches in the application of the requirements of this Directive and of Directive 2009/65/EC. For the purpose of that review, ESMA shall use a methodology that ensures comparability and consistency of those supervisory

purpose of that review, ESMA shall use a methodology that ensures comparability and consistency of those supervisory approaches.

approaches.

Or. en

Amendment 80

Proposal for a directive

Article 2 – paragraph 1 – point 21

Directive 2011/61/EU

Article 47a – paragraph 3 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

ESMA shall carry out the review referred to in the first subparagraph on a more frequent basis in the event of justified concerns in respect of investor protection, financial stability or the integrity of the market.

Or. en

Amendment 81

Proposal for a directive

Article 2 – paragraph 1 – point 21

Directive 2011/61/EU

Article 47a – paragraph 4 – introductory part

Text proposed by the Commission

Amendment

4. The review referred to in paragraph 3 shall, in particular, assess the supervisory approaches regarding each ***EU group's***:

4. The review referred to in paragraph 3 shall, in particular, assess the supervisory approaches regarding each ***AIFM's and each UCITS management company's***:

Or. en

Amendment 82

Proposal for a directive
Article 2 – paragraph 1 – point 21
Directive 2011/61/EU
Article 47a – paragraph 4 – point b

Text proposed by the Commission

(b) resources and their allocation ***inside and outside the EU group***, including the functions of the persons effectively conducting the business of the AIFMs and, where relevant, management companies, ***within the EU group***;

Amendment

(b) resources and their allocation, including the functions of the persons effectively conducting the business of the AIFMs and, where relevant, management companies;

Or. en

Amendment 83

Proposal for a directive
Article 2 – paragraph 1 – point 21
Directive 2011/61/EU
Article 47a – paragraph 5 – point b

Text proposed by the Commission

(b) the programmes of activities of the AIFMs and, where relevant, management companies ***within the EU group***.

Amendment

(b) the programmes of activities of the AIFMs and, where relevant, management companies.

Or. en

Amendment 84

Proposal for a directive
Article 2 – paragraph 1 – point 21
Directive 2011/61/EU
Article 47a – paragraph 6 – subparagraph 1

Text proposed by the Commission

Following each review, as referred to in paragraph 3, ESMA shall, after having consulted the competent authorities of the home Member States of the AIFMs and, where relevant, those of the home Member

Amendment

Following each review, as referred to in paragraph 3, ESMA shall, after having consulted the competent authorities of the home Member States of the AIFMs and, where relevant, those of the home Member

States of the management companies ***within the EU group***, conclude on whether it identified any diverging, duplicative, redundant or deficient supervisory approaches.

States of the management companies , conclude on whether it identified any diverging, duplicative, redundant or deficient supervisory approaches, ***in particular those that could jeopardise the functioning of the internal market, the integrity of financial markets, financial stability or investor protection.***

Or. en

Amendment 85

Proposal for a directive

Article 2 – paragraph 1 – point 21

Directive 2011/61/EU

Article 47a – paragraph 7 – subparagraph 1

Text proposed by the Commission

Where during the review referred to in paragraph 3, ESMA identifies areas that require supervisory action, ***its Executive board shall issue a recommendation for corrective actions to*** the competent authorities concerned ***that is to be implemented within a reasonable time, not exceeding one year.***

Amendment

Where during the review referred to in paragraph 3, ESMA identifies areas that require supervisory action, ***or if other information available to it reveals unaddressed supervisory risks, divergent or deficient supervisory practices or barriers to cross-border activities, ESMA may issue a decision to take specific supervisory action or to refrain from action, with binding effects for*** the competent authorities concerned, ***including on authorisation decisions or their withdrawal, adjustments to authorisation conditions, execution of on-site inspections by national competent authorities or cooperation with joint supervisory teams established and coordinated by ESMA or enforcement actions.***

Or. en

Amendment 86

Proposal for a directive

Article 2 – paragraph 1 – point 21

Directive 2011/61/EU

Article 47a – paragraph 7 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Where necessary to ensure compliance with Union law or ensure the orderly functioning and integrity of the financial system or removing market barriers established by national competent authorities, ESMA may adopt an individual decision addressed to a financial market participant to grant authorisations, enable cross-border business activities or require it to take all necessary action to comply with its obligations under this Directive and Directive 2009/65/EC, including the cessation of any practice. The market participant shall make every effort to comply with the ESMA decision within the specified timeframe.

Or. en

Amendment 87

Proposal for a directive

Article 2 – paragraph 1 – point 21

Directive 2011/61/EU

Article 47a – paragraph 7 – subparagraph 1 b (new)

Text proposed by the Commission

Amendment

The ESMA decisions referred to under the first and second subparagraphs shall be issued by its Executive Board and shall be taken by a simple majority of the Board's members.

Or. en

Amendment 88

Proposal for a directive
Article 2 – paragraph 1 – point 21
Directive 2011/61/EU
Article 47a – paragraph 7 – subparagraph 2

Text proposed by the Commission

Amendment

ESMA shall also inform the competent authorities of the host Member States of the AIFMs and, where relevant, those of the host Member States of the management companies of its findings, including any recommendation for corrective actions that it has issued pursuant to the first subparagraph. *deleted*

Or. en

Amendment 89

Proposal for a directive
Article 2 – paragraph 1 – point 21
Directive 2011/61/EU
Article 47a – paragraph 8

Text proposed by the Commission

Amendment

8. Where the competent authorities of the home Member States of the AIFMs and, where relevant, management companies within the EU group do not follow the recommendation issued pursuant to paragraph 7, ESMA shall act in accordance with the powers conferred on it under Articles 17, 17aa or 19 of Regulation (EU) No 1095/2010. *deleted*

Or. en

Amendment 90

Proposal for a directive
Article 2 – paragraph 1 – point 22 – point a
Directive 2011/61/EU
Article 50 – paragraph 5g

Text proposed by the Commission

Amendment

5g. Where an AIFM has appointed for an AIF it manages a depositary established in a Member State other than the Member State of the AIF, in accordance with the second subparagraph of Article 21(5), and where the competent authorities of the home Member State of an AIF or, where the AIF is not regulated, the competent authorities of the home Member State of the AIFM that manages the AIF, have reasonable grounds to suspect that acts contrary to this Directive are being or have been carried out by a depositary not subject to the supervision of those competent authorities, those competent authorities shall without delay notify ESMA and the competent authorities of the depositary concerned thereof in as specific a manner as possible. The recipient competent authorities shall take appropriate action and shall inform ESMA and the notifying competent authorities of the outcome of that action. This paragraph shall be without prejudice to the competences of the notifying competent authorities.

deleted

Or. en

Amendment 91

Proposal for a directive

Article 2 – paragraph 1 – point 22 – point c

Directive 2011/61/EU

Article 50 – paragraph 7

Text proposed by the Commission

Amendment

7. ESMA **may** develop guidelines providing indications to guide the competent authorities in their exercise of the powers set out in Article 46(2), point (j), and indications as to the situations that might lead to the requests referred to in

7. **By 31 December 2027**, ESMA **shall** develop guidelines **in accordance with Article 16 of Regulation (EU) No 1093/2010** providing indications to guide the competent authorities in their exercise of the powers set out in Article 46(2), point

paragraphs 5b and 5f being put forward. When developing those guidelines, ESMA shall consider the potential implications of such supervisory intervention for investor protection and financial stability in another Member State or in the Union. Those guidelines shall recognise that the primary responsibility for liquidity risk management remains with AIFMs.

(j), and indications as to the situations that might lead to the requests referred to in paragraphs 5b and 5f being put forward. When developing those guidelines, ESMA shall consider the potential implications of such supervisory intervention for investor protection and financial stability in another Member State or in the Union. Those guidelines shall recognise that the primary responsibility for liquidity risk management remains with AIFMs.;

Or. en

Amendment 92

Proposal for a directive

Article 2 – paragraph 1 – point 23 a (new)

Directive 2011/61/EU

Article 54 a (new)

Text proposed by the Commission

Amendment

(23a) the following article is inserted:

‘Article 54a

Direct supervisory powers of ESMA over depositaries

1. For the purposes of ensuring compliance with Chapter IV of Directive 2009/65/EC and Article 21 of this Directive, ESMA shall exercise the powers of direct supervision over depositaries, including the power:

(a) to request information from depositaries, their employees, and related third-party delegates;

(b) to conduct general investigations and on-site inspections;

(c) to issue supervisory warnings, order the cessation of non-compliant practices, or temporarily ban individuals from management functions;

(d) to impose administrative fines and

periodic penalty payments.

2. ESMA shall coordinate its supervisory activities with the competent banking authorities responsible for the prudential supervision of credit institutions acting as depositaries.’;

Or. en

Amendment 93

Proposal for a directive

Article 2 – paragraph 1 – point 27 a – point a (new)

Directive 2011/61/EU

Annex II – paragraph 1 – point b

Present text

(b) the remuneration policy is in line with the business strategy, objectives, values and interests of the AIFM and the AIFs it manages or the investors of such AIFs, and includes measures to avoid conflicts of interest;

Amendment

(27a) in Annex II, paragraph 1 is amended as follows:

(a) point (b) is replaced by the following:

‘(b) the remuneration policy is in line with the business **and sustainability** strategy, objectives, values and interests of the AIFM and the AIFs it manages or the investors of such AIFs, and includes measures to avoid conflicts of interest;’;

Or. en

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02011L0061-20260416>

Amendment 94

Proposal for a directive

Article 2 – paragraph 1 – point 27 a – point b (new)

Directive 2011/61/EU

Annex II – paragraph 1 – point g

Present text

(g) where remuneration is performance related, the total amount of remuneration is based on a combination of the

Amendment

(b) point (g) is replaced by the following:

‘(g) where remuneration is performance related, the total amount of remuneration is based on a combination of the

assessment of the performance of the individual and of the business unit or AIF concerned and of the overall results of the AIFM, and when assessing individual performance, financial *as well as* non-financial criteria are taken into account;

assessment of the performance of the individual and of the business unit or AIF concerned and of the overall results of the AIFM, and when assessing individual performance, financial *and* non-financial criteria are taken into account *in equal measure*’;

Or. en

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02011L0061-20260416>

Amendment 95

Proposal for a directive

Article 2 – paragraph 1 – point 27 a – point c (new)

Directive 2011/61/EU

Annex II – paragraph 1 – point l

Present text

(l) the measurement of performance used to calculate variable remuneration components or pools of variable remuneration components includes a comprehensive adjustment mechanism to integrate all relevant types of current and future risks;

Amendment

(c) point (l) is replaced by the following:

‘(l) the measurement of performance used to calculate variable remuneration components or pools of variable remuneration components includes a comprehensive adjustment mechanism to integrate all relevant types of current and future risks, *including climate and transition risks*’;

Or. en

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02011L0061-20260416>

Amendment 96

Proposal for a directive

Article 2 – paragraph 1 – point 27 a – point d (new)

Directive 2011/61/EU

Annex II – paragraph 1 – point r

Present text

Amendment

(d) point (r) is replaced by the following:

(r) variable remuneration is not paid through vehicles or methods that facilitate the avoidance of the requirements of this Directive.

‘(r) variable remuneration is not paid through vehicles or methods that facilitate the avoidance of the requirements of this Directive ***or that have the effect of reducing the tax liability of the employee. Furthermore, fixed and variable components of total remuneration are appropriately balanced and the fixed component represents a sufficiently high proportion of the total remuneration to allow the operation of a fully flexible policy on variable remuneration components, including the possibility to pay no variable remuneration component; AIFMs shall set the appropriate ratios between the fixed and the variable component of the total remuneration, whereby the variable component shall not exceed 100 % of the fixed component of the total remuneration for each individual. Member States may set a lower maximum percentage.***’;

Or. en

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02011L0061-20260416>

Amendment 97

Proposal for a directive

Article 3 – paragraph 1 – point 1 a (new)

Directive 2014/65/EU

Article 2 – paragraph 1 – point j

Text proposed by the Commission

Amendment

(1a) in Article 2, paragraph 1, point (j) is deleted;

Or. en

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02014L0065-20260606>

Amendment 98

Proposal for a directive

Article 3 – paragraph 1 – point 4

Directive 2014/65/EU

Article 8 – subparagraph 1 – introductory part

Text proposed by the Commission

The competent authority **may** withdraw the authorisation issued to an investment firm that:

Amendment

The competent authority **shall** withdraw the authorisation issued to an investment firm that:

Or. en

Amendment 99

Proposal for a directive

Article 3 – paragraph 1 – point 10 – point c

Directive 2014/65/EU

Article 34 – paragraph 8 – subparagraph 1

Text proposed by the Commission

ESMA **may** develop draft regulatory technical standards to specify the information to be notified in accordance with paragraphs 2, 4 and 5.

Amendment

ESMA **shall** develop draft regulatory technical standards to specify the information to be notified in accordance with paragraphs 2, 4 and 5.

Or. en

Amendment 100

Proposal for a directive

Article 3 – paragraph 1 – point 10 – point d

Directive 2014/65/EU

Article 34 – paragraph 9 – subparagraph 1

Text proposed by the Commission

ESMA **may** develop draft implementing technical standards to establish standard forms, templates and procedures for the transmission of information in accordance with paragraphs 2, 3, 4 and 5.

Amendment

ESMA **shall** develop draft implementing technical standards to establish standard forms, templates and procedures for the transmission of information in accordance with paragraphs 2, 3, 4 and 5.

Or. en

Amendment 101

Proposal for a directive

Article 3 – paragraph 1 – point 17 – point d

Directive 2014/65/EU

Article 58 – paragraph 5 – subparagraph 1

Text proposed by the Commission

ESMA *may* develop draft implementing technical standards to determine the format of the breakdowns referred to in paragraph 2.

Amendment

ESMA *shall* develop draft implementing technical standards to determine the format of the breakdowns referred to in paragraph 2.

Or. en

EXPLANATORY STATEMENT

In her State of the Union address, Commission President Ursula von der Leyen's stated that our greatest asset is the Single Market—but it remains unfinished. She referred to the IMF study which estimates that the internal barriers within the Single Market are equivalent to a 45% tariff on goods, and a 110% tariff on services.¹

Despite progress made in the last decade, EU financial markets remain significantly fragmented across national borders, the cost of which is ultimately picked up by EU companies, end investors and savers. For instance, in the asset management sector, there are approximately 65 000 funds active in the EU U (around 30 000 UCITS and 35 000 alternative investment funds), compared to roughly 7 500 funds in the US. In 2024, the average EU fund had assets of approximately EUR 313 million, whereas the corresponding figure was around EUR 2.3 billion in the US and EUR 660 million in the UK.² The EU market is therefore characterised by a substantially larger number of smaller funds, in contrast to the more concentrated structure observed in the US. This fragmentation harms the competitiveness of the EU investment fund sector vis-à-vis global competitors, as fund size is a key factor influencing the costs charged to end-investors. The Rapporteur believes that a more integrated cross-border fund market in the EU could lead to increased fund sizes over time and to efficiency gains that, if passed on to end investors, could help to lower costs and deliver better value for money for end-investor.

Given the state of play of EU market integration today, the Rapporteur welcomes technical proposals aiming to address and reduce regulatory fragmentation in the EU single market for financial services, and measures to remove barriers that prevent financial market actors to grow to scale and operate across borders. Whilst fully aware that also several other elements play a significant role explaining to an extent the numbers outlined by the IMF - such as diverging investment cultures, national differences in company law, and tax law - it is the Rapporteur's conviction that Europe cannot stick to the current status quo. More than ever, we need one single rulebook, that is swiftly implemented and enforced, and this under a strong centralised EU supervision.

The Rapporteur welcomes therefore measures aiming to strengthen the passport and facilitate the cross-border distribution framework for UCITS and AIFs. Provided the necessary safeguards are present to avoid letter box companies, reforms around the concept of groups could also bring more efficiencies in the organisation of asset management companies. This concept should facilitate oversight by giving ESMA a more complete view of large cross-border asset management structures, including delegation arrangements. Finally, the idea behind a depository passport is laudable and could increase competition in depository services and support the creation of a real Capital Markets Union, provided that also here the necessary safeguards are foreseen to ensure a balanced outcome.

At the same time, financial markets can only properly integrate and flourish in a financial stable climate where investors are well protected. Therefore, in view of creating a real integrated and more competitive EU investment funds market which serves in the first place

¹ <https://www.imf.org/en/news/articles/2024/12/15/sp121624-europes-choice-policies-for-growth-and-resilience>

² EGOV, MISP: A review of selected technical issues, April 2026, p 2.

EU investors and EU companies, the Rapporteur believes that the Master Directive should be strengthened with the following elements:

Stronger supervisory role of ESMA: Until today, supervision has been organised mainly at the national level, which has often led to very fragmented supervisory approaches. Given the growing role of some major actors in the asset management sector over the last decade, it is highly doubtful whether the existing supervisory model for EU-wide operations still suffices for the future. As demonstrated by the market stress during the Covid period, disruption in the asset management sector can have a systemic nature with a significant impact on the broader financial sector and across border. Given the corporate complexity and the financial stability risks involved and to make supervision future proof, the Rapporteur therefore proposes to make ESMA directly responsible for the authorisation and supervision of large asset management groups in the EU. ESMA should identify these groups based on the significant size of their market presence and impact within the Union, as measured by their net asset values and the extent of their cross-border operations and activities. Such approach should reduce supervisory blind spots and strengthen the sector's resilience, helping to preserve credit and liquidity flows, also during periods of stress. For the less significant players in terms of assets under management, the Rapporteur supports the proposed review mechanism by the European Commission with some changes to increase its practical nature. Furthermore, the Rapporteur takes note of the concerns expressed around the idea of a passport for depositories. Given their size and systemic nature, and in order to increase supervisory consistency and ensure cross border legal certainty, the Rapporteur believes that ESMA should exercise direct supervisory powers over depositories.

Efficient portfolio management techniques: Reforms around the SIU should serve in the first place savers, end investors and EU companies. Additional safeguards are therefore needed in this package to enhance trust. The use of efficient portfolio management techniques such as security lending transactions is on the rise, also in the EU. Whilst it may bring the benefit of generating extra returns on financial instruments, it is also a risky and complex practice that is difficult to understand for the average retail client. Studies by ESMA³ and BETTER FINANCE⁴ demonstrate that there are large discrepancies between asset managers in terms of the level of revenues that they return to investors, in particular in cases where asset managers rely on related parties (such as in-house or affiliating securities lending agents) to carry out securities lending transactions. Moreover, there is evidence that asset managers do not perform sufficiently documented assessments to justify the costs deducted from gross revenues earned. To enhance investor protection and reduce conflicts of interests involving such practices, the Rapporteur proposes necessary safeguards to address this problem.

Non-cooperative tax jurisdictions: The EU list of non-cooperative jurisdictions (the "tax blacklist") targets countries that fail to comply with international standards on tax transparency, fair taxation, and the implementation of anti-BEPS (Base Erosion and Profit Shifting) measures. Non-EU AIFs or non-EU AIFMs should not be permitted to market in EU Member States if they are located in a third country that is on Annex I or II of the EU list of non-cooperative jurisdictions for tax purposes or if considered as a high risk third country

³ <https://www.esma.europa.eu/press-news/esma-news/esma-publishes-follow-report-peer-review-guidelines-etfs-and-other-ucits>

⁴ <https://betterfinance.eu/publication/securities-lending-income-attribution-conflicts-of-interests-in-eu-retail-investment-funds/>

from AML perspective.

Financial stability: Whereas the Rapporteur welcomes measures which tackle market fragmentation, he also cautions about cross-border contagion risks related to financial stability. He therefore fully supports the call of the ECB that a more integrated framework for supervising funds and asset managers should be accompanied by amendments to the macroprudential framework. To fully gain the benefits of the SIU, capital markets should be a resilient and sustainable source of financing, even in times of market stress. This requires a macroprudential framework that can detect and address emerging systemic risk across the NBFIs sector, including in specific sectors like the real estate sector, in particular. The Rapporteur therefore proposes measures like stress testing and dedicated tools which could be used to address structural liquidity mismatches in open-ended funds. Such a tool should allow authorities to address systemic risk *ex ante*, for example, by specifying longer notice periods for particular cohorts of funds, or limiting the redemption frequency.

Remuneration policy and ESG: Given the massive investment challenge the EU is facing as underlined by the Draghi report, it is essential that funds are channelled in the right direction, in line with the EU's political priorities. As shareholders in a significant number of globally active companies, asset managers have an important responsibility in this respect. Recent data show the quite different stances taken by US asset management companies compared to their EU competitors, around ESG resolutions in these companies. Indeed, US asset managers tend to vote against social and environmental resolutions, while European asset managers vote largely in favour (EU: around 80% in favour, whilst US based asset managers dropped from 49% in 2021 to 17% in 2024).⁵ Against this background, the Rapporteur proposes two reforms. Firstly, given the EU's strategic autonomy agenda combined with the EU's sustainable investment needs, the Rapporteur proposes to link the level of variable remuneration also to the achievement of ESG targets. Secondly, the UCITS directive and the AIFMD should set a clear ratio between fix and variable remuneration, similar as in the CRD for the banking sector.

⁵ <https://www.bruegel.org/policy-brief/risks-europe-us-dominance-global-asset-management>