INVEST EUROPE

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Public consultation on draft recast Regulation on investment fund statistics

Introduction

We thank the European Central Bank (ECB) for the opportunity to comment on the draft recast Regulation on investment fund statistics.

As the association representing the European private equity, venture capital and infrastructure fund managers, we understand the need for the ECB to collect an appropriate amount of information on investment funds. We recognise that collecting investment fund statistics can help it achieving some of its objectives, which include looking at the role these funds play in the overall EU finance ecosystem.

As a trade association, we also collect data on fundraising, investment and exit data from our members and beyond. We pride ourselves in having the best data set in Europe on fundraising, investment, divestments and job creation. While our statistics do not, and are not intended, to replace those collected under existing law frameworks, they demonstrate the commitment of our asset class to transparency and accountability.

We wish to take the opportunity given by this consultation to stress our concerns with the risk that this recast could lead to situations where national competent authorities would be forced to introduce new reporting requirements that would either not be in line with the ones already required under existing EU law, or would supplement those.

Reporting requirements have significantly increased since the AIFMD entered into force in 2013, both because of the increasing needs of regulators on existing fields or because of additional fields of reporting, in particular in the ESG space.

Even if many of these fields have been created for good reasons and are not always related to this specific Regulation, this general increase should give pause to the regulators and to the ECB. Indeed, these requirements increasingly act as a barrier to entry for smaller managers and as a significant cost for larger ones, as demonstrated by the exponential growth of compliance and reporting teams in firms across the Union.

In that context, we would warn the ECB to take all steps it is able to take to:

- avoid that this exercise leads to any new requirements for fund managers that would not be proportionate to the benefits they would bring
- ensure all aspects of its recast are in line with existing fields required under the EU body of law, not least the UCITS and AIFM Directives.

Particular attention should be given to whether some of this reporting could affect the objectives of the Capital Markets Union, if it makes it too complex for some fund managers to set up national or cross-border structures.

Going forward, we would suggest that it would be preferable for the ECB to always directly rely on statistics computed under EU law by the competent European authorities, such as ESMA in this case, as is noted by the ECB itself in one of its recitals. While it is tempting to think that more information will necessarily mean better information, the significant swelling of compliance costs over the past few years[1] show that this is not necessarily the case in the long run and that ECB should take every step to avoid, directly or indirectly, leading national lawmakers to introduce new requirements.

Content of reporting

> (14) The quality of the statistical information collected, and analyses performed by the ECB, would be improved if it received data from ESMA reported under AIFMD and UCITSD. The ECB should therefore cooperate with ESMA in the pursuit of its objectives under this Regulation and seek to enhance the efficiency of the production of statistical information used for these purposes.

Primary law, whether AIFMD or UCITS, determines what information must be shared by fund managers with their national competent authorities. In the case of AIFMD, Article 104 of Delegated Regulation 2013/0231/EC already lays out the Content and format of the balance sheet or statement of assets and liabilities and of the income and expenditure account. Such information, which is most often detailed in Annex IV of the AIFMD for alternative investment funds, is already very comprehensive. We therefore agree with the ECB comment in Recital 14 that "the quality of the statistical information collected, and analyses performed by the ECB, would be improved if it received data from ESMA reported under AIFMD and UCITSD". However, the ECB should be clear that it does not require any data *beyond* what is required under AIFMD and UCITSD. This either includes (i) any new data for already regulated fund (due to the presence of a different field in the ECB Annexes) or (ii) data from firms that are not subject to these Directives. Regulation ECB/2013/38 already introduced data collection obligations going beyond what is required under AIFMD and UCITSD. Increasing again these obligations seems entirely disproportionate. The ECB should not underestimate the risk that any other approach could lead to significant additional reporting requirements for managers, in most case small structures that do not operate cross-border and present little to no

[1] One example is a large private equity firm whose compliance team grew from 2 people to 50 people over the past 10 years.

systemic risk. Introducing any requirements not initially envisaged by the co-legislators as part of the existing Directives should therefore at least be justified. It is disappointing in that context that nowhere in its recast the ECB explains why information different from the one referred in Article 104 would be necessary. This lack of clarification is particularly surprising at a time where the co-legislators have determined to leave largely unchanged the scope of AIFMD and UCITS, as well as its reporting data. We also feel the ECB recast – and its justifications – stands at odds with the comments made by EU lawmakers over the past few months. The European Parliament and the Council have recently flagged the relevance of removing "redundant or obsolete reporting and disclosure requirements in Union law" in the recently agreed Regulation as regards certain reporting requirements in the fields of financial services and investment support.Establishing integrated reporting systems, based on requirements set in Level 1 text, should become the way forward if the EU is to remain competitive against its international counterparts. It is important that this ECB recast takes this directly into consideration.

Timing of the reporting

(11) In order to ensure that the most recent statistical information concerning IFs is available, it is desirable for the statistical information related to IFs to be reported on a monthly basis, or as otherwise set out in this Regulation.

(12) In order to ensure the reporting burden is not excessive, NCBs should be able to grant derogations to IFs in accordance with certain requirements and limits. It should be possible to grant certain derogations to IFs with frequency and timing constraints regarding their asset valuation so that they may fulfil the reporting requirements according to the applicable frequency or timing of their asset valuation, on a temporary basis, so as to provide sufficient time for them to adapt their reporting practices. Subsequently, the temporary derogation should no longer apply and they should be required to report at the frequency and with the timeliness established for all IFs in this Regulation, where necessary, based on the latest available asset valuations.

One of the key changes introduced by the ECB in its review is the frequency of reporting of the information. We note that the ECB however recognised that the applicable frequency may differ from fund to fund. This is very true of private equity funds, which are long-term illiquid funds for the most part. To avoid any undue requirements for managers due to lack of clarity, we would suggest for the ECB to further clarify that long-term fund managers that are not trading daily/weekly should never be required to produce reporting more frequent than quarterly.

Contact

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About Invest Europe

Invest Europe is the association representing Europe's private equity, venture capital and infrastructure sectors, as well as their investors.

Our members take a long-term approach to investing in privately held companies, from start-ups to established firms. They inject not only capital but dynamism, innovation and expertise. This commitment helps deliver strong and sustainable growth, resulting in healthy returns for Europe's leading pension funds and insurers, to the benefit of the millions of European citizens who depend on them.

Invest Europe aims to make a constructive contribution to policy affecting private capital investment in Europe. We provide information to the public on our members' role in the economy. Our research provides the most authoritative source of data on trends and developments in our industry.

Invest Europe is the guardian of the industry's professional standards, demanding accountability, good governance and transparency from our members.

Invest Europe is a non-profit organisation with 25 employees in Brussels, Belgium.

For more information, please visit www.investeurope.eu.