Invest Europe statement on the AIFMD agreement

Yesterday the Spanish Presidency of the Council and the European Parliament found an agreement on the revision of the Alternative Investment Fund Management Directive (AIFMD). Invest Europe welcomes the revised rules, which will apply to every EU fund manager which manages more than €500 million of AuM (€100 million in case funds are leveraged).

In its proposal published in November 2021, the European Commission had already adopted a ***targeted approach*** recognising - as long argued by our association - that the AIFMD was generally meeting its objectives and remained fit for purpose for private equity structures.

Member States and MEPs ***refrained from introducing further changes to the scope of the Directive***, for example on sustainability and asset stripping, and amended some aspects of the proposal to make it more coherent to industry specificities – **ensuring for example that reporting on fees should only be done on an annual - and not on a quarterly - basis**.

Final rules on ***delegation***, designed to tackle concerns posed by letter box entities, provide more protection to the typical private equity delegation than was originally foreseen in the Commission proposal. AIFMD now regulates loan origination activities – although **private equity managers providing shareholder loans** to their portfolio companies will benefit from exemptions from the new requirements specific to these types of funds. Other changes, in particular on liquidity, are not expected to have a significant impact on typical private equity structures.

The agreement found yesterday marks the end of a five-year long legislative process aimed at revising a Directive shaping the life of many private equity managers operating in the EU. While Invest Europe members can rejoice that it did not lead to a regulatory mayhem, work will continue in the coming years at the technical level, as the European Authority ESMA prepares new guidance on delegation, reporting and potentially leverage – all with a risk of a potential impact on managers operating under the Directive.