INVEST EUROPE

Response to European Commission's

TARGETED CONSULTATION ON THE EU VENTURE AND GROWTH CAPITAL FUNDS REFORM

Contents

Introductory comments

This response was prepared on behalf of the European private equity and venture capital fund managers community. It is based on input collected by Invest Europe - the association representing European private equity, venture capital and infrastructure fund managers, as well as their investors – and by national private equity and venture capital associations.

More than 100 industry experts, including fund managers and legal practitioners, contributed to this response. It also draws on a range of targeted surveys conducted by Invest Europe with private equity and venture capital firms over the past year.

On top of this collective response, which describes the expectations of the industry at EU level AND in most Member States, several national associations will present national perspectives on the review, detailing some of the points laid out in this general response and acknowledging more

specific national hurdles. As a European association, Invest Europe supports these national responses.

Here are the associations that make part of the Invest Europe Representative Group that support this response:

- Private Capital Belgium
- BVCA (Bulgarian Venture Capital Association)
- ROPEA (Romanian Private Equity Association)
- SPAINCAP (Asociación Española De Entidades De Capital-Riesgo)
- IVCA (Irish Venture Capital Association)
- APCRI (Associação Portuguesa de Capital de Risco)
- SVCA (Swedish Private Equity & Venture Capital Association)
- AIFI (Italian Private Equity and Venture Capital Association)
- SLOVCA (Slovak Venture Capital Association)
- BVK (German Private Equity and Venture Capital Association)
- CVCA (Czech Venture Capital Association)
- LVCA (Latvian Venture Capital Association)
- invest.austria
- CVCA (Croatian Venture Capital Association)
- NVP (Nederlandse Vereniging van Participatiemaatschappijen)
- PSIK (Polish Private Equity and Venture Capital Association)
- Aktive Owners (Danish Private Equity and Venture Capital Association)
- France Invest
- FVCA (Finnish Venture Capital Association)
- LT VCA (Lithuanian Venture Capital Association)
- HVCA (Hungarian Venture Capital and Private Equity Association)
- EstVCA (Estonian Private Equity and Venture Capital Association)
- PEVCA Malta (Private Equity & Venture Capital Association Malta)

Introduction

Simplification and proportionality - even more than harmonisation - is needed for the EU venture capital to step out of the shadow of its global competitors and perform its role as financiers of innovation. Too many national competent authorities have implemented EU rules in a way that has stifled the ability of specific long-term fund managers to create fund structures that finance businesses.

The visible result is a European venture and growth capital market that is a fraction of its US counterpart. In Europe, only Luxembourg has a - slightly- larger % of VC investments per GDP than the US over the past 5 years. Countries like Italy or the Baltics have on average VC markets **10 times smaller** than in the US (Invest Europe Activity Data, 2025).

The challenge the European Commission is facing is complex: it must absolutely foster the growth of a small VC ecosystem - which remains inexistent in most EU markets and unable to finance as many start-ups as in the US – with the intention to nurture a strong scale-up ecosystem – with managers able to compete with US counterparts. Focusing on solely one or the other will inevitably make the proposed review a failure.

For larger managers, AIFMD itself is a "catch-all" legislation that should be made much more sophisticated – and implemented much more coherently – to be fit for purpose for larger venture and growth fund managers – but also other long-term equity funds.

The problem is not only that the complexity of rules is not proportionate to the size of the managers, but that generalistic rules and reporting requirements apply to all alternative investment fund managers regardless of the specific features of their business model. Costs of these rules are enormous: most managers face costs directly arising from EU regulation that easily go above € 1 million as a minimum for an authorised manager – the number of course varying widely depending on the size of the manager and the number of countries in which it markets.

EuVECA, an otherwise extremely useful label, is in practice not accessible to managers in some jurisdictions due to national goldplating despite the fact that it was created through a directly applicable Regulation. We argue such goldplating is at the root of its too limited success. In some countries, EuVECA is widely seen as a very interesting, very flexible regime and is very relevant for mid-sized managers that are not already caught by the AIFMD threshold. This is not to say that EuVECA cannot be improved – but we warn the Commission against turning into a "general" label, given the potential consequences this could have on the small and mid-sized VC ecosystem.

EuVECA was originally introduced as part of the EU's broader efforts to strengthen access to financing for innovative SMEs and to support the development of a European VC ecosystem capable of competing globally. Its objective was to create a simple and recognisable European label allowing specialised managers to raise capital across borders while channelling investment towards early-stage companies, scale-ups and innovation-driven businesses that are essential to Europe's long-term competitiveness. In that sense, EuVECA was designed as a targeted policy tool: a regulatory "incentive" for managers willing to align their investment strategies with the Union's objective of financing innovation and entrepreneurship. Preserving this targeted nature is essential. While certain technical adjustments may be appropriate, including to reflect the evolution of Europe's strategic priorities and the financing needs of key innovation sectors, the regime should remain a focused passport rather than evolve into a horizontal label applicable to all types of funds. The creation of a "venture debt" passport would be welcomed, but as a separate compartment, to avoid EuVECAs being subject to complex debt-related rules.

More broadly, Europe's competitiveness challenge is not a lack of savings but the insufficient and fragmented mobilisation of those savings into long-term productive investment, particularly into innovative companies and scale-ups. Strengthening private capital markets is therefore essential to financing Europe's innovation, industrial transformation and strategic autonomy. Simplifying the regulatory framework, ensuring consistent application of EU rules and removing barriers that

prevent managers from scaling across the Union will be critical to unlocking significantly more capital for European businesses and reinforcing the role of venture and growth capital in Europe's economic future.

Further to changes to AIFMD, we invite the European Commission to consider separate actions to improve fundraising channels, as changes to AIFMD & EuVECA passports will not solve on their own the lack of funding sources in the EU. Two of these actions can be immediately linked to a review of the fund management passports:

- the introduction within EuVECA of targeted changes allowing these fund structures to receive a **preferential prudential treatment in relevant legislation** (in particular Solvency II, CRR and IORP)
- the introduction within AIFMD of a "**one off" test for investors, allowing investors committing more than 100K to automatically be deemed professional** when investing in a long-term fund.

On the latter point, the European Commission should be aware that, as many Member States, such as Spain or Germany, impose indiscriminate rules on fund managers marketing to at least one "retail" investor, the introduction of a de minimis test could significantly alleviate requirements for typical VC and growth managers, which are used to market to high-net-worth individuals.

Finally, the difficulties encountered in certain jurisdictions do not primarily stem from gaps in the EU legal framework, but from divergent national interpretations or additional requirements imposed in practice. In this context, the priority should not be further harmonisation or additional layers of supervision, but rather ensuring consistent application of existing EU law and preventing national gold-plating that undermines the functioning of EU passports. Clear mechanisms allowing the Commission to review national implementation and ensure compliance could significantly improve the effectiveness of the framework.

Executive summary

The wider industry suggests for the European Commission to follow a 5-pronged approach:

1. to take all actions to remove national goldplating for sub-threshold managers and to improve national implementation **in the name of EU competitiveness**
2. to amend the AIFMD threshold to reflect inflation (threshold size), the real size of long-term managers (calculation method) and the need to compete with US managers of the same size
3. to create a **simple registration regime** available to all managers below a certain size, based on existing national exemptions for sub-threshold regimes (reporting, operational requirements, conflicts of interest, depositaries, asset stripping,…)
4. to simplify some AIFMD rules for **managers based on their specific features and investment characteristics** (reporting, delegation, valuations, value for money, liquidity, leverage, treatment of carried interest…)

5. to **modify the EuVECA, the go-to passport** for venture, growth and other similar equity funds, in the following way:
    i. expand **eligible investments**, while preserving the targeted nature of the regime**,** notably to better accommodate scale-ups, fintechs, fund-of-fund investments and certain venture debt or quasi-equity strategies that support SMEs and innovative businesses through a venture-style underwriting approach, but refraining to reframe the passport into a horizontal passport), and
    ii. simplify **operating conditions** but focus most efforts on preventing Member States to impose additional rules to these managers and their funds including through gold-plating, lengthy registration processes and de facto authorisation regime; and
    iii. allow managers who wish it so to use the EuVECA as a fund management passport
    iv. allow EuVECA managers complying with defined conditions to benefit from **proportionate treatment under AIFMD**, so that successful managers are not forced out of the regime precisely when they begin to scale.

Here is a table summarising main improvements that could be made

Type of manager	**Main concerns**	**Solutions**
Improving the life of small managers not subject to EU regime	Duplicative reporting (most often non-AIFMD related)	Streamlined national regimes and EU reporting simplification law
	Fund related rules	"ELTIF-like" ban on additional national rules
	Style of supervision	More proportionate and less indiscriminate "check the box" supervision
	EuVECA	Allow use of EuVECA in all circumstances
Making rules fit for purpose for mid-sized managers	Depositary requirements	Remove or streamline existing requirements
	Risk management requirements	
	Valuation	
	Prudential obligations	
	Complex authorization process	
	Remuneration policy	
	Reporting rules	
	Portfolio company rules	
	DORA	Full exemption from DORA
Adapting rules for all managers with	Annex IV reporting	Less frequent and streamlined reporting
	Remuneration	Specific treatment of carried interest

specific characteristics (long-term equity)	Valuation	Targeted amendments to reflect reality of private equity valuations
	DORA	Adapt DORA rules to fund management ecosystem
	Liquidity framework	Adapting rules for semi-liquid structures
	Depositaries	Targeted changes (meaning of custody assets,...)
	Delegation rules	Make them fit for purpose

Section 1: General assessment

1.1. If you are a fund manager, to what extent do you consider it challenging to raise capital from professional investors in the fund segments you operate in? (5: "To a very large extent", 4: "To a large extent", 3: "To moderate extent", 2: "To some extent", 1: "Negligible or non-existent extent"). Please explain, including the main reasons if you answered that it is challenging. [textbox, max 5000 characters]

4: To a large extent

If not all players face the same challenges, **fundraising in the European Union is generally deemed difficult**. Smaller VC firms will typically find it hard to establish themselves in markets where equity funding remains scarce - while larger players are competing at an international level with US managers for the most promising businesses. In addition, EU managers increasingly compete globally for capital and investment opportunities while operating in a more fragmented regulatory environment, which can increase operational complexity, costs and time-to-market compared to other jurisdictions.

We identify **three ways to make better use of EU capital markets**, to boost the finance side of the EU innovation ecosystem, and in particular the venture and growth capital funds:

- unlocking EU institutional investments
- unlocking sophisticated & retail investments
- unlocking foreign investments

Three types of barriers prevent institutional investors from committing capital to private funds:

1. **national and EU regulatory barriers**

To this day, many EU Member States have set up regulatory technical requirements that make it difficult for public and private pension funds to commit capital to long-term funds, ironically often leaving the brunt of that financing to government agencies. This is particularly true in less developed European markets, where there remains a tendency to consider that long-term investors should not invest in perceivably riskier assets, despite the potential benefits these assets can have.

2. **prudential rules (dis)advantaging long-term investments** and make them costlier than they are

EU prudential models are often based on the overall principle that risk is calculated based on the sale of assets at the worst possible time (i.e.: a market risk) with no regard to diversification benefits at fund level. This does not fit at all with the business model of investing in projects that can effectively promote long-term competitiveness, where the main concern is for the investor to have a sufficiently diversified portfolio and sufficiently liquid assets on the side to make part of their investments into long-term assets.

Banks represent less than 6% of the overall investment in private equity and an extremely small proportion of capital they could potentially allocate, given that banking assets are significantly larger than private equity assets. In Nordics and the CEE, banks are effectively investing nothing in these long-term funds. This partly reflects prudential and policy incentives that favour shorter-term or more liquid assets.

UK & Ireland	DACH	Nordics	France & Benelux	Southern Europe	CEE
5%	4%	2%	8%	9%	2%

% of funds raised from banks of overall private equity fundraising by region[1]

3. **the overall (limited) level of knowledge of investors**, especially in certain corners of Europe, **on the benefits that certain asset classes can have**

As the Tibi initiative in France has shown, there is significant value in Member States to proactively promote certain types of asset classes to their national institutional investors. One of the main concerns with long-term asset classes is less the returns, which have shown to be much higher than public markets2, but rather the operational and governance frameworks required for certain institutional investors to allocate capital to these strategies – and governments have the power to correct such market failures. Another concern is the lack of knowledge of certain EU labels, such as EuVECA, at international level, despite the strong opportunities offered by EU start-ups and scale-ups compared with peers in other global innovation ecosystems, such as the US.

The case of sophisticated investors

While long-term asset classes are typically harder to access for non-institutional clients, managers and in some case public authorities have developed solutions over the past years to ensure that certain types of **private individuals or family offices are allowed to commit their savings into diversified portfolio of long-term funds**.

This development should be encouraged as it ensures that the capital of high-net-worth individuals and the savings of every EU citizen effectively finances innovation through funds, either directly - an option that is in practice opened only to investors able to make large commitments, typically through wealth management and private banks - or indirectly - through insurance and pension wrappers distributed by institutional investors.

Yet, **recent developments in the field of EU retail law**, such as the Retail Investment Strategy, have discouraged these investments more than encourage them, as they sought to establish an investor protection framework that neither acknowledges the diversity of fund structures nor types of investors.

In that context, we are calling for an **extension of the EuVECA Article 6**, which allows managers to market to investors investing more than 100K in a fund, to all AIF managers. This change should

[1] Invest Europe Activity Data, 2024
[2] See Invest Europe's "The Performance of European Private Equity Benchmark Report 2023"

be one of the top priorities of the review and measure would help unlock additional sources of capital from sophisticated investors while maintaining appropriate investor protection.

1.2. Do you consider that the requirements under the current AIFMD framework adequately take into account the diversity of business models and risk profiles of small and mid-sized AIFMs? Yes/No/Don't know. Please explain. [textbox, max 5000 characters]

No.

AIFMD was originally designed for very large management firms with a wide diversity of activities. While certain AIFMD rules apply only to specific activities (for example, leverage or liquidity rules), mid-sized managers—particularly venture and growth fund managers—continue to bear the burden of the overall AIFMD architecture and its specific requirements (own funds, reporting obligations, general organisational requirements, etc.). As a result, the framework does not always adequately reflect the diversity of business models and risk profiles within the AIFM ecosystem, particularly for long-term, closed-ended equity strategies. Similarly, small-size managers in many EU countries suffer from being subject to AIFMD-like rules.

We still strongly support the distinction between above- and sub-threshold managers, as it recognises that for small fund managers, the costs associated with full AIFMD authorisation are simply not sustainable. In the few countries where sub-threshold managers are subject to (even simplified) AIFMD-like regimes, managers often only manage to comply with rules by relying on external AIFMs and by spending fortunes on external service providers. As this is essentially funded by investors, this affects the ability to invest of the manager, the performance of the fund and the level of competitiveness of the EU ecosystem.

"Gold-plating" of AIFMD at national level remains one of the core concerns of our wider membership. Addressing this issue, however, must take into account that several jurisdictions—notably in the Nordics—have established genuinely proportional regimes. The objective should therefore be to ensure that EU rules can operate as intended without creating disproportionate compliance burdens through national implementation practices.

Against this background, we suggest that the European Commission should treat the following two objectives as cardinal principles in its review.

1. Protect sub-threshold fund managers, including venture capital firms, from unjustified and excessive regulatory burdens, and from rules originally designed for very different entities

We caution the European Commission that creating a new sub-threshold regime—other than EuVECA—would likely result in the introduction of additional rules for sub-threshold managers, many of whom currently operate under light-touch regimes. For this reason, and because most small sub-threshold managers remain national in nature, the industry does not welcome the introduction of an EU passport for sub-threshold AIFMs.

Managers marketing only at national level do not need to be subject to a European regime. Those wishing to operate cross-border should be able to **use the EuVECA passport** - which should be maintained but improved for this purpose - or **opt in to a lighter AIFMD**, which itself should be made lighter to achieve the same objective (see below).

This does not mean, however, that initiatives to streamline registration processes across the EU and to prevent Member States from imposing certain types of requirements on sub-threshold managers would not be welcomed. Invest Europe would support the introduction of **new provisions in Article 3 of AIFMD prohibiting Member States from imposing additional requirements on such managers**.

These prohibitions should target requirements that are both the costliest and the least necessary from a financial stability and investor protection perspective. Clear examples include capping own funds requirements at a flat €50,000 and removing depositary requirements for certain types of long-term equity funds. Such calibrations would better reflect the limited systemic footprint and long-term investment profile of these managers. These are widely regarded by sub-threshold managers operating under complex national regimes as the most problematic obligations.

Ideally, Member States should also be prohibited from creating "authorisation-light" regimes altogether, as opposed to registration regimes with limited additional requirements. In practice, authorisation processes for sub-threshold managers can become extremely complex and lengthy, deterring managers in "AIFMD-light" jurisdictions from setting up funds or even from becoming managers in the first place.

In any event, focus should first be on bringing down barriers within national frameworks, aiming for harmonization through simplification. Harmonisation based on the most restrictive national regimes would risk undermining the competitiveness of the EU ecosystem.

2. Carve out managers with specific activities - or of a certain size - from selected requirements

As a starting point, we do not believe that the current €500 million threshold is still appropriate. Managers above this threshold remain relatively small firms (for example, a €500 million fund typically employs around 15 people) and often struggle to absorb the cost of regulation. We will elaborate on this point in Section 3 of this response.

We submit that firms managing AIFs with AuM below €1.5 billion generally lack the organisational scale and sophistication required to comply efficiently with the full set of obligations applicable to fully authorised AIFMs.

This threshold is not a scientific figure above which managers are automatically comfortable with EU rules. Factors such as fund location (including both market size and legal environment), fund size, and investment strategy all play an important role. However, based on our market expertise and the numerous case studies presented in this response, this figure represents a reasonable dividing line between managers who genuinely struggle with regulatory requirements and those who are more at ease with them.

The Commission should therefore not interpret this figure as a request to set a formal threshold size, but rather as an indication of the level of ambition required to overcome Member State resistance, in line with the objective of elevating the EU market as a whole to the level of its global competitors.

While the European Commission may ultimately decide to adopt a lower threshold for political reasons and realities, our analysis indicates that any lower threshold would inevitably have a negative impact on the vitality of European markets.

Tailoring the AIFMD framework for managers below a certain size - as is currently done in the UK - could help alleviate some of the disproportionate effects of the Directive. So would a change to the threshold, as these options are not necessarily antinomic.

When drafting its rules, the European Commission should focus primarily on creating a framework that makes it possible for mid-sized managers to compete with US managers, which are generally subject to more flexible rules at the same size.

Moreover, we encourage the Commission not to focus exclusively on size when considering carve-outs. AIFMD was conceived as a residual, "catch-all" framework, and many of its rules are not merely disproportionate but fundamentally ill-suited to certain business models. This is particularly the case for long-term, closed-ended equity strategies such as venture, growth and private equity funds, whose investment horizons, liquidity profiles and remuneration structures differ significantly from those of more liquid strategies.

This problem is further exacerbated by national implementation practices that too often rely on a simple transposition of rules from other frameworks, including MiFID, without sufficient consideration of their relevance or proportionality.

1.3. Do the current national regimes applicable to nationally registered, small-size AIF managers (AuM < EUR 500 million) need a more proportionate regulatory approach? Yes/No/Don't know. Please explain. [textbox, max 5000 characters]

No. ***[formal response]***

And yes.

At EU level, the regulatory approach for small-sized managers is proportionate in the sense that no EU rules are imposed on them (except SFDR, AML and PRIIPs when marketing to retail investors). We strongly believe this approach is correct: small-sized AIFMs should not be subject to EU-level requirements.

However, Member States have not been prevented from applying complex rules at national level, often effectively subjecting sub-threshold managers to an "AIFMD-light" regime. This has also affected the take-up of EuVECA, as managers are in practice prevented from using the EuVECA framework unless they are fully AIFMD-authorised. We argue that the lack of success of EuVECA in certain Member States (France in particular) is **exclusively linked to complex national law**. Simplifying national regimes would automatically strengthen the relevance and effectiveness of an EU-level regime.

If the answer is therefore no at European level, it is a clear yes at national level. This can be illustrated by the very different situations in two Member States: Belgium and Portugal.

Belgium has not made use of the option under AIFMD to impose additional requirements on sub-threshold AIFMs. As a result, the regime is relatively light and easily accessible, which also

explains its widespread success. The main challenges in Belgium stem instead from AML obligations and other specific national requirements, including certain rules applicable at fund level (such as periodic reporting obligations).

The Belgian situation broadly mirrors that of the Netherlands, Denmark, Finland, Luxembourg, Germany, and other similar jurisdictions.

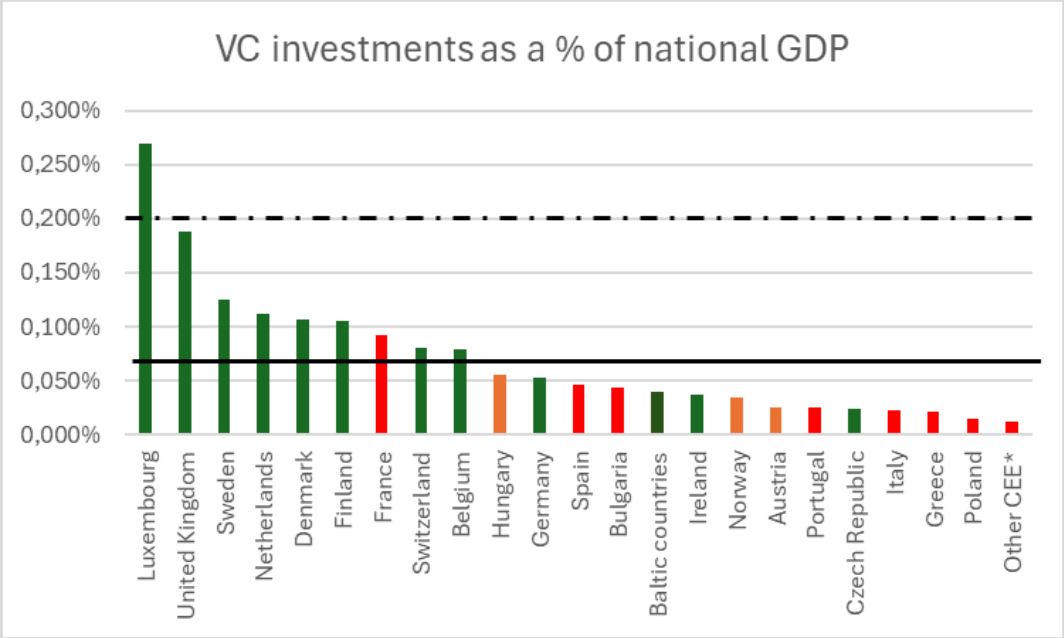
By contrast, the regime applicable in Portugal to nationally registered small-sized AIF managers (with AuM below €500 million) is significantly less proportionate.

Although these managers are formally subject to a lighter regime under AIFMD, in practice they continue to face substantial fixed regulatory, organisational and compliance costs that are largely insensitive to fund size or risk profile. For example, a Portuguese venture capital manager launching a €60–€100 million unleveraged, closed-ended fund must still put in place formal compliance, risk management and valuation functions, as well as depositary and reporting structures designed for much larger or more complex funds. These requirements absorb a disproportionate share of management fees and significantly reduce the resources available for investment activity and portfolio support.

The situation in Portugal mirrors that of several other Member States, including France, Italy, Spain, Poland and much of the CEE region. Collectively, these countries represent a substantial share of the EU population. In most of these jurisdictions, managers are effectively forced into an "AIFMD-minus" authorisation regime, rather than being subject to a simple registration framework with a limited number of targeted requirements.

With the exception of France, there is a clear correlation between the level of venture capital investment as a percentage of GDP and the existence of a simple registration regime subject only to a small number of targeted rules, such as AML obligations, as can be seen in the graph below.

While this correlation is influenced by a range of factors beyond regulatory complexity alone, it nevertheless illustrates how overly burdensome national sub-threshold regimes hinder the development of a strong and competitive EU venture capital ecosystem.



Venture investments as % GDP (by location of private equity firm), 2020-2024

(in green: countries with light sub-threshold regimes; in orange: countries with slightly more complex regimes; in red: countries with "AIFMD-like" regimes – full line is European average ; broken line: US average)

In conclusion, the European private equity community would call for the following:

- a preservation of the current regime (i.e.: no full sub-threshold regime) – as introducing a new EU regime could unintentionally reduce the flexibility currently available in several Member States
- active action by the European Commission to encourage Member States to simplify their national frameworks and ensure that the proportionality objective of the Directive can operate effectively in practice

1.4. Do AIFMD provisions applicable to mid-size AIFMs (AuM > EUR 500 million) need a more proportionate regulatory approach? Yes/No/Don't know. Please explain. [textbox, max 5000 characters]

Yes.

As we will explain in the following sections, either the current € 500 million threshold is too low, or the rules applying to mid-sized managers are too complex. In either case, current AIFMD provisions make the life of mid-sized managers more complex than it could be, often with limited benefits from a supervisory perspective.

It is worth pointing out that the issue is not solely rules set in the AIFMD Directive, but also that the AIFMD threshold is also used as a reference point in other legislation, for example SFDR, DORA or AML rules, to determine whether these "external" rules are applicable.

The European Commission should not hesitate to remove some rules for fund managers based on their activities rather than merely focusing on the size of managers. Indeed, certain horizontal

frameworks such DORA may not always be calibrated to the operational realities of venture capital or private equity managers, irrespective of whether they manage € 600 million or € 6 billions of assets. Importantly, we are not arguing that DORA or AML are irrelevant – they are.

If larger managers have larger compliance teams to deal with legislative burden, making it easier for them to comply with rules, they are also the ones that ultimately bear the highest compliance costs, capital that could otherwise be reallocated to investments.

Introducing further elements of proportionality should be done on the basis of:

- the **investment strategy** (for example long-term, closed-ended equity strategies)
- types of investors (for example, avoiding imposing undue costs on managers marketing nearly **exclusively to professional investors**)
- **types of investments** (for example, investors in long-term assets should not have to report certain data)
- **structure of the manager** (for example, applying different liquidity rules to semi-liquid fund managers)

Specific examples of differences between types of AIFs (and types of marketing) and how they can justify different regulatory treatment are numerous and include for example:

  - Reporting marketing and reporting requirements that are created with retail clients in mind being imposed on managers marketing exclusively to professional investors (AIFMD, CBDF)
  - **Categorising the expertise of investors** investing based on trading experience (MiFID II/AIFMD interconnection)
  - Calculating **costs and performance** without sufficiently reflecting the operational model of closed-ended funds (MIFID II/KID & AIFMD interconnection)
  - Imposing (in some situations) unnecessary **depositary requirements** on firms that do not trade assets (AIFMD)
  - Imposing all liquidity management tools to **semi-liquid funds** – despite these using different liquidity tools for sophisticated investors than the ones for mass-market highly liquid products (AIFMD & ELTIF Level 2 rules)
  - Applying rules to **closed-ended funds which no longer market after a number of years** (AIFMD/CBDF Level 2)
  - Confusion around who is the client in certain **distribution channels**, with an impact on inducement rules (AIFMD+MiFID Level 3 implementation)
  - Lack of understanding by some regulators of **valuation mechanisms** – which could lead to confusion from a financial stability perspective (AIFMD & CRR Level 2)
  - Portfolio company transparency requirements (Articles 26 to 29 AIFMD).
  - Remuneration rules that do not always reflect the specific remuneration structures of private capital funds, including the treatment of carried interest (Annex II AIFMD)

1.5. Are there restrictions in EU or national legislation that in your view directly or indirectly impose undue constraints on investment strategies of EU venture and growth capital fund managers or their limited partners (e.g. stage restrictions, sector limitations, geographic limitations, ownership restrictions)? If so, what constraints are most significant? [textbox, max 5000 characters]

In general, the ability for managers to invest in start-ups and scale-ups is protected by the Treaties.

At EU level, there are few requirements preventing investment strategies, other than the EuVECA investment restrictions (for example, limitations affecting investments in fintechs, scale-ups supported by other EuVECA funds, or certain venture debt strategies, which we detail in the relevant section – as well as specific concerns – see paragraph below).

There are however indirect effects of management requirements on the practical ability to pursue certain investment strategies : cross-border structuring complexity can for example discourage investments in non-EU scale-ups or global expansion vehicles.

EuVECA

There is one geographic limitation that is of particular concern: 70% of an EuVECA fund's investments must be made into portfolio companies which are based in jurisdictions that have entered into a Relevant Tax Agreement (i.e. one that complies with the OECD Model Tax Convention's Article 26) with each EU Member State in which the fund will be marketed.

More specifically, pursuant to Article 3, paragraph d (iv) (the "**Geographic Limitation**") of the EuVECA Regulation, qualifying portfolio undertakings must be established within the territory of a Member State, or in a third country provided that the third country (...) has signed an agreement with the home Member State of the manager of a qualifying venture capital fund and with each other Member State in which the qualifying venture capital fund is intended to be marketed to ensure that the third country fully complies with the standards laid down in Article 26 of the OECD Model Tax Convention and ensures an effective exchange of information in tax matters, including any multilateral tax agreements.

In practice, it is difficult and costly for a manager to confirm that a third country fully complies with the standards laid down in Article 26 of the OECD Model Tax Convention with respect to each jurisdiction in which the fund is being marketed particularly in the context of a regime established by way of a Regulation and therefore intended to operate uniformly across the Union without additional national interpretation or complexity. Doing so generally requires the manager to engage tax advisors to analyse the applicable tax treaties between the third country in question and *all* relevant Member States (being both the manager's home Member State and each Member State in which the fund is marketed) and may ultimately result in different outcomes depending on the Member State of establishment of the manager or the jurisdictions where the fund is marketed.

Where a fund is marketed in e.g. 20 Member States, each investment in a new third country requires an analysis of 20 unique tax treaties to establish whether the investment is a qualifying portfolio undertaking or not. And any fund looking to market to investors in Austria, Bulgaria,

Croatia, Latvia, Luxembourg, the Netherlands or Romania – a quarter of the Member States – could face difficulties given the relatively small number of agreements they have in place. For venture capital funds investing in multiple third countries, this becomes unmanageable as it adds friction and uncertainty in the investment process. A VC fund's ability to act quickly on investment opportunities is often critical to get the deal done. EuVECA funds are thus disadvantaged compared to e.g. U.S. and British VC funds when competing for investments in third countries.

Such issues deter managers from making an EuVECA application. The application must be made right at the beginning of the manager's marketing and fundraising activities, a point in the fund's life when managers will often not have the level of clarity on where the portfolio companies into which they might invest will be based, or where their target investors will be based. For many managers, the inability to determine with enough certainty whether this 70% obligation is achievable throughout the full life of a fund (which could be 10 years) will be sufficient to discourage them from making an application.

A key issue with the Geographic Limitation is that its current wording is not fit for purpose. The OECD Model Tax Convention is intended to serve as a starting point and guiding framework for countries' tax treaty negotiations – not a prescriptive template which must be implemented word-for-word in order to fulfil the purpose of the Model Tax Convention. Additionally, many Member States concluded their bilateral tax treaties before the current wording of Article 26 was introduced in 2014, meaning differences in wording and substance are common in most Member States' tax treaties with third countries such as Canada, Switzerland, the U.S. and the UK. In many such older tax treaties, the scope of information exchange is restricted to the taxes specifically covered by the treaty, whereas Article 26 of the Model Tax Convention provides for an exchange of information in relation to all taxes. This is just one example out of many; another is that older tax treaties often have a slightly different threshold for when information must be disclosed as compared to the current Article 26. Importantly, these differences do *not* mean that there is not an effective information exchange arrangement in place – they primarily reflect the fact that bilateral tax treaties evolve over time and may differ in wording or scope while still achieving the same policy objective. Nonetheless; a strict interpretation of the Geographic Limitation would disqualify most third countries (importantly including the U.S.) – an outcome inconsistent with the EuVECA Regulation's purpose of enabling investments in third-country companies to channel more capital to qualifying venture capital funds and, indirectly, to EU SMEs (see recital 13 of the EuVECA Regulation).

The importance of this issue has increased in recent years as many European start-up and early-stage businesses (including several European unicorns) have established a top holding company in the US, even though their business is based in and predominantly operated out of Europe. If EuVECA funds cannot invest in such European start-ups with US holding companies, this will be a critical issue going forward which will likely deter most major European VC funds from registering under the EuVECA Regulation.

A more appropriate and proportionate geographic limitation for investments in third countries would be to require that *an effective tax information exchange arrangement is in place between the third country and the home Member State of the manager*. This would significantly improve

the viability of an EuVECA registration without benefiting investments in portfolio undertakings established in third countries characterised by a lack of appropriate cooperation arrangements.

This change could be achieved through the following amendment to the Geographic Limitation:

"has signed an agreement with the home Member State of the manager of a qualifying venture capital fund ~~and with each other Member State in which the units or shares of the qualifying venture capital fund are intended to be marketed~~ to ensure ~~that the third country fully complies with the standards laid down in Article 26 of the OECD Model Tax Convention on Income and on Capital and ensures~~ ensuring an effective exchange of information in tax matters, including through bilateral or ~~any~~ multilateral tax agreements;"

1.6. To what extent do cross-border regulatory obstacles hinder investments by business angels in the EU? (5: "To a very large extent", 4: "To a large extent", 3: "To moderate extent", 2: "To some extent", 1: "Negligible or non-existent extent"). Please provide examples of such obstacles and suggest potential measures to mitigate them. [textbox, max 5000 characters]

Business angels are private investors who will often invest directly in businesses but will also support businesses by investing through seed venture capital funds. Only 0.1% of the available "sophisticated" retail capital is used to finance long-term projects through private equity, infrastructure and VC funds.

EU law recognises that some clients may not be professional by default but can opt-in to such status. The second part of MiFID Annex II defines these conditions, which include:

- wealth of the client
- frequency of investments
- experience in the financial sector

This "two out of three" test - the parameters of which have been discussed in the context of the RIS debates - is:

- **not automatic**: the investor must be classified by an investment firm based on a series of criteria; but
- **but systematic:** an investor deemed eligible remains eligible for all transactions.

The "opt-in" test is therefore typically suited to situations where the client can demonstrate experience based on its overall level of expertise of all financial markets. However, it is not good at covering situations where the client can demonstrate expertise for the specific investment, he/she makes.

Limitations of the "opt-in" test

The "opt-in" test leaves out of the equation investors who are able to make a specific investment as a professional without necessarily being experts beyond that investment. That includes business angels

In practice, neither of these investors will necessarily make frequent investments or meet the financial services experience criterion. Moreover, both will be direct investors in a VC fund and

will therefore be outside of the usual MiFID distribution channels. In practice, they will very frequently not be eligible to the "opt-in" test.

The two cases may appear to be fringe cases from the general angle of MiFID II - but they are extremely common in the venture capital space. In VC, around **14% of the private fundraising comes from this type of individuals** – the rest coming from institutional investors such as pension funds or sovereign wealth funds.

Another approach to client categorisation: the "one-off" test

In a non-paper on possible simplification of the rules in the context of RIS negotiations, the European Commission flagged the idea of **creating a one-off opt-out for single transactions of a certain value**. In other words, an investor committing a certain amount of capital in a fund could be deemed professional under certain conditions – but only for that single investment.

The suggestion was made to recognise the specific nature of investments in closed-ended, long-term equity funds, which are typically large and much less frequent than public market investments.

Currently, many VC and growth managers do not to market to experienced business angels either because they are prevented to do so (AIFMD only authorises marketing to professional clients) or because they are unable/unwilling to comply with mass-retail requirements that come with the marketing to non-professional clients. A change to the rules will make it easier for managers to engage in relationships with these clients.

As it unlocks additional financing for venture capital and other equity funds, the "one-off test" would automatically **increase the amount of financing for EU start-ups and scale-ups**. Benefits of this increase for the EU economy have been described in many publications, most recently by the ECB in its "*Should we mind the gap?*" paper – but a particularly important one will be the ability of the EU to avoid losing scale-ups to the US.

As a bonus, the "one-off" test, set only in AIFMD, would provide **more clarity to business angels which currently must face a multiplicity of regimes**, making the EU single market more uniformed than it currently is. In turn, this would increase the ability of clients to diversify their exposures across the EU, making the EU markets more integrated.

We detail our request on this point in the response to Question 6.1.

1.7. Given your assessment of the problems faced by the EU venture and growth capital fund managers, to what extent do you agree that the following overarching policy objectives should guide the EU venture and growth capital fund managers reform?

Improving the cost-efficiency of the operation of AIFMs and simplification	Fully agree
Supporting cross-border scaling	Fully agree

Improving investor access to relevant fund vehicles	Fully agree
Reducing regulatory fragmentation	Fully agree
Strengthening the overall competitiveness of the EU venture and growth capital fund managers	Fully agree
Mobilising private capital for EU priorities (e.g. defence, digital and green transitions)	Fully agree
Other policy objectives [textbox, max 1000 characters]	Maintaining the markets' diversity, recognizing the relevance and better appetite for innovation for smaller market players (Fully agree)

Section 2: AIFMD thresholds

Currently, the AIFMD scope is defined by an applicable threshold based on AuM, differentiated depending on the use of leverage, i.e. fund managers below EUR 100 million in leveraged funds or EUR 500 million in non-leveraged funds are subject to national registration.

2.1. Do you find the current AIFMD framework – featuring two separate AuM thresholds (EUR 100 million for leveraged AIFs and EUR 500 million for unleveraged AIFMs), both incorporating leverage in the calculation –appropriate? Yes/No/Don't know. Please explain. [textbox, max 5000 characters]

Yes.

We agree with the concept of a double threshold. We find that the use of leverage remains a relevant element to determine whether a fund of a certain size should be subject to the full AIFMD framework but we remain of the view that further differentiating factors should be considered.

We note that in some cases the € 100 million threshold de facto applies for unleveraged funds because of required distribution models of fund structures (see the Polish SKA example in Question 3.1 – an interesting situation which shows how technical issues can change the threshold in a significant way irrespective of the actual use of leverage).

As a background, the vast majority of private equity managers do not use leverage at fund level, as is recognised by ESMA in its latest TRV survey. Venture capital and growth managers, which make up a significant portion of the sub-threshold fund manager community within our membership, rarely use leverage in their investment strategy – and in any case do not use debt to magnify the exposure of the fund.

Yet, there is a concern amongst Invest Europe executives and committee members that "leverage" within the technical meaning of AIFMD is poorly understood. For example, the ESMA Q&A (last update on 14 June 2023) concerning the inclusion of leverage in the assets of unlisted companies controlled by real estate AIFs, has muddied the waters for some NCAs regarding the important distinction between fund leverage, SPV leverage and portfolio company leverage.

Therefore, the principles around leverage have not been applied consistently, particularly to different investment strategies with equal risk exposure. This confusion has been further compounded by the recent updates to the AIFMD framework under Directive (EU) 2024/927 of 13 March 2024 ("AIFMD II"), which introduced new methodologies for calculating leverage.

Leverage is a technical measure which ought to be used for supervisory oversight as a measure of systemic risk. However, it also has several regulatory consequences, which are significant and therefore consistency in the application of leverage principles is paramount. Aside from AIFMD thresholds, the calculation of leverage impacts policies (including the requirement to maintain a liquidity management policy), reporting requirements and now, leverage limits in respect of AIFs which mainly originate loans (i.e. "loan-originating AIFs"). (See Section 4.1 for further details.) From a financial stability perspective, borrowing at the level of a portfolio company -—or, frequently, at the level of an SPV established to acquire a portfolio company group – does not impact on the leverage of the fund itself, provided there is no recourse to the fund's assets. The debt incurred by each individual portfolio company or SPV (which becomes part of the portfolio company group) is usually ring-fenced, meaning it is isolated from the obligations of the fund and from the debts of the other portfolio companies or SPVs controlled by the fund. Any counterparty (a bank, for example) that lends to a portfolio company (typically at the level of the SPV) is only exposed to the operating companies in the portfolio company group structure. It is not exposed to, nor does it have recourse to, any fund that owns shares in the SPV.

Whilst it is clear in the legislation (recital 78 of AIFMD and Article 6(3) of the Commission Delegated Regulation (EU) No 231/2013 of 19 December 2012 supplementing AIFMD ("Level 2")) that the exposures of private equity portfolio companies and SPVs are net exposures of the AIF (provided they are non-recourse to the AIF), this is less clear in respect of certain venture capital and infrastructure funds and funds employing other strategies. Nevertheless, we believe that the treatment ought to be the same. The key measure of leverage should be the *net* exposure of the AIF to loss, rather than investment strategy. Provided there is no recourse to the funds, investment in venture capital and infrastructure assets should not be treated differently from investments in private equity assets.

Multiple methodologies for calculating leverage add further complexity. AIFMD II treats borrowing arrangements of "loan-originating AIFs" differently from other AIFs. Borrowing fully covered by contractual capital commitments from investors does not need to be included when calculating exposure for loan-originating AIFs for the purpose of determining whether they exceed the AIFMD II leverage limits. In contrast, non-loan-originating AIFs (and loan-originating AIFs for other purposes) can only exclude such borrowing if it is "temporary". At the time of AIFMD I, this was drafted with equity call bridge facilities in mind (provided they are not revolving credit facilities), to assist AIFs with managing the timing of investment opportunities against the drawing down of investor capital commitments. This provision is now out of step with the changes brought about by AIFMD for loan-originating AIFs. There is no policy reason to treat AIFs differently for the purposes of calculating AIF exposure. Using multiple tests results in confusion for investors and NCAs around an already complex concept and requires certain AIFs to perform multiple leverage calculations unnecessarily. On this basis, we believe that the requirement that borrowing arrangements should be "temporary" should be removed from Article 6(4) of the Level 2. The pure

fact that borrowing is fully covered by contractual capital commitments from investors ensures that there is no increase in the exposure for the AIF.

Inconsistent application of the leverage principles and multiple methodologies for calculating AIF exposure without a clear basis will continue to cause issues for the industry. Given that leverage metrics are used both for financial stability monitoring and to determine the application of regulatory requirements, they should be clearly defined and applied consistently. The methodology should focus on applying one key principle consistently, which is the measure of net exposure to the risk of loss based on AIF overall activities.

As a conclusion, when calculating the (sub)threshold, a **misinterpretation of what is leverage would largely outweigh the impact of a simple increase of threshold for many affected managers with funds** between € 100 and € 500 million (as well as have an impact on larger fund managers), something the European Commission should be extremely aware of when considering how Member States implement EU leverage rules.

Background on leverage

The Commission Delegated Regulation (EU) No 231/2013 of 19 December 2012 supplementing AIFMD ("Level 2") specifies the methods of calculating leverage and it provides that "exposure contained in any financial or legal structures involving third parties controlled by the relevant AIF shall be included in the calculation of the exposure where the structures referred to are specifically set up to directly or indirectly increase the exposure at the level of the AIF".

According to such rule, borrowing by a legal structure (including for example the SPV) held by the AIF needs to be included in the leverage calculation if such legal structure is "controlled" by the relevant AIF. If the latter is not the case, borrowing at the level of such structure should generally not to be included in the calculation of leverage.

In addition to the "control" condition set out above, article 6(3) of the Level 2also provides for the requirement of "exposure".

Specifically, article 6(3) of the Level 2provides that "exposure contained in any financial or legal structures involving third parties controlled by the relevant AIF shall be included in the calculation of the exposure where the structures referred to are specifically set up to directly or indirectly increase the exposure at the level of the AIF". This is then further qualified in article 6(3) of the Level 2which provides that "For AIFs whose core investment policy is to acquire control of non-listed companies or issuers, the AIFM shall not include in the calculation of the leverage any exposure that exists at the level of those non-listed companies and issuers provided that the AIF or the AIFM acting on behalf of the AIF does not have to bear potential losses beyond its investment in the respective company or issuer".

This qualification is given further colour in the ESMA Q&A on the application of the AIFMD (ESMA34-32-352) (the "**ESMA Q&A**") which, in summary, provides that a private equity fund raising debt at SPV-level would not need to include this debt in its AIFMD leverage calculations provided that there is no recourse to the fund. This, in our opinion, is in line with the above general principle in the Level 2 rules that where leverage does not cause exposure at the level of the AIF it can be disregarded.

However, the ESMA Q&A (last update on 14 June 2023) further noted that in the context of real estate strategies, it would be necessary to include exposure of SPVs set up to directly or indirectly increase the exposure at the level of the AIF.

Article 15(4b) of AIFMD II specifies that borrowing arrangements for loan-originating AIFs - fully covered by contractual capital commitments from investors - are not considered exposure when calculating the ratio between exposure and net asset value. Other AIFs (including loan-originating AIFs for other purposes) are treated differently and can only exclude borrowing if it is "temporary" under Article 6(4) of the Level 2, even though, there appears to be no clear policy justification for treating loan-originating and non-loan-originating AIFs differently for exposure calculations.

2.2. Is the current EUR 500 million AuM threshold as triggering the requirement to obtain an AIFM license appropriate, particularly considering market evolution, inflation, effective oversight and other factors? Please explain and provide evidence. Consider the pros and cons and indicate particularly the possible impact national discretions have on the single market. Yes/No/Don't know. Please explain. [textbox, max 5000 characters]

No, the current threshold is too low for three main reasons:

- it is in practice significantly lower than when it was established in 2013 (see our paragraph on inflation)
- it imposes rules on managers that are not proportionate to their organisational scale and resources
- it weakens the competitiveness of EU managers compared with international peers

Nonetheless, we want to flag that it is absolutely essential that an easy-to-use sub-threshold passport remains available, a role currently played by the EuVECA, allowing smaller managers to operate easily across the EU.

The role of inflation

Since the AIFMD entered into force, the consumer price index in EU countries has increased by min 15% to max 60% - with an average of 35% - a significant part of the increase having happened recently. One could argue that yesterday's € 500 million threshold (for unleveraged funds investing in real businesses) is closer to today's € 750 million, and that many funds which were meant to be excluded from the Directive in 2013 will now be included just for the sake of price inflation. To avoid that situation to repeat itself in the future, it would be important for the threshold to be periodically adjusted by default for inflation every few years.

We estimate that an increase of the AIFMD threshold to € 1.5 billion (potentially without a distinction made as to whether the AIFs use leverage or not) would allow venture and growth managers to continue growing without fearing to become subject to the complex AIFMD framework and losing competitiveness compared with their US counterparts who hunt on their grounds. This would also be the relevant number to improve the overall competitiveness of the EU asset management industry compared with other jurisdictions such as the US or the UK.

Managers cannot deal with the AIFMD requirements

AIFMD creates the following costs:

- Capital & own funds requirements: Additional burden COF €75k+0.02%*(AUM-€250m) + Increased professional liability coverage
- Organizational & governance requirements: Independent compliance function , Independent risk management function, Independent valuation function, Independent depositary function, Separate senior management for:
    - portfolio management
    - risk management & compliance
    - valuation
- Strict remuneration rules (including constraints on carried interest structures for control functions, regulated variable pay structures and disclosure obligations)
- Formalized risk management framework, incl. documentation, reviews, regular reporting to regulators etc.
- Increased documentation, regulatory reporting and disclosure requirements
- Costs of launching an authorization application (very significant in some countries)
- Depositary bank services (0,05% on AuM)
- Hiring external outsourced AIFM (around, 0,1% on AuM), which becomes necessary in many cases because it is difficult for smaller managers to implement all required functions and internal segregation requirements in-house
- DORA-related costs: these are considered extremely burdensome by mid-sized managers and often poorly calibrated for private capital business models

We estimate the total cost of creating new compliance functions (2-3 additional FTEs) and using external providers to be around:

- approx. € 750k of additional cost p.a. for AuMs of € 500 million.
- €100k p.a. of generally increased documentation and administrative burdens at the level of the manager (one administrative FTE at the fully loaded cost (potentially more for smaller funds).
- up to € 1million of the external costs (lawyers, other consultants) for the authorization application (largely depending on the country)

In summary: initial and ongoing regulatory costs will be around € 2 million for a € 500 million fund. This would represent around **20% of the overall operating costs for a manager with a 2% management fee,** which is a very significant proportion. While these numbers may vary from manager to manager, they clearly illustrate that AIFMD requirements can represent a major burden for managers of a small to mid-size size.

Impact on competitiveness

The lack of an appropriate regime for small (in countries which have gold-plated the AIFMD) and mid-sized managers (everywhere in the EU) is a significant issue. As a reminder, most small

managers have to either use external AIFMs or third party providers, which significantly increases their cost base and reduces operational flexibility.

The cost of complying with AIFMD requirements may incentivize managers to keep funds smaller than they otherwise would, leaving UK and US managers better positioned to invest in EU companies. Any decision by a manager to fundraise less to avoid regulatory burden makes it weaker compared to its international counterparts, a reality that may become much worse if the UK, as it is currently considering, raises its thresholds as currently under discussion

The need to involve an external outsourced AIFM can also make decision making much more complicated and lengthier in an industry that requires speed of execution, making EU managers at a disadvantage compared with US competitors operating under a less burdensome frameworks.

From a human capital perspective, there is negative opportunity cost associated with requiring highly qualified professionals to spend their time with very often frustrative documentation and additional administrative tasks rather than investment activity.

Impact of national discretions

Differences in sub-threshold regulation between national markets effectively mean that not every sub-threshold fund manager is subject to the same rules. This is of course prejudicial to managers operating in more complex regime – however, this should not in our view be a reason not to increase the threshold below which AIFMD does not apply: rather, it is a reason for Member States to consider how to improve their national frameworks could be simplified.

The lack of a sub-threshold passport is not so much of an issue thanks to the EuVECA voluntary label: in countries with adequately functioning regimes, like the Netherlands, fund managers can very easily use EuVECA to adopt an EU-wide marketing strategy.

This suggests that the problem is not the absence of an EU-level framework for sub-threshold managers, but rather the complexity of certain implementation measures.

2.3. In your view, what upper AuM threshold(s) should apply, if any, to mid-size AIFMs? Please explain and, if possible, provide an estimate of possible cost savings or resource implications.

500 million (implying no regulatory change)
750 million
1 billion
1.5 billion
2 billion
3 billion
4 billion

5 billion
7.5 billion
10 billion

The purpose of any AIFMD threshold - whether it carves out small managers, as is currently the case, or mid-sized managers, as suggested in this consultation - is to ensure that (i) regulatory requirements are proportionate to the size of managers and (ii) they deliver a societal benefit that outweighs the costs they impose, including the investments they may prevent.

From a proportionality perspective, €1.5 billion should be the threshold below which only "registration-like" requirements should apply. Managers below this size typically operate with small teams, face significant difficulties in complying with the full AIFMD framework, and must rely heavily on costly external service providers. As a result, they are often effectively constrained - and in some cases even discouraged from growing - by regulatory requirements.

This issue is particularly acute for the smallest above-threshold managers, notably those in the €500 million to €1 billion range. In practice, these firms struggle to comply with the sheer volume and complexity of AIFMD requirements to such an extent that they either refrain from seeking AIFMD authorisation altogether or limit their activities in relevant markets. In practice, no manager below that size should automatically be subject to the full AIFMD framework.

From a strategic standpoint, our members invite the European Commission to consider whether it is preferable to maintain a relatively low threshold for small authorised "mid-sized" fund managers combined with a significant carve-out of requirements, or instead to set a higher threshold while removing only a limited number of obligations. Viewed purely through the lens of proportionality, the **former option is clearly preferable: small and mid-sized managers would benefit far more from meaningful regulatory simplification than large managers would.**

More broadly, we consider that many AIFMD requirements are disproportionately complex relative to the societal objectives they are intended to serve—namely investor protection and financial stability. In many cases, these objectives could be achieved through simpler rules, or through a more targeted application of requirements depending on the activities and risk profile of managers. At the same time, our membership recognises that in certain areas, exempting managers from specific rules could undermine the overall security and resilience of the industry.

Reducing costs for managers where appropriate (as discussed in more detail in Section 4) should therefore be a simplification objective in its own right, regardless of the size of the manager.

2.4. To what extent do you agree that the following possible measures in AIFMD would promote legal certainty, ease of application and effective supervision? Please explain and, where possible, support your statements with evidence or examples:

Static fixed numeric threshold(s)	Neutral	A simple threshold is easier to use and understand, and less subject to diverging interpretations: that is value in itself. However, it is worth flagging that the method of calculation remains critically important in any case.
Fixed threshold(s) reviewed regularly over a period of time (several years) based on objective criteria, such as inflation	Fully agree	First, adjusting the threshold to inflation effectively maintains the threshold at the same real level: we'd argue this is fair and simple policy. If the calculation is based on cost less impairment, then a fixed threshold reviewed over a period of time based on objective criteria such as inflation makes most sense This is a calculation that funds can easily make and that can make planning easier for fund managers as they are not subject to unexpected fair value fluctuations In any case, one should keep the calculation as simple as possible to avoid room for diverging interpretation by NCA and make planning easier for everybody involved.
Dual or combined thresholds, e.g. at AIFM level and at AIF level	Neutral	While we disagree with the idea of a combined threshold, a more sophisticated threshold that accounts for the size of the funds could potentially help make to make the framework more proportionate and would better reflect the reality of the industry. As a reminder, a private equity manager is the caretaker (a "general partner" in the industry's jargon) of different funds for investors, typically large institutional firms (which are the funds' limited partners). These funds are separate legal entities: the success or issues of a fund do not affect other funds, nor the manager as an operator. Moreover, the manager can in theory be replaced by the fund limited partners. In an industry with more established managers (which is the case of the EU industry compared to 2013), it is more likely that entities will exceed the thresholds, not necessarily because their funds are larger but because they have more assets under management across multiple funds launched over time. This further contributes to fragmentation of the market, as managers may have less incentive to raise a third or fourth fund if they are at risk of going above the threshold and becoming subject to additional regulatory requirements. In the most optimistic scenarios, team members who could have run third or fourth funds within existing managers will rather leave the

		fund for lack of opportunity and create their own separate structures, leading to additional market fragmentation. On top of this, one has to acknowledge that full management fee are typically earned only on the most recent funds, but not on older funds – leading to a situation where smaller managers (VC and growth capital) with funds at the end of their life are 'always-on-a-budget' – and costs of AIFMD-like requirements rapidly swallow the remaining margin. From that perspective, applying a threshold at fund level – for example suggesting that a manager running only small funds should not automatically require AIFMD authorisation – could be an effective way of making the framework more proportionate.
Formulating the calculation of the AuM threshold as (weighted) average AuM (over a period of time rather than an absolute AuM)	Neutral	For closed-ended funds, this idea would not necessarily be meaningful on its own. However, it should be linked to the concept of using a calculation that does not artificially increase the actual amount of equity effectively managed by the manager. If the calculation remains on a NAV basis and therefore captures unexpected fair value fluctuations, the calculation should be based on (weighted) average AuM (over a period of time rather than an absolute AuM) - plus the calculation should include transition/exemption periods to account for temporary valuation effects (for example where a company is exited at a unicorn valuation but proceeds are not yet distributed back to investors therefore inflating the NAV). Most important is to use "capital invested" rather than NAV at fair value (see our comments to Q 2.5).
Combining the numeric threshold(s) with other factors, such as temporal conditions and/or the characteristics of the AIFM	Neutral	As mentioned above, the use of leverage is a relevant factor to set the threshold – but it can lead to practical concerns. One could envisage that certain obvious characteristics, such as the closed-ended nature of the fund, could also play a role in the threshold. In any case, specific factors should only be used to further increase the threshold for market participants whose activities pose less risk, and not to make the overall threshold framework unnecessarily complex.

		Additionally, characteristics should not be linked to the AIFs managed, such as the type of assets, as this could hinder the development of diversified, sustainable and resilient AIFMs.
Applying principles-based or risk-based proportionate regulation of AIFMs (i.e. instead of fixed thresholds, relying on individual risk metrics, such as liquidity profile, leverage, etc.)	Neutral	As we noted in other sections, we agree with the principle that AIFMD rules could be made more proportionate based on the "activities" of the manager (typically if its funds are liquid or leveraged). However, as it is the case at the moment, the principle should be to carve out managers from those rules when they are irrelevant (or less relevant) to them, not necessarily to use them as factors to determine a threshold. One could also consider excluding from the threshold assets of older funds that no longer generate meaningful management fees (sometimes managers are not getting any more management fee for older funds, sometimes it's a much lower management fee that is calculated on the lesser of cost or fair value – whereas the AIFMD calculates the AuM with the full fair value). Indeed, one of the issues with a simple AuM threshold is that it penalizes manager who are launching new funds while still divesting older funds .

2.5. Which other regulatory changes, if any, do you consider necessary in the context of establishing and operationalising thresholds under AIFMD? [textbox, max 5000 characters]

First, we find that the 30-day period for calculating the threshold is too short: most managers find it difficult to comply with it for practical reasons and the timeframe often proves operationally unrealistic in practice.

Second, as mentioned above, the way the threshold is calculated may be as relevant, if not more relevant than its actual numerical size. As an example, a survey amongst German PEs and VCs showed that if Germany switched calculating the threshold from GAAP to fair value this would essentially correspond to a decrease of the effective threshold by around € 150 million (as for a typical manager, a threshold of € 500 million in fair value corresponds to a GAAP threshold of € 350 million). This is because fair value may reflect unrealised gains that may never ultimately be realised in practice (see below). Conversely, this also means that applying GAAP everywhere across Europe would effectively equate to a similar increase. This can therefore be very relevant for a number of managers (around 270 in the private equity space according to our data) which have assets between € 250 and € 500 million.

Fundraising size	Total amounts raised (000 EUR)	Number of distinct firms
€250 - 500m	**96.205.371**	**270**
Austria	331.104	1

Baltics	255.460	1
Belgium	4.074.925	11
Czech Republic	283.815	1
Denmark	1.415.831	4
Finland	2.881.568	8
France	15.439.346	42
Germany	14.300.717	42
Greece	607.334	2
Ireland	305.950	1
Italy	4.669.452	14
Luxembourg	1.815.942	5
Netherlands	6.108.719	17
NON-Europe	4.101.684	11
Norway	1.693.624	4
Poland	1.262.490	4
Spain	5.690.174	16
Sweden	3.647.329	10

Amounts raised and number of firms per capital under management, Invest Europe data

There are currently inconsistencies between Member States as to how the threshold is calculated. These can be significant depending on the approach of the relevant supervisor and the relevant national GAAP that is used in each of the Member States.

Where the applicable approach is a fair value regime (as in Luxembourg, for example), the value for the purposes of the AIFMD threshold is calculated on a fair value basis including write-ups on unrealized assets that may be performing well but without knowing if that will ever materialize into a realized profit at some point in time.

Where the applicable approach is a cost-less-impairment regime (as in Germany, associated with German-GAAP, for example), the relevant value is the unadjusted book cost of the investment at the time it was made – which will typically be lower.

Basing the calculation on cost results in a more predictable and stable figure, which makes it much easier for the manager to plan for the impact of the AIFMD threshold on its business. By contrast, if the calculation is based on fair value, a manager:

1) has a potential incentive (which must be carefully managed) keep valuations lower than they ought otherwise to be;
2) may paradoxically be penalised by becoming subject to more onerous regulation simply because its investments perform well; and
3) becomes subject to increased regulation **without having any additional resources** since management fees are typically based on capital commitments or invested amounts, not fair value,
4) is regulated more heavily despite no corresponding increase in investor risk, as funds are closed-end and investors cannot invest additional amounts or withdraw capital once commitments are made.

For the reasons given above, we consider the most appropriate basis of calculation to be cost-less-impairments (or capital invested) and suggest that one of the core priorities of the review should be to ensure the use of that regime across Member States. We acknowledge this could potentially mean different thresholds depending on fund structures – but this is nonetheless one of the best ways to recognise and support the role of VC and growth funds, and beyond all long-term equity funds.

2.6. What are the impacts of the transition from small-size AIF managers to full scope AIFMD in terms of, among others, impacts on costs and staffing, effectiveness of regulatory oversight, investor confidence? Please include any relevant cost figures or estimates, if possible. [textbox, max 5000 characters]

For many EU managers of a certain size (typically between € 300 million and € 1.5 billion of AuM) the current EU fund architecture constitutes a strong limitation on the ability to scale and set up cross-border funds and ultimately leads to a loss of competitiveness for Europe. Indeed, EU managers often choose to remain below the € 500 million threshold due to the significant cost of being AIFMD-regulated, leaving US and UK managers to take their market share.

From our perspective, **the transition to the full AIFMD regime constitutes a very significant hurdle to an overall increase in size of VC funds across Europe** and addressing this transition should therefore be a priority objective of this review.

Here is a real-life example of this.

A German venture capital fund manager, active for more than 10 years, has raised two separate funds, one of €150 million (about to be closed in a few years) and one of €200 million. The manager with a team of around 15 FTE, has a pan-European strategy and has been using the EuVECA passport to market its funds cross-border. The manager is about to raise its 3rd fund and has the expected capacity, with a mix of known investors which include KfW and EIF and a few small insurers, to raise around €350 million of capital.

At this stage of its life, the manager essentially has two possibilities:

- **Raising a third EuVECA-only fund**: In that case, the manager will limit its investment capacity at € 150 million with the aim of avoiding breaching the AIFMD threshold – but it will be able to continue to operate as it previously did with the team it currently has.
- **Becoming AIFMD regulated**: In that case, the manager would be in a position to raise additional capital – but this would require significant operational changes compared to national law, including in particular:
    - the need to introduce Chinese walls when it comes to portfolio management and a more rigid framework for allocating carried interest to junior employees
    - the need to mandate a depositary and a transfer agent (representing a cost of approximately €100,000 to €200,000 per year)
    - many other additional reporting requirements, some of which set in AIFMD (Annex IV reporting) or linked to AIFMD authorisation (e.g. DORA)

The manager estimates the overall operational changes and costs that cannot be passed on to the fund investors would require the hiring of around **3 new FTE, meaning an increase of 20% of overhead costs on the manager.**

Ultimately, while the decision to be AIFMD regulated or not will vary from manager to manager (see below comment on established funds) and from jurisdiction to jurisdiction, this specific manager has, in real life, decided to choose the first option – and to limit its fundraising in order to avoid being AIFMD regulated. The manager indeed estimated that as a manager, it would have to raise twice as much capital for being able to scale to the AIFMD regime.

2.7. Which regulatory measures and policy approaches could enable small-size AIF managers managing less than EUR 500 million in AuM to scale up without facing abrupt administrative or compliance requirements, whilst maintaining a coherent and proportionate regulation and effective oversight? [textbox, max 5000 characters]

To allow fund managers to scale-up more easily, the key is to create the right conditions for them to market cross-border without subjecting them to rules that are too complex for their size.

Currently, the dual regime (national sub-threshold rules + EuVECA light label) works very well in some countries and demonstrates that proportionate frameworks can support both effective supervision and market development (for that reason, we strongly disagree with the idea that EuVECA is not a success). While managers in those jurisdictions may face fees and diverging marketing processes, rules are generally fit for purpose. For those, the solution is "simply" to raise the AIFMD threshold, allowing these managers to make more use of the EuVECA while remaining under national regimes. Typically, if the threshold were increased to € 1,5 billion, managers would have much larger teams and a more extensive network of contacts, allowing them to more easily face the prospect of becoming authorized.

In other countries, such as France or Spain, national regimes are "AIFMD-light" authorization regimes. EuVECA can be used but with limited benefits as it effectively does not allow genuine cross-border marketing. For those countries, scaling up is mostly hindered by national requirements – which remain unnecessarily complex - and the inability to use EuVECA. We therefore suggest that the European Commission should prioritise addressing these national barriers, not by creating additional EU rules but by ensuring that existing EU frameworks can be used as intended.

Overall, we find that an increase of the AIFMD threshold, however limited, remains the best way forward to allow small-size AIF managers to scale-up. But this is contingent on preserving the ability to use the EuVECA as a genuinely "simple" and voluntary label, meaning that we caution against making the EuVECA more complex or transforming it into a quasi-AIFMD regime.

In addition, a number of practical policy measures could further facilitate the transition from sub-threshold to full AIFMD authorisation:

• introducing transitional or "grace" periods when managers temporarily exceed the threshold due to fundraising cycles or valuation effects;

• allowing managers approaching the threshold to progressively implement certain governance requirements (for example risk management or compliance functions) over a defined transition period;

• clarifying that the use of external service providers or third-party AIFMs during scaling phases should not be discouraged where it helps managers build internal capabilities progressively;

• ensuring that supervisory practices remain proportionate for newly authorised managers, particularly during the first years following authorisation.

These types of measures would reduce the "cliff-edge" effect created by the current threshold, while maintaining effective regulatory oversight.

Section 3: Small-size AIF managers managing less than EUR 500 million in AuM

This section focuses on small-size AIF managers, operating under national regimes. The abovementioned Study and the available evidence suggest that the EU rules applicable to EU venture and growth capital funds managers could be made simpler, clearer and more accessible, especially for new entrants and growing firms. Particular attention should be paid to the proportionality and cost-effectiveness of EU regulation and avoiding distorting the decisions of EU venture and growth capital fund managers to launch, operate and market investment funds and the investment of funds into the EU real economy, whilst maintaining the level playing field and effective supervision. These considerations are particularly noteworthy for small-size AIF managers. Operating as nationally registered firms under the small-AIFM regime means they lack access to the AIFMD management and marketing passports, effectively restricting their fundraising to their home Member State's investor base. This often implies certain trade-offs in terms of the optimal fund size and strategic expansion. At the same time, many Member States arguably still impose AIFMD-like compliance, reporting and governance obligations on sub-threshold managers.

3.1. Which specific regulatory requirements or conditions linked to the registration, organisation, operation, and ongoing oversight of small-size nationally registered AIF managers managing less than EUR 500 million in AuM (excluding EuVECA managers) hamper their ability to scale up and remain competitive? [textbox, max 5000 characters]

At EU level, there are of course no specific requirements other than a need to register the fund.

The main issues faced by the managers therefore depend on:

- how this registration requirement has been applied
- whether the manager must navigate a "AIFMD-light" national framework applying to the fund manager rules that are largely inspired by AIFMD requirements.
- whether specific rules apply to the fund – which may often originate from different sets of rules (for example AML rules or other reporting requirements)
- the lack of legal clarity around the ability of EU sub-threshold managers to rely on private placement regimes when marketing funds cross-border. Under AIFMD, the use of national private placement regimes for non-EU managers was optional for Member States and some jurisdictions chose not to allow it. In practice, this has sometimes led to the

assumption that EU sub-threshold managers cannot rely on private placement across borders, which can place smaller EU managers at a disadvantage compared to certain non-EU managers when raising capital from professional investors.

The few examples below from national situations paint a very different picture from country to country and highlight the need for the Commission to address situations where Member States apply disproportionately complex rules to sub-threshold managers. The cumulative effect of requirements detailed below, which amounts to legal goldplating, is particularly acute for first-time fund managers, spin-outs from established firms, specialised or sector-focused VC teams as these managers face high upfront regulatory costs, struggle to attract anchor investors and are structurally disadvantaged relative to incumbent platforms that can amortise compliance costs across multiple funds.

Despite the dramatic situation in some countries, **putting forward a "sub-threshold regime" within the AIFMD would not necessarily in our eyes be the right solution**, at least until political and peer pressure have led Member States to simplify their current national requirements. Indeed, unless there is a political will from Member States to act on their own regimes (which they could already do under existing EU law), it is doubtful the simple EU regime the European Commission may envisage could emerge.

However, this review is a unique opportunity to clarify that Member States should not impose complex rules and disproportionate regulatory burdens at national level, looking in particular at limiting the use of complex depositary requirements and excessive own-fund requirements, at least for fund managers meeting certain criteria. The authorisation and registration processes should also be simplified.

The European Commission will also notice that many of these problems could only be solved through a legislative "big bang", for example the creation of an EU legal fund structure subject to an advantageous tax treatment. We argue that the creation of an EU legal fund structure would be, in the long term, a partial solution to several of the harmonisation concerns. Nonetheless, one has to be realistic: fragmentation in Europe also stems from broader factors – including tax frameworks, financing structures, governance rules and supervisory practices – which a single vehicle would not by itself resolve. For these reasons, one should always prioritise simplification and better alignment of existing regimes before considering the creation of a completely new EU structure.

Here is the situation in some countries:

Luxembourg

Luxembourg is widely seen as the country that has the most fit-for-purpose regime. The Luxembourg authorities have not imposed specific AIFMD requirements on sub-threshold fund managers.

Yet, this does not mean that the situation is necessarily simple, as is shown by the way EU AML rules have to be implemented in the Luxembourg national framework. Importantly, we expect similar (or worse) situations to happen in all other EU countries, demonstrating that managers

can be subject to complex requirements even under light sub-threshold regimes, mostly due to either national or separate EU rules (AML in this case).

A sub-threshold fund manager will be subject to the following regulatory reporting requirements:

- a simplified "Annex IV" reporting inspired by the AIFMD requesting information on '- NAV; Balance sheet amount; the Fund Strategy, 5 largest Investments, their % weight on total NAV and their geographical exposures

This requirement is the only reporting requirement that is directly connected to AIFMD rules – its frequency is adapted (every year instead of quarterly). The main issue is not so much the reporting itself but the framework under which it has to be reported, which typically requires the use of a costly external service provider. For example, a number of reports can only be delivered via Fundsquare, a technical distribution channel which usually only service providers have access to and which they offer to their clients. Therefore, the service provider is not only in charge of the submission or filing of a report but also, in practice, of its preparation as the requirements of Fundsquare must be met. This dependency on specialised reporting infrastructure and service providers can generate fixed operational costs that are disproportionate for smaller managers.

But this "simple" reporting requirement overlaps with multiple other reporting obligations originating from different regulatory frameworks, including:

- for any UCIs and non-MMM funds, quarterly and monthly reporting to the Bank of Luxembourg
- for non-regulated AIFs, annual reporting to the tax authorities
- for SICAR (regulated)- structures, two reports (U1.1 and K3.1) on the same specific platform
- a periodical report on the fund liquidator
- 5 different reports on AML requirements

Complexity of reporting therefore arises from the multiplication of rules, their required frequency (usually difficult to meet for long-term equity funds) and the complexity of the administrative process (with the use of complex softwares requiring reporting experts). For smaller teams, these requirements can divert a significant share of operational resources away from core activities such as investment sourcing, portfolio management and fundraising.

Please be aware that the exact situation will of course vary from manager to manager depending on the fund structure used – and will not necessarily reflect the situation of every Luxembourg-based structure.

Belgium

The most burdensome requirement that rests on sub-threshold AIFMs is that they are considered 'obliged entities' under the Belgian AML law, with no exception.

As a result, sub-threshold AIFMs will need to comply with the following AML obligations:

- obligations relating to organisation and internal control (in AML context);

- organisation of an internal audit function, appropriate and effective codes of conduct, procedures and internal control measures that are proportionate to the AIFM's nature and size;
- a person at the highest level who is responsible for overseeing application and implementation of the above measures, and a person trained for this purpose who is responsible for supervising their concrete implementation and has the authority to propose all necessary or useful measures (i.e. an AMLRO and AMLCO);
- annual AML reporting to the FSMA; and
- KYC, KYT, CDD and transaction monitoring.

For new market entrants, the above can prove challenging and will often require the assistance of third parties or the hiring of additional personnel.

In addition, the requirement to sometimes produce KIDs can also be burdensome and questionably relevant, especially in a private placement context where there is very limited retail exposure.

Spain

In Spain, the regime applicable to sub-threshold managers, including those operating under the EuVECA framework, remains comparatively more demanding than in other jurisdictions, as it is subject to authorisation dynamics that do not seem to exist with the same intensity in other Member States. This creates a certain competitive disadvantage for Spanish GPs.

Sub-threshold fund managers not subject to Chapter II of the Spanish Venture Capital Law benefit from a "lighter" regime than full-scope AIFM managers. However, in practice, the national framework applicable to Spain includes organisational, governance and compliance expectations that are broadly "AIFMD-like", including internal policies, organizational requirements, risk management procedures, documentation requirements and supervisory reporting.

As a result, smaller managers will bear a meaningful share of the compliance and organisational costs associated with AIFMD-type regulation, while not benefiting from the AIFMD marketing passport. In addition, if such managers wish to market their funds across the EU outside the EuVECA regime, they must opt into the full AIFM framework (Chapter II), which entails a significant increase in regulatory requirements.

This combination of relatively demanding organisational expectations at national level together with the absence of an EU marketing passport can make it more difficult for smaller managers to scale and compete across the European market.

Moreover, certain obligations equivalent to the full-scope regime may be triggered by the marketing of vehicles to retail investors, regardless of the level of AuM, which can result in clearly disproportionate burdens for some managers. A more calibrated approach, or a lighter regime for certain categories of managers, could therefore have an indirectly positive impact on the Spanish market. As most "retail" investors managers market to are in fact sophisticated clients, a change

to the concept of a professional investor (see our relevant comments in Question 6.1) would help greatly.

France

In France, there is no widely used unregulated private equity fund ecosystem and the gap between a sub-threshold manager and a full-scope AIFM is narrower than in many other Member States. In practice, most French private equity vehicles (e.g. FCPI, SLP) are managed by "fully auhorised" AIFMs. Other available vehicles (e.g. "société de capital risque") available to registered managers appear old fashioned and cumbersome.

The French national framework implies requirements that are more restrictive than the EUVECA framework, exceeding the proportionality objective expected for small players, particularly in terms of authorisation, internal organisation (e.g. number of financial managers), own funds, compliance costs, regulatory and tax reporting (which may imply manual, repetitive processes on firms to provide information that may add little supervisory value), investment limits attached to national vehicles (FCPR, etc.).

Poland

Polish sub-threshold AIF managers are prohibited from marketing funds on a cross-border basis. At the same time, sub-threshold EU managers cannot rely on national private placement regimes in Poland and are prevented from marketing their funds in Poland unless they obtain full AIFMD authorisation.

In practice, Poland is increasingly perceived as effectively allowing only the EUR 100 million threshold for small AIFMs. This does not stem from an explicit legal rule but from the interaction between AIFMD provisions and the legal mechanics of the SKA structure.

Investors in an SKA do not have individual redemption rights comparable to those in open-ended funds. However, distributions are typically implemented through capital reduction combined with share redemption adopted by the general meeting of shareholders. Under a functional regulatory interpretation, this mechanism may be treated as an investor redemption feature.

Since private equity and venture capital funds frequently distribute proceeds before five years, this interpretation makes reliance on the EUR 500 million threshold difficult in practice. Managers therefore often remain deliberately below the EUR 100 million threshold in order to avoid the significantly higher regulatory costs associated with full AIFM authorisation.

This issue has surfaced in cross-border contexts. Supervisory authorities, such as the Luxembourg CSSF, may assess the economic substance of managers and aggregate assets managed by the same team across jurisdictions. As a result, the presence of a Polish SKA vehicle may effectively trigger the EUR 100 million threshold even where a structure established in another Member State could otherwise rely on the EUR 500 million threshold.

i. **Lack of an Appropriate Legal Vehicle for Small AIFs**

In Poland, there is effectively only one legal vehicle that allows a sub-threshold AIFM to operate without a full AIFMD licence (i.e. based on registration only). This vehicle – the Alternative Investment Company (ASI) – must operate in a corporate form and is fully subject to:

- the Polish Commercial Companies Code,
- the Accounting Act,
- standard corporate governance and reporting rules applicable to ordinary operating companies.

There is no contractual limited partnership-style vehicle dedicated to private equity or venture capital funds, and no simplified private fund regime with tailored corporate exemptions.

As a result, a small AIF is treated, for corporate law purposes, in the same way as a standard commercial enterprise, despite the fact that its sole purpose is to collect capital and invest it according to a defined investment strategy.

This structural design leads to several disproportionate consequences:

- potential consolidation obligations between the manager and the AIF under general accounting rules, even where the manager does not exercise economic control in a traditional sense;
- possible merger control filing requirements for purely financial investments;
- corporate governance requirements (including supervisory board structures) analogous to those applicable to operating companies;
- formal and inflexible rules for profit distribution based on corporate dividend mechanics, which do not reflect standard PE/VC waterfall structures.

These constraints significantly increase fixed operating costs and reduce flexibility for small managers, whose average fund size in Poland remains relatively modest compared to mature EU markets.

i. **Absence of a Dedicated and Neutral Tax Regime**

Polish alternative investment funds do not benefit from a comprehensive and neutral tax regime. As a general rule, they are subject to standard corporate income tax principles.

Although a specific exemption exists for certain capital gains 37ealized by ASIs, its application is limited and highly restrictive. In particular:

- the exemption applies only to specific equity investments;
- it requires the holding of at least 5% of shares for a minimum of two years;
- it applies only to cash sales of shares;
- it does not clearly cover common PE/VC instruments such as quasi-equity, convertible instruments or hybrid structures;

- it does not extend to standard exit mechanisms such as share swaps or certain reorganisations.

This results in several structural limitations:

(i) it is difficult to structure tax-efficient AIFs based on traditional private fundraising models;
(ii) commonly used VC financing instruments may fall outside the scope of preferential treatment;
(iii) exit strategies are constrained by tax considerations, as non-cash exits (e.g. share-for-share transactions) may not benefit from the exemption.

Furthermore, despite the already restrictive statutory conditions, the evolving interpretative practice of tax authorities has introduced additional limitations, narrowing the scope of the exemption and creating significant tax uncertainty for market participants.

This uncertainty directly affects investment decisions, increases transaction costs, and weakens the competitiveness of Polish vehicles compared to jurisdictions offering clearer and more neutral fund taxation models.

Portugal

AIFMD light regime rules

Sub-threshold AIFMs are subject to an AIFMD-light regime and are expected to put in place (i) formal compliance and risk management functions; (ii) valuation and conflict-of-interest policies and (iii) periodic regulatory reporting and supervisory interaction.

In practice, these requirements generate fixed costs that are largely insensitive to fund size and may absorb a material portion of management fees, reducing the manager's ability to hire investment talent, support portfolio companies and prepare subsequent fundraisings.

Following the AIFMD regime, national rules and supervisory expectations require depositary and oversight arrangements designed for liquid or leveraged strategies, higher-frequency valuation, asset custody-focused models. For unleveraged, closed-ended VC and growth funds investing in unlisted companies, these arrangements add limited investor protection value and increase operational complexity and cost and scale poorly for small managers.

Supervisory conservatism

Supervisory practice tends to adopt a conservative approach. This creates legal uncertainty and encourages managers to self-restrict strategies in order to avoid compliance risk, even where such strategies are aligned with LP expectations and market practice.

The current national regime applicable to registered small-size AIFMs prioritises uniformity over proportionality. This inadvertently favours incumbents, limits entry and innovation in fund strategies, and reduces the capacity of small VC and growth managers to scale up and compete effectively at EU level.

Czech Republic

The Czech legal regime for small-size AIFs is proportionate, as it imposes only a limited number of obligations that the small-size AIF must comply with. Compared to investor funds, it provides significant advantages: the structure is not subject to extensive regulation or supervision, the administrative burden is relatively low, and the initial and ongoing costs are substantially lowerμ

The most significant constraints are in particular: (i) the prohibition of public offering and the related prohibition of any form of public marketing, such as online campaigns, advertising, or mass solicitation, (ii) the manager may approach a maximum of 20 persons and, in addition to these persons, may approach an unlimited number of qualified investors (i.e. an investor who has invested at least EUR 125,000),[3] or (iii) the inability to apply the reduced corporate income tax rate available to so-called basic investment funds, as a small-size AIF does not qualify as a basic investment fund under Czech tax law.

3.2. What are the principal cost drivers (including legal, auditing, depositary, reporting, supervisory fees, etc.) for sub-EUR 500 million threshold AIF managers? To what degree are these costs fixed? Please provide any available cost estimate, even if indicative. [textbox, max 5000 characters]

The main operating costs for asset managers are, unsurprisingly, personnel costs. These are followed by fund-related operational costs—covering fund set-up, fundraising and marketing, and investment activities (excluding regulatory expenses)—and then by administrative costs such as audit, IT, and insurance. Regulatory expenses, including fees paid to supervisory authorities, represent a further category of costs.

The relative weight of these cost categories varies significantly across Member States, in particular depending on whether and how AIFMD requirements have been gold-plated at national level.

For sub-threshold managers, one of the most significant regulatory cost drivers is compliance with anti-money laundering (AML) requirements. AML obligations often require the hiring of additional staff or, at a minimum, substantial training of existing personnel, including to meet internal audit expectations. These costs are frequently compounded by the need to rely on external service providers, specialised software solutions, or both.

More broadly, many regulatory and operational expenses faced by smaller managers are largely fixed in nature and therefore do not scale proportionally with assets under management. As a result, they represent a significantly higher proportion of revenues for smaller managers than for larger firms.

Other notable regulatory and compliance-related costs include:

- initial legal and advisory support for registration procedures, which can be substantial depending on the service provider;
- compliance with SFDR reporting requirements;

[3] https://www.kopecnypartners.com/blog-articles/co-to-je-alternativni-fond-dle-ss-15-zisif-a-jak-si-jej-muzete-zalozit

- professional liability insurance;
- payroll-related costs linked to compliance functions;
- legal expenses, particularly where functions are outsourced or where issues arise with investors or supervisory authorities such as the FSMA; and
- investments in IT infrastructure, regulatory technology solutions and cybersecurity systems required to support compliance and reporting obligations.

These costs are ultimately borne by the fund and covered almost exclusively through management fees. In private equity and venture capital, management fees typically range from around 1.5% for the largest managers to up to 2.5% for smaller ones.

Based on a targeted survey conducted among our members, most operating and compliance costs are not strictly fixed—except in certain specific cases—but they do represent a decreasing proportion of assets under management as funds grow, reflecting economies of scale.

Among all cost categories, regulatory costs are the least correlated with fund size: small managers often face regulatory costs that are comparable, in absolute terms, to those borne by much larger managers. This creates a structural disadvantage for smaller firms, including those above the AIFMD threshold, when it comes to the cost of regulation.

Regulatory costs take many forms, ranging from the hiring of dedicated compliance officers to increased complexity during the fundraising phase, as well as host-state fees directly charged to managers. Importantly, most small managers externalise these functions. While outsourcing can be operationally necessary, it requires time and resources to identify suitable providers and often entails disproportionately high fees for smaller managers compared to larger ones. Many of our smaller members report that simply finding an appropriate service provider can represent a significant barrier in itself.

Because of these factors—and because of substantial differences between Member States—it is extremely difficult to provide a precise estimate of total regulatory costs at the level of the industry as a whole. Nevertheless, a clear trend emerges: the smallest managers, even when operating outside the scope of the AIFMD, can spend more than 5% of their total revenues on direct and indirect regulatory costs, whereas this proportion is significantly lower for larger managers.

These costs can be considerably higher in jurisdictions where depositary requirements and own-funds requirements apply to sub-threshold managers. Simplifying these requirements would therefore go a long way towards meaningfully reducing costs for smaller managers.

3.3. Considering that small-size AIF managers with less than EUR 500 million in AuM cannot manage funds in other Member States outside that of their original registration, would a full-scope management passport facilitate the operation of those managers on a cross-border basis? Yes/No /Don't know/ Other [textbox]. Please explain, including potential conditions or scope of such passporting. [textbox, max 5000 characters]

No.

In principle, the freedom to provide services within the EU should allow managers established in one Member State to manage funds in another Member State unless explicitly prohibited. From that perspective, creating a new management passport for sub-threshold managers may not be necessary. What would be more helpful is clarifying that nothing in the current framework should prevent EU managers from managing funds across borders and that Member States should not introduce additional restrictions that would undermine the objective of an open and competitive EU single market for fund management services.

We agree that small-size managers could benefit from the ability to manage funds cross-border without having to opt-in to the AIFMD – although in practice the ability to market funds cross-border is often more relevant than the ability to manage funds cross-border (see question below).

As explained above, we also feel that conditions are not right for the creation of a management passport for sub-threshold managers – other than potentially clarifying that the existing EuVECA framework already allows for cross-border management in practice and that this approach should be recognised consistently across Member States without introducing additional requirements. In the current situation, with most Member States imposing complex and irrelevant requirements for small sub-threshold managers, the introduction of such a passport would likely lead to increased requirements for managers.

We suggest that a solution for most sub-threshold managers could be a revamp of the current EuVECA rules. With appropriate and targeted tweaks to eligibility requirements and the addition of a clearer confirmation that EuVECA funds can be managed on a cross-border basis (in practice in several countries it is already possible to use EuVECA in such a way), EuVECA could effectively be used as a practical cross-border management passport by most of the equity funds community, allowing more fund managers to manage funds cross-border, expand and commit capital to more start-ups and scale-ups.

3.4. Would a marketing passport or other improvements facilitating the cross-border marketing of AIFs for small-size AIF managers improve their access to investors in other Member States and under which conditions? Yes (a limited marketing passport)/ Yes (tailored or partial marketing passport)/ Yes (simplified cross-border notification regime)/ Yes (full-scope marketing passport)/ None/ Don't know/ Other [textbox]. Please explain. [textbox, max 5000 characters]

No.

The current AIFMD architecture—which avoids imposing complex requirements on sub-threshold managers and allows them to market cross-border through a voluntary label (EuVECA)—is functioning well overall and has enabled the development of a strong ecosystem of small venture capital managers in several EU Member States. Its underlying logic is sound: smaller managers remain predominantly national in scope due to their size; large managers already benefit from the AIFMD marketing passport; and intermediate managers can opt into the EuVECA regime if they wish to market cross-border.

Where the system does not function optimally, the issue relates less to the absence of a dedicated sub-threshold marketing passport and more to the practical difficulties of using existing passports in Member States that have gold-plated the AIFMD. More fundamentally, the

current framework suffers from a lack of legal clarity regarding the ability of EU sub-threshold managers to rely on private placement regimes when approaching professional investors across borders. Importantly, these difficulties would arguably persist even if an additional sub-threshold marketing passport were introduced alongside the EuVECA regime.

Under AIFMD, the use of national private placement regimes for non-EU managers was optional for Member States, and some jurisdictions chose not to allow it. In practice, this has sometimes led to the assumption that EU sub-threshold managers cannot rely on private placement across borders. The European Commission should clarify that EU sub-threshold managers may approach professional investors across Member States through private placement mechanisms, in line with the objective of an open and competitive EU single market for fund management services. This situation can otherwise paradoxically place smaller EU managers at a disadvantage compared to certain non-EU managers when raising capital from professional investors.

The European Commission could, of course, consider creating a harmonised EU-level regime for sub-threshold managers. However, unless such a regime were as simple and flexible as those currently in place in the most proportionate Member States, it would likely generate additional compliance costs while delivering only limited benefits—particularly for managers that, due to their size, have no intention of marketing cross-border. This would run counter to the overarching objective of simplifying the regulatory framework for asset managers.

Instead, we believe the Commission's priorities in this review should be to:

- prevent Member States from gold-plating AIFMD and EuVECA requirements, including practices that make it unnecessarily costly or complex for managers to establish funds in their jurisdiction;
- broaden the scope of the EuVECA regime to make it more accessible and practical for growth fund managers and other comparable (equity and quasi-equity) managers; and
- simplify AIFMD requirements to facilitate voluntary opt-in by non-equity fund managers that wish to benefit from a marketing passport.
- clarify that EU managers should be able to approach professional investors across borders through private placement mechanisms and that Member States should not introduce restrictions that undermine the objective of an open and competitive EU single market for fund management services.

If these changes were implemented, the relevance of a separate sub-threshold marketing regime would be significantly reduced. Rather than introducing another regulatory layer, the priority should be to simplify and ensure that existing frameworks operate smoothly across Member States. This would be fully aligned with the European Commission's broader commitment to regulatory simplification and to strengthening the competitiveness of the EU's capital markets.

3.5. Considering the wide national discretion in defining national registration requirements for small-size AIF managers with less than EUR 500 million in AuM, would greater harmonisation of national registration procedures, including templates, deadlines and other formalities improve the cost-effectiveness of small-size AIF managers?

Yes/No/Don't know. Please explain and indicate which particular elements of standardisation you would prioritise. [textbox, max 5000 characters]

Yes.

Once again, the situation varies significantly from one Member State to another. In countries where sub-threshold managers are subject to a genuinely proportionate set of requirements and to a supervisory approach that is rules-based but sufficiently flexible to reflect industry specificities, registration regimes for sub-threshold AIFMs tend to be limited, straightforward, and relatively predictable. In such jurisdictions, differences in procedures can generally be addressed without major difficulty.

To a certain extent, these Member States experience few issues with the current framework (although they may face challenges arising from national or other EU legislation, as explained in Question 3.1). This reality should be duly acknowledged by the European Commission in its overall assessment.

That said, significant differences persist in the treatment of sub-threshold AIFMs established domestically compared to "foreign" sub-threshold AIFMs seeking to operate cross-border. In practice, these divergences in national registration frameworks can also create unintended competitive imbalances. In some cases, EU sub-threshold managers may face more complex or uncertain registration requirements or national interpretations when approaching investors in other Member States than certain non-EU managers relying on national private placement regimes. Clarifying and simplifying national registration approaches would therefore also help ensure that EU managers are not placed at a structural disadvantage within their own single market.

This is particularly pronounced in Member States that have gold-plated the AIFMD, but it is also observed between countries where registration requirements are broadly similar and relatively low-cost. The objective should not be additional supervisory layers but rather limiting unnecessary national requirements or gold-plating that go beyond the EU framework and create fragmentation in an asset class that is otherwise central to the EU's strategy for financing innovation and growth.

More generally, the information required for registration and, in particular, the timelines for approval vary widely across EU Member States. These divergences generate additional legal and compliance costs for cross-border activity, as registration files must be prepared or adapted to meet local requirements. Differences exist, inter alia, in the assessment of key personnel, organisational structures, transitional arrangements and documentation, as well as in approval timelines. Further disparities can be observed in reporting formats, regulatory procedures, and other requirements relating to governance, fees, and valuation or accounting frameworks.

Taken together, these national specificities create recurring fixed regulatory costs that disproportionately affect smaller asset management companies. To some extent, these costs have been addressed in the recent Market Integration Review.

That said, any efforts to improve consistency between national registration approaches should focus on simplifying procedures, **streamlining of authorisation requirements and encouraging**

Member States to align their practices where unnecessary divergences exist, rather than introducing additional regulatory requirements. **Greater simplification**, competitive growth and reduced fragmentation in the EU asset management sector **cannot be achieved** through additional regulation, and certainly not **through the creation of a new sub-threshold regime**. Consistency across Member States must come through simplification and better alignment of policy approaches, or it will not be achieved at all: the more complex the rulebook, the more divergent interpretations are likely to emerge—particularly when 27 national competent authorities are applying and supervising the same rules.

One possible way forward, without harmonising "at the top" or creating a complex EU-level sub-threshold regime, could be to amend the EuVECA framework so as to allow EuVECA funds to waive certain national requirements in line with their status as EuVECA vehicles.

In this context, the European Commission should be particularly vigilant to ensure that Member States do not use the authorisation process as a means to discourage managers from making use of the EU passport—a practice that some national competent authorities may already be engaging in, given the current complexity of EuVECA authorisations. We understand that one of the key barriers to the uptake of the EuVECA regime is precisely the fact that its authorisation process has, in practice, become more complex than that applicable to other sub-threshold managers.

The Commission could also **clarify that national competent authorities should not request additional items beyond what is necessary for the registration of sub-threshold managers**, in order to prevent disproportionate national requirements driven by divergent supervisory interpretations or by a limited familiarity with the specific characteristics of venture capital and private equity investment models.

3.6. Considering that small-size AIF managers may be subject to national rules and measures similar to the full-scope AIFMD, would a further harmonisation of permitted national measures facilitate the operation of those managers? Yes/No/Don't know. Please explain. [textbox, max 5000 characters]

Don't know.

To a large extent, complexity relates to the relationship with the NCA – which often depends on the level of familiarity of the authority with venture capital and private equity investment models – as well as with national fund rules, which are directly inspired by AIFMD. In other words, while small managers are exempt from the AIFMD, they often end up being subject to AIFMD requirements due to national gold-plating.

The approach the industry would find most suitable is not a further harmonisation of national regimes but rather the introduction in the AIFMD of targeted rules precluding Member States to impose specific types of disproportionate requirements to sub-threshold managers, for example the formal obligation to appoint a depositary or limitations in terms of maximum own funds – the two representing typically the highest cost.

This would be a better approach than full harmonisation – which would in any case be hindered by varying national interpretation in the absence of a single supervisor (a solution we do not

support). The priority should instead be to ensure that Member States apply proportionate frameworks and avoid extending full-scope AIFMD obligations to managers that are explicitly outside the directive's scope.

3.7. Which specific national requirements typically create the highest administrative burden and disincentives for sub-threshold AIFMs, and how could these be simplified, harmonised, or removed without lowering investor protection, market integrity or other legitimate policy objectives? [textbox, max 5000 characters]

In countries which have a real sub-threshold regime (and not an AIFMD-inspired complex regime), the main administrative burden typically lies in **AML compliance.** See our response to Question 1 on this point.

If they market to **retail investors** (as a reminder, high net worth individuals do qualify as retail investors under EU law – and these are the only types of investors a typical VC/growth fund markets to), the following costs will apply:

- PRIIPS Regulation compliance (KID publication in case retail investors are targeted)
- Compliance with consumer protection rules

While the above requirements are not excessively burdensome to comply with, and all pursue legitimate levels of investor protection, they essentially mean that sub-threshold AIFMs may simply avoid offering services/products to sophisticated investors when these are not categorised as professional investors upon request.

As we explained above, "retail/sophisticated" investor – which may include very experienced individuals such as entrepreneurs, will require the procurement of a KID per AIF. A *de minimis* regime, or a "one off exemption" similar to EuVECA for investors committing more than a certain amount, would be essential from an industry perspective if Europe is serious about redirecting private savings into the real economy. In light of the Draghi report and the Union's competitiveness agenda, it is difficult to justify a framework that continues to deter sophisticated individuals and entrepreneurs from investing in long-term funds financing innovation, scale-ups and other strategic sectors. This should be treated as a policy priority.

More generally, AML/CFT requirements remain highly fragmented across Member States and often result in duplicative procedures, divergent interpretations and reliance on multiple external service providers. While AML objectives are clearly legitimate, greater consistency and simplification in their application would significantly reduce administrative burdens for smaller managers without weakening investor protection. It would also be helpful if the Commission provided clearer guidance on the proportional application of AML obligations to smaller asset managers, as uncertainty around supervisory expectations often leads to defensive over-compliance and divergent national interpretations of what constitutes an adequate AML framework.

In countries which have introduced AIFMD-inspired regimes for sub-threshold managers, the answer of course varies from country to country. Please consult the specific responses of our sister associations for more details.

Irrespective of specific rules sub-threshold managers are subject to in many EU countries, some specific national administrative requirements can reveal themselves particularly disproportionate for sub-threshold AIFMs, for example:

- treating each capital call as a separate marketing event requiring notification;
- highly formalistic and repetitive supervisory procedures;
- inflexible liquidation regimes that does not adequately recognise the managerial role of the AIFM.

These elements do not seem to be directly required under AIFMD and may be viewed as examples of national gold-plating, increasing operational costs without materially enhancing investor protection or financial stability.

More broadly, limiting such national additions and ensuring that sub-threshold managers are not subject in practice to requirements equivalent to the full AIFMD framework would significantly improve the ability of venture capital and private equity managers to operate and scale within the EU. In doing so, the Commission could play an important role in promoting a more coherent and proportionate regulatory approach across Member States, drawing on supervisory practices that have proven effective in more mature venture capital ecosystems (within but also outside of the EU). Ensuring that regulatory approaches converge towards the most effective and proportionate models would better serve the Union's broader objective of mobilising private capital for innovation, scale-ups and long-term growth across Europe.

3.8. To what degree would you expect possible measures in the areas outlined in this section of the consultation to lead to the following types of impacts? ("1: "Negligible impact", 2: "Limited impact", 3: "Moderate impact", 4: "Large impact", 5: "Very large impact")

Lower cost of operating investment fund vehicles	Large impact	This all depends on which measures are taken but if rules are really simplified, this could have a significantly positive impact (and similarly, if rules are aligned to countries with more complex regimes, this could seriously affect the competitiveness of other markets)
Faster processes, leading to faster deployment of capital	Large impact	As we flagged in our response to the consultation on EU capital markets, the length of authorisation can be extremely long in some countries. There could be a significant positive change in this field.
Greater cross-border fundraising activity	Very Large impact	This may help more managers to operate but we understand most of our members who wanted to operate cross-border were already able to do so under EuVECA: the impact may therefore not be as large, especially if EuVECA is further tailored and if greater clarity is provided

		around the ability of EU managers to approach professional investors across borders.
Greater cross-border investments (in underlying markets)	Moderate impact	Nothing effectively prevents managers to invest cross-border and fund management rules are only indirectly relevant from that perspective – although the main constraints often arise from national investment screening or FDI rules that prevent foreign investments in portfolio companies and certain provisions of the EuVECA Regulation that unintentionally create frictions for investments outside the EU. In particular, the Geographic Limitation linked to the requirement that portfolio companies be located in jurisdictions having tax information exchange agreements aligned with Article 26 of the OECD Model Tax Convention with each Member State where the fund is marketed can be complex to assess in practice, especially where funds are marketed across many Member States.
As a second-order effect, increased investments into EU real economy	Very Large impact	Any capital that is not spent on compliance could be spent on investments. In several markets, the complexity of rules clearly prevents first -time managers to set up their funds. Reducing unnecessary regulatory friction would therefore directly support the mobilisation of private capital towards innovation, scale-ups and long-term growth in the European economy.
As a second-order effect, reduced fees for end investors / limited partners	Moderate impact	In a competitive market, it is possible that fees could be lowered in a more harmonised market or where unnecessary regulatory costs are reduced.
Potential adverse impacts on legal certainty or market integrity	Negligible impact	That very much depends on actions taken – but small-size managers do not represent a financial stability risk in light of their activities and allowing them to market and manage cross-border is unlikely to cause concerns.
Potential adverse impacts on effectiveness of supervision	Limited impact	We do not believe proposals would have an adverse impact on the effectiveness of supervision as the measures discussed focus primarily on removing unnecessary administrative complexity rather than altering core supervisory safeguards.
Potential adverse impacts on investor protection	Negligible impact	Small size managers extremely rarely market to investors other than institutional investors or sophisticated investors, which negotiate their entry into the fund.

		Investor protection in this field is very different from that of UCITS or MIFID mass-marketed structures.
Potential adverse impacts on level playing field	Negligible impact	There is currently no level playing field for small threshold managers. Actions to remove national goldplating could have positive effect: it's unlikely any of the measures proposed would have an adverse effect.
Other impacts - please specify, including potential negative impacts		Positive changes could also increase pressure on service providers to deliver better services at more reasonable prices and could facilitate the entry of new managers, thereby strengthening competition and innovation in the European venture capital ecosystem.

Section 4: Proportional requirements for mid-size EU venture and growth capital fund managers managing more than EUR 500 million in AuM

This section concerns mid-size AIFMs operating above EUR 500 million and under full scope AIFMD obligations. These fund managers may find themselves being subject to many obligations designed primarily for large, institutional managers, while lacking the economies of scale, operational resources and compliance budgets needed to absorb these burdens efficiently. Given this, it is appropriate to get additional insights and evidence on which regulatory obligations can be safely simplified or removed for mid-sized AIFMs, to promote the scaling up and the competitiveness of EU venture and growth capital fund managers, while considering potential trade-offs with other policy objectives. Respondents are invited to focus their submissions on those topics which are ***not*** *already addressed in the market integration and supervision package, especially regarding AIFMD.*

4.1. Which AIFMD provisions, if any, do you consider impose disproportionate administrative or operational burdens on mid-sized AIFMs, and where would targeted proportionality measures most improve efficiency without reducing investor protection or effective oversight? [textbox, max 5000 characters]

Here below are the most often cited disproportionate and operational burdens. Unsurprisingly, these often correspond to the rules that are waived in national frameworks that have AIFMD-inspired rules for sub-threshold managers:

- Complexity of authorisation process (as opposed to registration regimes)
- **Conflict of interest** rules
- Obligation regarding **key people and control functions** *(in particular the ability to combine certain functions in proportionate organisational structures, allowing for combining key functions such as PM (in a fully delegated set-up) and valuation or risk management and valuation is often cited as an important simplification tool)*
- **Remuneration** policy
- **Prudential** obligations (in particular own fund requirements)
- **Valuation** rules

- **Portfolio company** rules (including "asset stripping")
- **Depositary** rules
- **Reporting** requirements

Of all these rules, **depositary requirements** and **own fund requirements** are the ones with the most immediate and visible cost, particularly for mid-sized venture and growth capital managers that do not yet benefit from the economies of scale of the largest asset managers.

The complexity of the authorisation process depends largely on the national competent authority.

The impact of other rules largely depends on the size of the manager (whether the manager must hire new people to perform the duties or whether it needs to outsource these duties to external service providers). See our comments on section 3 for more details on costs.

ESMA interpretation also matters. While ESMA allows the combination of valuation and risk management, this is currently interpreted in a very strict manner, i.e., for AIFMs below 600m EUR in AuM.

While AIFMD sets out high-level principles, in practice many of these requirements remain subject to interpretation and are applied differently by national competent authorities. In particular, there is often a lack of clarity as to the level of human and operational resources that a manager is expected to have in place, which creates uncertainty when designing governance and operating models. This leads to legal uncertainty, inconsistent supervisory expectations and additional compliance costs, especially for managers operating cross-border. The same organisational set-up may be considered sufficient in one Member State but insufficient in another, which undermines the objective of a truly harmonised internal market.

We suggest that the AIFMD shall allow for **combining key functions such as PM** (in a fully delegated set-up) **and valuation or risk management and valuation,** where this remains consistent with the proportionality principle and the risk profile of the funds managed, in particular for closed-ended venture capital and private equity strategies which typically operate without leverage and whose risk profile differs significantly from more liquid or trading-oriented strategies..

Finally, one of the main benefits for above-threshold AIFMs would be greater consistency in the practical application of some of the marketing and reporting requirements across the EU. Especially in terms of (pre)marketing fees, wide inconsistencies remain present. This is looked at in the context of the Market Integration package, but is often cited as the main problem in practice.

<u>Own fund requirements</u>

Fully authorised managers of closed-end funds are subject to an own-funds requirement equal to at least one quarter of the preceding year's fixed overheads (Article 9 AIFMD in conjunction with the CRR), in addition to initial capital requirements of €125,000 for externally managed funds or €300,000 for internally managed funds. The own funds must be invested in liquid assets or assets readily convertible to cash in the short term.

There is a fundamental question as to whether this requirement delivers any meaningful prudential benefit, at least for certain categories of investment funds investing in long-term, illiquid investments. Further, it is disproportionately high in comparison with own-funds requirements under other pieces of EU law, most notably IFR/IFD, without any sound justification why this is the case.

Private equity funds have a low risk profile

A typical private equity fund manager is not, unlike certain other types of AIFs and all UCITS, responsible for managing a large pool of liquid assets invested in tradable securities. The private equity business model relies on a limited number of large institutional or sophisticated investors committing capital to a fund over a long investment horizon. Committed capital is not transferred to the fund immediately; instead, it remains with investors until the manager calls it to make specific investments.

In simplified terms, a private equity manager does not itself hold fund assets. Rather, it periodically draws down capital from limited partners to invest on behalf of its funds in portfolio companies in which the fund holds minority or majority stakes. Capital is drawn down as required for specific identified investments and the manager is not exposed to the potential operational risk of active day-to-day trading in relation to the fund's portfolio.

From this perspective, the failure of the manager—the primary risk that own-funds requirements are intended to address—is significantly less critical than in a UCITS context. Unlike UCITS shareholders, limited partners have the ability to replace the general partner (i.e. the manager) and continue to supervise the legally separate fund vehicle, should they consider this necessary.

Against this background, imposing complex and capital-intensive own-funds requirements on the manager—the fund's operational caretaker—appears disproportionate. It is akin, from a prudential standpoint, to using excessive safeguards to protect a structure that can ultimately be reconfigured by its owners (the limited partners) in the event of serious concerns.

Disproportionately high requirements

The own funds and liquid assets requirements are very high for no particularly good reason for AIFMs compared with other regimes - in particular, discretionary portfolio managers, subject to IFR/IFD. Please see comparison of the requirements for an AIFM with EUR 2 billion AuM compared to a discretionary portfolio manager, with equal amount of AuM, subject to IFR/IFD, in each case with fixed overheads of EUR 1 million per year. (The liquid assets requirement shown below assumes that the relevant Member State has interpreted Article 9(8) AIFMD as not being applicable to the initial capital requirement, or otherwise the amounts would be considerably higher - i.e. they would increase by the amount of that requirement.)

Own funds under AIFMD		**Own funds under IFR**	
Initial capital requirements of EUR125,000 for externally managed funds or	EUR 475,000 for AIFM with externally managed AIFs	The highest of: (i) Fixed overheads requirement	EUR 400,000

EUR300,000 for internally managed funds + One quarter of fixed annual overheads (in this case EUR 250,000 Or 0.02% (2bps) of the amount by which the total value of assets under management exceeds EUR250 million, subject to a cap of EUR10 million, in this case EUR 350,000	Or EUR 650,000 for AIFM with internally managed AIFs	(which is one quarter of fixed annual overheads – here EUR 250,000) (ii) Permanent minimum requirement (here EUR 75,000) (iii) K-factor requirement (here, 0.02% of AUM, which is EUR 400,000)	
Liquid funds under AIFMD	EUR 250,000 or EUR 350,000	Liquid funds under IFR (one third of FOR above)	EUR 83,333

There is no reason why under AIFMD there is a requirement to hold own funds covering the initial capital requirement of EUR 125,000 or 300,000 in addition to the own funds requirement derived under the fixed overheads requirement or funds under management requirement (as applicable). Rather, like under IFR/IFD, it should be the highest of the three.

Further, the liquid assets requirement should be more closely aligned with IFR/IFD position. There is no rational justification why, in a comparison such as the above, an AIFM should have to keep at least 3 or 4 times more money locked in a bank account or low-performing readily realisable liquid assets. This prevents productive investment of those amounts within the working capital cycle of the AIFM.

We suggest alignment with the own funds approach in Article 11 IFR and the method for calculating the liquidity requirement in Article 43(1) IFR.

The outcome

In practice, the current prudential framework—particularly when combined with the stringent liquidity requirement under Article 9(8) AIFMD, which has no equivalent outside the AIFMD—leads to disproportionately large capital buffers and liquidity requirements. In some cases, amounts of up to €6 million are required to remain idle in bank accounts.

We therefore submit that a simplification of the own-funds regime (and the associated liquid assets component) would be among the most impactful reforms, while also being one of the least costly from a financial-stability perspective. Such a reform should, however, be carefully targeted at managers exhibiting the specific characteristics described above.

4.2. To what extent could the depositary requirements under AIFMD be adapted for mid-sized AIFMs (e.g. simplified oversight tasks, proportionate capital or liability requirements, more proportionate rules for certain assets, removing duplicative prospectus rules, prospectus requirements for closed-ended funds, etc.) while keeping relevant safeguards seeking to ensure effective regulatory oversight, integrity of the market and the effective protection of investors? Please explain. [textbox, max 5000 characters]

The depositary requirements introduced under AIFMD were based on the pre-existing UCITS regime and are largely disproportionate for private equity and venture capital funds.

Depositary costs are often quoted as the biggest cost for AIFMs: while they are by nature proportionate to the overall AuM**, some small AIFMs (less than €250 million AuM) have reported depositary costs going above 200.000€.**

For international competitiveness reasons the role of the depositary should be limited to the safekeeping of (liquid and illiquid) assets, which is the key requirement for investor protection. The oversight duties of the depositary indeed create an additional burden and increase costs. Such controls could be substituted by procedures to be performed by the external auditor of the Fund without compromising investor protection.

While both the AIFMD and UCITS regimes share certain common features (e.g. they both govern the operation of collective investment undertakings), there are also key distinguishing features between the regimes which should be borne in mind when considering the need for, and relevance of, a depositary function – in particular:

1. a UCITS invests predominantly in *liquid transferable securities* (e.g. listed shares, which can be held in custody), whereas a private equity or venture capital AIF invests predominantly in *illiquid private assets* (e.g. unlisted shares or other assets, which cannot be held in custody);
2. a UCITS typically targets *retail* investors, whereas a private equity or venture capital AIF typically targets *professional* investors; and

3. a UCITS is an *open-ended structure* (with frequent subscriptions / redemptions and trading activity), whereas a private equity or venture capital AIF is typically a *closed-ended structure* (with far more limited subscriptions / redemptions and trading activity).

As such, the depositary requirements under the AIFMD regime did not sufficiently account for the fact that AIFMD covers a broad spectrum of funds and strategies. A private equity or venture capital AIF, as compared to a UCITS, has a fundamentally different type of portfolio, and typically has a far more sophisticated investor base as well as a markedly different liquidity, subscription, redemption and trading profile.

The AIFMD depositary model is not a standard feature of funds internationally and some professional investors may not place great value on, or may not require, the protections provided under this model.[4] In particular, we consider that investors derive very little additional protection from the requirement for the depositary to verify title to non-custody assets (see further below), but these requirements increase the operating costs of the fund.

The "PE depositary" framework set out in the last sub-paragraph of Article 21(3) AIFMD provides a tailored regime that allows private equity, venture capital and certain other types of closed-ended funds to engage the services of specialist depositaries, whose service offerings are specifically designed to address the needs and requirements of funds investing in these asset classes.

Taking all of the above into account, we suggest:

1. **to exempt (certain types of) mid-sized managers from any depositary requirements**
2. **to support the AIFMD depositary-related proposals set out in the EU Market Integration Package** – i.e.: the proposal to amend Art 21(3) to make the "PE depositary" regime mandatory across all Member States.
3. **to further improve the depositary model by introducing a series of targeted changes**

However, we think the depositary regime can be improved further as set out below (especially as the cost of depositary services can be significant and is typically borne by investors).

Meaning of custody assets (Art 21(8)(a))

Custody assets (being financial instruments that can be held in custody) is taken to mean "*financial instruments that can be registered in a financial instruments account opened in the depositary's books and all financial instruments that can be physically delivered to the depositary*" (Art 21(8)(a)).

It is not wholly clear what this means.

We request the Commission to clarify the meaning of a custody asset to reflect market practice – i.e. meaning a financial instrument capable of settlement in a central securities depositary / international central securities depositary (e.g. listed shares) together with any bearer instruments.

[4] See, for example, paragraphs 2.56 – 2.60 of the UK FCA's April 2025 Call for Input: Future regulation of alternative fund managers | FCA

Depositary arrangements where custody assets are infrequently held

Art 21(1) requires an AIFM to appoint a single depositary for each AIF it manages, with the depositary permitted to delegate only the safe-keeping function (Art 21(11)).

Whilst private equity and venture capital funds do not usually invest in or hold securities that are capable of being held in custody under AIFMD, there are limited scenarios where they may do so. It can be challenging for private equity and venture capital firms to establish appropriate custody arrangements to cover these limited scenarios.

For example, a private equity fund may hold listed securities for a period following an initial public offering (IPO) of a portfolio company, which therefore need to be held in custody by its depositary or a sub-custodian. In this context, the investment bank acting on the IPO is typically the best-placed party to hold the newly-listed securities in custody on behalf of the fund. Under the current AIFMD rules, the investment bank needs to be appointed as a sub-custodian of the AIF's existing depositary in order to do so. The AIFM is not permitted to appoint the investment bank directly to act as custodian for the listed securities as this would breach the requirement to appoint a single depositary.

This will typically require the AIF's depositary to undertake due diligence on the investment bank and enter into a delegation arrangement, which adds complexity, time and cost to the process.

Verification of ownership function (Art 21(8)(b))

The requirement for the depositary to verify that a private equity or venture capital fund has ownership of the non-custody assets it acquires is operationally burdensome, unclear in its precise scope and application, and we do not believe that it offers material additional protections to investors.

In practice, it is invariably the case that transactions entered into by private equity or venture capital funds will be supported by external legal advisers acting for the acquiring fund, whose role will include undertaking due diligence on title to the assets being acquired and ensuring that title is effectively transferred to the fund. Such due diligence will be part of the AIFM's due diligence policies and procedures as required under Art 18 of the Level 2 Regulation. Requiring the depositary to re-verify title to these assets is highly duplicative, costly and confers little additional protection on investors (but as a cost it impacts their returns).

We request the Commission to consider removing the requirement for the depositary of a private equity or venture capital fund to verify ownership of non-custody assets. In the alternative, we request the Commission to consider replacing this ongoing verification of title requirement with a requirement for the depositary to carry out an annual, ex ante verification of the fund's ownership of non-custody assets, similar to the annual audit regime under Art 12 EuVECA Regulation.

Delegation arrangements and depositary liability

As noted, while custody assets are relatively unusual in a private equity or venture capital context, there may be limited circumstances where a private equity or venture capital fund holds custody assets – in such a scenario, a "PE depositary" would typically lack the operational systems

required for such assets and, therefore, would need to delegate the safekeeping of those assets to a sub-custodian (noting again that AIFMD only permits a single depositary, or its delegate, to perform this function).

The delegation model, including the need for tri-party contracts, creates additional complexity, which increases cost and investor risk.

Moreover, the use of delegates is onerous because Art 21(12) imposes a high level of liability on depositaries concerning financial instruments held by delegates (which, in certain Member States, has also had the effect of such depositaries incurring more onerous organisational and capital requirements). Although Art 21(13) permits liability to be passed contractually to a delegate, in reality this rarely happens as custody banks are not open commercially to accepting liability over and above their existing negligence-based standard. This leads to a disconnect between the party that ultimately retains responsibility for the assets (i.e. the depositary) and the party that in reality holds them in custody (i.e. the sub-custodian). This disconnect becomes magnified in circumstances where the asset is held through a custody chain and whilst most custody banks are willing to underwrite the risks associated with in-group sub-custodians, they are less willing to do so where the asset is ultimately held by a non-group entity in their wider custody network. Aside from this risk-based issue, the appointment of a sub-custodian also carries cost and there is a relatively limited pool of organisations who are willing to simply provide custody services for low volume listed assets.

4.3. Could additional proportionality be introduced to risk-management, liquidity-management or stress-testing requirements of AIFMD for mid-sized AIFMs, with stable, low-turnover and/or closed-ended strategies? Yes/No/Don't know. If so, which specific obligations warrant adjustment? [textbox, max 5000 characters]

AIFMD risk and compliance requirements - including staffing and processes – can quickly become very costly for the asset management companies themselves. They are also the ones that are the most impacting on mid-sized managers, as they represent a high fixed cost (at least 100.000€, more if one counts the obligation to have two additional persons).

For example, some functions required by the Directive, such as those of Compliance and Internal Control Officer, entail significant fixed costs, whether these functions are internal or outsourced. When they are outsourced, additional due diligence requirements further increase the managers' compliance burden. Importantly, these costs are largely size-independent and do not scale with the assets under management.

A similar issue arises from the obligation for "fully authorised" AIFMs to comply with the **DORA** Regulation, notably in relation to the deployment of IT systems and the performance of mandatory testing, which also involve substantial fixed costs irrespective of the size of the asset management company.

More generally, many of the risk management and organisational requirements under AIFMD were designed with larger or more complex asset managers in mind. Their application to mid-sized managers operating closed-ended, low-turnover venture capital and private equity strategies may therefore warrant greater proportionality, given the fundamentally different liquidity profile, investment horizon and investor base of such funds.

Semi-liquid funds and EU liquidity rules

Private equity funds, which are traditionally set up as closed-ended funds, are generally synonymous with illiquidity. Because of the long-term nature of the asset class investments, which requires invested businesses time to mature, investors cannot easily sell their shares or interests in the fund whenever they want. Unlike publicly traded stocks, which can be bought and sold on the open market, private equity investments are locked up for a specified period, on average five to six years.

Semi-liquid private equity funds are a relatively new type of investment vehicle that bridges the gap between traditional, illiquid private equity funds and more liquid public market investments. Their purpose is to offer investors the potential for higher returns associated with private equity (and other alternative assets) while providing a degree of liquidity not typically available in traditional private equity funds.

Semi-liquid funds often have a (semi) open-ended structure, which allows investors to invest and withdraw their capital at specific intervals (e.g. monthly or quarterly), subject to pre-agreed caps on how much capital investors can withdraw at any given time. Such caps help the fund manager to match the fund's portfolio of liquid assets (which can be liquidated to fund redemptions) to the maximum amount of redemptions that are permitted in a given period. Other features of these funds include long notice and settlement periods for redemption requests and a generally more diverse investment strategy than regular private equity funds.

With their hybrid approach, semi-liquid structures offer access to alternative assets to a new range of clients with a different liquidity profile, with positive impact on the overall diversification of portfolios. From a European regulatory perspective, the repurposing of the ELTIF Regulation has equally made it more interesting for a small proportion of private equity managers to develop more liquid products. This generally helped the retailisation (in practice: the marketing to high net worth individuals) of the asset class.

We argue that the review could help better recognising the nuances across the different structures and ensure that liquidity rules are applied in a way that better acknowledges the features of specific fund strategies. Indeed, in many cases, these structures, funds and strategies are those that most likely to mobilise investments into EU strategic sectors and to fund the European transition.

Our key asks on behalf of the "semi-liquid" open-ended fund private equity community are:

(i) more flexibility for AIFs to select their LMTs based on the specific features of those funds

The number of LMTs available to semi-liquid products is very limited as a number of the LMTs identified in Annex V of AIFMD Level 1 are not suitable for an effective liquidity management strategy for a semi-liquid fund. We suggest that consideration could be given to allow semi-liquid managers to operate different strategies under specific conditions.

(ii) A clearer acknowledgment that redemption programmes used by semi-liquid funds are part of the redemption gate definition - and that “soft locks” should fit within redemption fees or anti-dilution levies

Semi-liquid products already employ highly effective liquidity management techniques including but not limited to what is known as a "redemption programme".

A redemption programme is a mechanism to cap redemptions in a given period (e.g. 5% of NAV per quarter, the "Cap"). If shareholders submit redemption requests and the value of those requests exceeds the Cap, the manager can, but is not required to, limit redemptions to, in this example, 5% of NAV in that quarter. The manager will typically redeem pro rata to each redeeming shareholders' shares/units, so that each investor has part of their redemption request satisfied. The Cap is typically sized in an amount that is similar to the value of liquid investments held by the fund. The definition of a redemption gate under Annex V of AIFMD Level 1 text is broad enough to accommodate this but to avoid divergent Member State interpretation, we propose that Article 2 of the RTS is amended to give clarity on this.

We would ask a similar clarification that "soft locks" (fixed temporary early redemption fees) used by managers could be eligible as a redemption fee or an ADL.

Financial stability and investor protection concerns are paramount, but appropriate flexibility to tailor LMTs to an AIF's investment strategy and assets, coupled with appropriate market transparency through disclosure and partnership with applicable Member State authorities, will help support investor protection while ensuring that rules do not assume that all funds are faced with the same risk and all investors behave in the same way.

All these asks can be solved through targeted changes to existing AIFMD rules. These changes, not as such simplifying but "sophistifying" AIFMD, would be necessary for regulators to better acknowledge features of semi-liquid funds.

The disastrous new value for money rules

Value for money rules in the Retail Investment Strategy discussions create some sort of benchmarks and peer groups for all types of funds offered to retail clients. This objective in itself is not questionable: regulators should be in a position to identify funds that overcharge fees compared to their actual performance. Taking relevant action to protect investors from disproportionate fees can help the development of EU capital markets.

However, regulators must account for the fact that most long-term equity funds offered to retail clients simply **do not** have the data that is envisaged under the proposed framework.

Because they are long-term investors in businesses - as opposed to basked of securities, most venture capital funds, including those governed under the AIFMD, are set up as closed-ended structures. This means that:

- data on performance is always expected performance: it can only be estimated *ex-ante* by examining peer groups in different vintages and sectors, defeating the very purpose of a benchmark
- data on costs is by nature incomplete, as transaction costs linked to investing in specific businesses will vary depending on the specific investment

This does not mean that venture capital funds cannot be compared or that their costs and performance cannot be disclosed to investors: they can and they are - but not at the time funds are marketed.

An over-compassing approach to benchmarks could therefore create barriers to the marketing of VC funds to non-institutional investors, mostly sophisticated individuals, potentially leading to confusion for investors and damaging the ability of the VC ecosystem to attract investors.

Value for money rules, even if recently adopted by co-legislators, therefore illustrate a perfect example of rules that need to be removed for certain types of funds, at the risk of over complexifying the framework. One way to solve this is the creation of a "one off" test/ a de minimis regime for marketing to high-net-worth individuals – sheltering this type of offers from "liquid" funds requirements.

4.4. Which elements of the Annex IV AIFMD reporting, leverage reporting and regulatory disclosures could be streamlined for mid-sized AIFMs to reduce recurring compliance costs while preserving effective supervisory oversight and the integrity of the market? Please explain. [textbox, max 5000 characters]

Reporting costs are usually expensive and, perhaps more importantly, not proportionate to their benefits. Simplification could easily be brought to the regime without much impact on investor protection, especially for reporting to institutional investors.

We surveyed members asking them to give us feedback on the specific costs of reporting requirements. Out of 27 responses, 56% reported more than 100.000€ of reporting costs. Reporting costs are also one of the more "fixed" costs: 33% of managers with less than € 250 million of AuM reported more than € 100.000 of costs.

To make the regime more fit for purpose, we suggest the following:

1) make reporting **proportionate compared to the benefits**

For this, we simply suggest transposing the simplified reporting regime that already exists in some Member States for small-sized managers to mid-sized managers where the nature of the strategies managed (for example closed-ended venture capital or private equity funds with low turnover and limited leverage) justifies a more proportionate approach.

2) **make reporting less frequent for certain types of long-term equity funds**

We argue that for the frequency of reporting to investors should be made less frequent for assets with a long-term horizon. In particular, for closed-ended funds investing in illiquid assets with long investment horizons, reporting frequencies could be better aligned with the underlying investment cycle rather than following standardised reporting intervals designed for more liquid strategies.

3) **build a supervisory culture that avoids "tick the box"** duplicative exercises

Our members indeed feel that a significant portion of the information reported through existing templates is rarely used in practice for supervisory purposes (see recent example of the ECB flagging risks in the asset class because it did not have access to leverage data…something that

is as frustrating to the ECB as to the managers who spent time and money to report that data to NCAs). We suggest there should be a test for regulators to determine whether information is effectively relevant – and flexibility left to managers to "comply and explain" in case reporting is irrelevant to them.

As we mentioned in examples on the section for sub-threshold managers, reporting costs can quickly add up – and any effort to make these costs proportionate will ease fund managers' burden, especially as these typically rely on (costly) service providers to comply with these requirements.

More specifically, many of the national and EU templates contain overlapping topics, which in our view does not really add any value from a supervisory perspective. We also find it burdensome that there is replication of regulatory obligations between the producer and the distributor of an AIFMD regulated fund, e.g. in the context of product onboarding questions or CDD/AML. This seems repetitive, in particular with both the producer and distributor being based in the EU. The European Commission should consider looking beyond AIFMD and reviewing reporting obligations across different regulatory frameworks to avoid duplication and ensure that similar information is not collected multiple times under different regimes.

Here are also specific examples of issues of reporting, on top of the general points made above:

Leverage

In our responses to Questions related to Section 2, we explain that using multiple calculation methodologies to measure AIF exposure creates issues, particularly in the context of AIFMD thresholds and determining whether an AIF is in scope under Article 3 AIFMD. Other AIFMD concepts are also affected by the calculation of leverage, including the requirement to maintain a liquidity management policy under Article 16, national reporting requirements on leverage limits under Article 25, and the content and frequency of Annex IV reporting under Article 110(3) of the Commission Delegated Regulation (EU) 231/2013 of 19 December 2012 supplementing AIFMD ("Level 2").

The methodology should focus on applying one key principle consistently, which is the measure of net exposure to the risk of loss based on AIF overall activities. A clearer and more consistent approach to leverage calculation would reduce operational complexity and legal uncertainty without weakening supervisory oversight, while ensuring that the methodology remains aligned with the specific characteristics of the relevant asset class and its underlying investment model. This approach would lead to a more proportionate application of AIFMD's liquidity and risk management requirements.

The European Commission should be extremely careful when drafting leverage rules, as these have very significant implications on managers.

Obligation for feeders

Feeder funds are registered for marketing, but reporting does not require a look-through to assets held by the Master Fund, so this is not useful overall. We would suggest reporting at Master Fund only and noting the Feeder funds as included in the reporting. This would reduce the number of reports to one fund family.

Categories of investors

Regarding the different "Investor Groups" in Annex IV, we find that the categories are too limited, and classify many investors a "Households", which the regulators consider as retail investors while households", while in practice being sophisticated high-net-worth individuals. Form PF has a broader scope for this question.

Concerns created by AIFMD II

AIFMD II includes additional periodic disclosures to investors that we do not consider proportionate. Article 23(4) of AIFMD II requires disclosure of: (i) the composition of originated loan portfolios - referring primarily to AIFs with a direct lending strategy, although these are not part of Invest Europe's mandate; (ii) all fees, charges and expenses borne directly and indirectly by investors; as well as (iii) any parent undertaking, subsidiary or SPV used in relation to AIF investments. These items are typically already disclosed to investors in one form or another as part of regular reporting or do not meaningfully improve investor transparency or understanding.

For (i) and (ii), investors already receive regular reports on portfolio performance and audited accounts, which disclose the composition of AIF investments and costs attributed to AIFs that are borne by investors. More granular disclosures, as required under (i) and (ii), would duplicate other existing investor disclosure regimes, including the costs and charges disclosure requirements under the Packaged Retail and Insurance-based Investment Products (PRIIPs) Regulation and the regulations for associated disclosures applicable to European long-term investment funds (ELTIFs).

If investors require more detailed disclosures regarding (i) or (ii), they can make such requests of AIFMs, typically through side letter. Such requests are common, especially from insurance or reinsurance undertakings, or entities with underlying investors that are such, as they require more prescriptive disclosures (usually quarterly) on portfolio composition to meet their own regulatory reporting and compliance obligations under Solvency II. These are typically provided in the industry template, known as the Tripartite Template.

Disclosures relating to (iii) risk causing investor confusion rather than adding to transparency. Structures used for AIF investments are driven by sensitive commercial and tax considerations, most of which are strictly confidential. These structures are also highly investment-specific and vary significantly from one investment to another. Collecting and synthesizing all structure-related data in a way that is informative for investors would be unduly burdensome. For these reasons, disclosures relating to (iii) would, in practice, be generic and largely descriptive.

4.5. Would proportional adjustments to valuation requirements, such as simplified policies for illiquid assets, reduced documentation requirements or greater flexibility in selecting external valuation systems, improve efficiency and competitiveness for mid-sized AIFMs? Yes/No/Don't know. Please explain. [textbox, max 5000 characters]

As in previous response, we propose to the European Commission not only to alleviate rules for smaller managers but also to consider tailoring the AIFMD to the reality of large equity investments funds. The two are as relevant as each other:

1. **<u>Simplified regime for mid-sized managers</u>**

Yes, we would welcome some simplification of the AIFMD valuation rules, noting that these rules are generally in line with industry practices and what is expected from institutional investors committing capital to the asset class.

Some private equity funds (especially the early to mid-stage segment) could benefit from a simplified valuation approach for following reasons:

- their investment policy is focused on investing relatively small tickets in many enterprises to be statistically able to identify the one unicorn who will make up the return against the many losses that will be incurred on other investments. Consequently, these funds often tend to have a larger number of portfolio company investments compared to other AIF asset classes.
- these managers often have regular fund-raising rounds, providing a market data point every 2-3 years at least.
- Information availability is typically lower making it relatively costly to perform valuations as information discovery is a challenge. And especially costly relative to the ticket size.
- Information availability or the lack thereof renders reporting valuations based on fair value & similar value definitions inherently subject to significant estimation uncertainty.

Given the above reasons, a simplified approach towards ensuring that valuations are updated every 2-3 years would make sense for that asset class, especially given the relative materiality of each investment and the relative large number of investments will make that a significant portion of the portfolio assets would see an updated valuation every year.

The updated valuation could occur at each new funding round or if there is no new funding round after a period of 3 years, either because the enterprise has reached a state of being cash flow positive or else because it landed in an adverse scenario.

The reduced valuation frequency and simplified approach would however need to come with certain requirements to instill confidence and trust from investors. Namely, whenever a valuation is updated following a financing round, it is critically important to consider the different shareholder classes rights which usually appeals to complex valuation methods such as PWERM and OPM. An additional requirement is to have clear valuation documentation requirements at each NAV, ensuring that assets continue to be monitored even where full valuation updates are less frequent..

2. Tailored regime for long-term equity managers

Targeted improvements to the valuation regime would enhance investor protection while reducing unnecessary operational burdens on mid-sized AIFMs. Here are our suggestions:

1) External valuer liability and compliance concerns

First, it is important to flag that the use of external valuers is relatively rare in the private equity and venture capital asset class, precisely because the valuation of illiquid assets often requires a detailed understanding of the underlying businesses and markets. In most cases, valuations are therefore performed internally by the AIFM using recognised industry methodologies (such as

the IPEV Guidelines), subject to internal governance processes and external audit review. For large groups, the fact that an external valuer has to be independent from the AIFM and other persons with close links to the AIFM means that sometimes in PE/VC firms, an affiliate where the right specialists are cannot carry out the valuation process, for example, as a delegation. This is unfortunate if the valuation specialists in a group sit in an affiliate.

The liability regime under Article 19(10) of the AIFMD (*all cited articles in this response shall refer to the AIFMD, if not indicated otherwise*) discourages external valuers from accepting mandates from our members through a combination of: (*1*) unlimited and uncapped liability exposure; (*2*) a negligence standard that varies by jurisdiction and that may be interpreted to include minor professional errors; (*3*) the unavailability of professional indemnity insurance for unlimited liability exposure; and (*4*) the inability to contract out of the statutory liability regime. The consequence of this liability regime is that many AIFMs are unable to find external valuers to provide the required independent valuations, or can only do so at significant additional cost. This runs counter to long-established investor protection and good corporate governance practices and adds unnecessary costs.

Article 19(10) explicitly provides that the external valuer's liability applies "irrespective of any contractual arrangements providing otherwise." This means that AIFMs and external valuers cannot negotiate a liability cap between themselves, even where such a cap would be reasonable and proportionate. Contractual liability limits are commonplace in the legal and auditing professions, yet they are not permitted for external valuers under the AIFMD. A prudent AIFM should be permitted to ensure that the limit agreed with any professional adviser is proportionate to the risk of receiving incorrect advice.

We support ESMA's recommendation that the definition of "negligence" in Article 19(10) should be limited to "gross negligence" in the legislation. We further recommend that Article 19(10) should be amended **to permit AIFMs and external valuers to agree reasonable and proportionate liability caps,** subject to: *(a)* disclosure of such arrangements to investors; *(b)* minimum liability thresholds proportionate to the value of assets being valued; and *(c)* a requirement that the external valuer maintains adequate professional indemnity insurance. This approach would protect the positions of investors, AIFMs, and professional advisers while removing a significant barrier to the availability of qualified external valuers in the market.

2) <u>Mismatch between the AIFMD valuation requirements and long-term fund characteristics</u>

The current requirement for annual NAV calculation is particularly ill-suited to closed-ended AIFs investing in illiquid assets. Article 19(3) already recognises that closed-ended AIFs should conduct valuations on each occasion of an increase or decrease in the capital of the AIF. The absence of a significant number of transactions means that annual NAV calculations are subject to significant uncertainty, reducing their utility as a measure of fund performance or asset value while still imposing substantial compliance costs on our members. In addition, the challenges resulting from such requirement include: (*1*) the fundamental mismatch between annual reporting cycles and multi-year investment horizons; (*2*) the operational costs and complexity of valuing assets without observable market prices; (*3*) the J-curve effect creating misleading impressions of early underperformance; (*4*) the denominator effect discouraging institutional investments (i.e., when fluctuations in an institutional investor's total portfolio value cause their

percentage allocation to illiquid assets to exceed regulatory caps—even without any change in the value of those illiquid investments themselves); and (*5*) the disproportionate burden on smaller AIFMs who lack the resources to maintain independent valuation functions.

Our members therefore call for a **more proportionate approach to valuation requirements for long-term funds holding illiquid assets** (as is applicable for sub-threshold AIFMs), with a valuation frequency aligned with the liquidity profile and investment horizon of the fund product managed by the mid-sized AIFM. Closed-ended AIFs with illiquid assets should not be subject to additional annual valuation requirements where there has been no capital event during the relevant period.

3) <u>Guidance on valuation models and methodology requirements</u>

The valuation models and methodologies used by our members naturally come with the inherent subjectivity of Level 3 measurements for illiquid assets (under accounting standards such as IFRS or US GAAP); the potential for bias in internal valuations; complex model governance and validation requirements and the documentation burden.

There must be clearer guidance on acceptable valuation methodologies for different illiquid asset classes (e.g., venture, private equity and private debt), e.g., based on the IPEV Guidelines but tailored for the valuation of such asset classes (e.g., selection of appropriate comparables, cash flow projection periods, terminal value assumptions).

The documentation burden for valuation models and methodologies should be proportionate to the complexity and materiality of the assets being valued. For illiquid assets with unobservable inputs requiring Level 3 measurements, full documentation of model assumptions, validation, and sensitivity analysis remains necessary due to higher valuation risk. However, even for these assets, the documentation burden should be reduced through the use of standardised templates and centralised model inventories.

We recommend that **AIFMs using industry-standard methodologies, such as the IPEV Guidelines for private equity and venture capital, should benefit from deemed compliance with model validation requirements**. This would reduce the need for individual model validation documentation where the AIFM can demonstrate that it is applying a methodology that has been developed and validated by recognised industry bodies. The AIFM would still need to document its application of the methodology to specific assets, but would not need to separately validate the underlying model framework.

4) <u>Functional independence requirements</u>

The requirement for functional independence in the valuation process under Article 19(1) has proved challenging for mid-sized AIFMs. The AIFMD has required them to re-organise or expand their internal structures or appoint an external valuer in order to ensure compliance.

Most mid-sized AIFMs do not have the personnel resources to perform a truly independent in-house valuation, nor the financial means to employ additional personnel with the appropriate level of experience to fully address the requirements of the AIFMD. The costs, complexity, and operational requirements associated with maintaining independent functions and separate

senior management for compliance, risk, and valuation are prohibitively high for all but the largest asset management firms.

We recommend that **clearer guidance be provided on what constitutes adequate functional independence for mid-sized AIFMs**. Smaller and mid-sized AIFMs should be permitted to satisfy independence requirements through documented controls and conflict management procedures rather than strict organisational separation. The guidance should recognise that AIFM's expertise is often essential for valuing early-stage companies and that complete outsourcing of valuation judgments is impractical. Where the AIFM performs valuations internally, the focus should be on ensuring that appropriate checks and balances exist, including oversight by senior management not involved in portfolio management, rather than requiring separate valuation teams.

5) Harmonisation

Finally, Article 19(2) allows for "gold-plating" by member states and thus may create an uneven playing field within the EU. Since valuation is crucial for investor protection, it should not be possible for member states to deviate in ways that create unnecessary operational divergence between otherwise comparable market participants and thus for AIFMs to make use of regulatory arbitrage.

Unified rules in the AIFMD would create a level-playing field within the EU and would additionally ease handling of the rules for NCAs with level 2 and level 3 guidance by ESMA, resulting in an overall benefit of enhanced legal certainty and less regulatory arbitrage.

6) The question of third part AIFMs

For third-party AIFMs, investment managers have tended to maintain responsibility and control over their valuation processes, irrespective of what the third-party AIFM is doing. In many cases, what the third-party AIFM does is redundant next to what the investment manager does. Reducing some of the burden on third-party AIFMs may improve their efficiency and reduce friction in the valuation process with the investment managers.

4.6. Which AIFMD remuneration-related requirements, if any, disproportionately affect mid-sized AIFMs, and how? Which proportionality measures, if any, warrant particular consideration and what cost savings would they imply? [textbox, max 5000 characters]

The current AIFMD remuneration framework, initially developed in the aftermath of the global financial crisis and largely inspired by prudential models applicable to leveraged financial institutions and liquid trading strategies, does not sufficiently reflect the economic characteristics of closed-ended private capital strategies such as venture and growth funds.

While the objectives of sound risk management and investor protection are fully supported, the application of prescriptive payout process rules (including deferral, instrument-based remuneration and retention requirements) appears disproportionate in the context of closed-ended private capital funds operating under whole-fund waterfall models. In such structures, remuneration (and in particular carried interest) is inherently long-term, subordinated to investor returns and typically subject to contractual clawback mechanisms. As a result, the core policy objective underpinning these rules (namely the mitigation of short-term risk-taking incentives) is

already structurally addressed. In closed-ended private capital funds, the remuneration cycle is therefore inherently aligned with long-term investor outcomes, often over investment horizons of eight to twelve years, which substantially exceeds the deferral horizons envisaged by the AIFMD remuneration framework.

This structural misalignment is particularly acute for mid-sized EU AIFMs. Positioned between the small AIFM regime and the scale advantages of large global asset managers, mid-sized venture and growth managers face fixed compliance costs that are disproportionate to their organisational size and resources. Unlike larger institutions, they must implement comparable remuneration governance frameworks, monitoring systems and documentation processes without the benefit of dedicated internal infrastructure or economies of scale.

The burden is further exacerbated by the cyclical nature of private capital business models. Over recent years, many mid-sized managers have experienced prolonged fundraising cycles and periods of reduced management fee income, including phases where legacy funds were generating declining fees following the investment period while successor funds had not always been successfully launched. In such contexts, remuneration compliance costs can represent a material operational constraint, directly affecting firms' ability to retain talent, sustain platform development and continue deploying capital into the European real economy.

By comparison, in major non-EU jurisdictions, remuneration arrangements for private capital managers are primarily governed by partnership structures, fiduciary duties and disclosure obligations, rather than prescriptive payout process rules. This difference contributes to a structural competitiveness gap and may affect the EU's ability to foster globally competitive venture and growth ecosystems.

Against the backdrop of the EU competitiveness agenda and the Draghi Report's call for regulatory simplification, capital market deepening and enhanced support for innovation financing, the consultation provides an opportunity to recalibrate the remuneration framework in a targeted and proportionate manner.

In particular, we suggest to:

1) **Recognise carried interest and whole-fund waterfall mechanisms as inherently long-term alignment structures**

A clear carve-out should be introduced in the AIFMD legislation to reflect that carried interest mechanisms benefit from an explicit proportionality carve-out, elevating in the legislation the practice that most Member States with large private equity markets have already implemented nationally. Introducing explicit safe harbors would allow the disapplication of payout process rules (including deferral, instrument-based remuneration and retention requirements) for closed-ended, unleveraged private capital funds that have whole fund waterfalls or waterfalls that take into account whole fund performance or write offs across the fund's portfolio

2) **Establish a clear proportionality tier** (e.g. AIFMs managing below EUR 3 billion in AuM)

Under this tier, mid-sized AIFMs will benefit from simplified (or no) remuneration expectations and proportionate governance, identified staff and delegation requirements;

3) **clarify that remuneration funded from predictable management fee income does not raise the prudential concerns** underpinning payout process requirement

In many private capital managers, a significant portion of staff remuneration is funded from stable management fee income rather than performance-based remuneration linked to short-term investment outcomes. Clarifying that such remuneration does not fall within the prudential rationale underpinning payout process rules would improve proportionality while preserving sound governance principles. Such targeted adjustments would preserve governance and conflict-management safeguards while reducing unnecessary compliance costs, supporting the scaling of mid-sized managers and strengthening the EU's capacity to mobilise venture and growth capital in support of innovation, competitiveness and long-term economic growth.

Please read our full side position paper for more details.

4.7. How could the current authorisation requirements for mid-size AIFMs, such as organisational structure, key personnel, systems, etc. be adapted or streamlined for mid-size AIFMs, without undermining investor protection or the effectiveness of regulatory oversight? Which adjustments, if any, would you find most appropriate and what cost savings would they imply? [textbox, max 5000 characters]

The authorization periods for new AIFMs currently take too long, so that AIFMs incur prohibitive set-up costs. This is also amplified by supervisors requesting to have all functions of the AIFMs in place before authorization.

For example, we would suggest ideas like a limit to the authorization process to 6-months, or the introduction of "silent procedures" (if no substantiated objection is raised by the competent authority within this period, the authorisation would be deemed granted). These should also not be circumvented by the supervisory through "draft filings". Instead, a "close supervision" scheme should be contemplated for AIFMs within their first year of operations, including close off- and on-site supervision.

We also suggest reconsidering the overly rigid obligation to **have two full-time responsible executives for mid-sized AIFMs where the nature, scale and risk profile of the business do not justify such a model.** This obligation is particularly costly on firms of around € 500 million of AuM that have on average 10 to 15 employees. With specific national implementation, the obligation effectively forces the manager to hire two external individuals, raising the salary cost by 10 to 20%.

Organisational and internal policy requirements could also be streamlined for mid-sized AIFMs. Where investors are predominantly professional and strategies are closed-ended, simplified governance and record-keeping requirements should apply. In particular, duplicative documentation or reporting obligations should be eliminated.

Redefining the concept of passporting

Freedom of doing services should be guaranteed. Currently, AIFMs face unnecessary complexity when engaging in cross-border activities, as the passport is often tied to the jurisdiction and legal form of the AIF, rather than the status and compliance of the AIFM.

A simplified cross-border passport to allow mid-size AIFMs to conduct any of their operations on a cross-border freedom of services basis in any EU Member States, without additional requirements connected to where the AIF is established, would avoid duplicative registration and reporting obligations, ensure consistent standards, and make cross-border activities more accessible for mid-size managers. Investor protection and regulatory oversight would also remain robust, as the AIFM's authorization and ongoing supervision would ensure compliance with AIFMD's core investor and transparency standards wherever the AIF is managed or marketed. This would also be more consistent with the single-market logic underpinning the AIFMD passport framework.

Recalibrating the cross-border passport regime in this way would reduce administrative burden, and lower costs, while maintaining effective regulatory oversight and investor protection.

To enable mid-size AIFMs to deploy resources even more efficiently, the cross-border passport should recognise the global mobility of AIFM staff. Tax considerations aside, the cross-border passport should allow staff performing any functions of the AIFM to operate from a different jurisdiction than that of the AIFM. This is particularly relevant in light of digital developments and the ease of travel, which now make such working arrangements indistinguishable from situations where staff perform the same functions in the jurisdiction of the AIFM.

Staff mobility does not compromise investor protection or regulatory oversight, as all AIFM activities remain subject to the AIFMD framework, including rules on delegation, oversight, and compliance. The AIFM retains responsibility and accountability for all functions performed by its staff, regardless of their physical location.

Whilst we appreciate that there may be a minimum level of substance required in the home jurisdiction of the AIFM to ensure that the AIFM is not a letter-box entity, in line with the fundamental principles of the AIFMD, once that minimum is met, there should be no prohibition on the AIFM performing its functions on a cross-border basis. This should apply whether staff are performing any of the AIFM's core investment management functions - portfolio management or risk management, as outlined in Annex I of AIFMD - from another Member State, or are carrying out ancillary activities, including AIF marketing and investment-related functions such as sourcing or monitoring portfolios.

Such ancillary activities should also be passported independently of where AIFs are managed, in line with single market principles.

We disagree with the ESMA Q&A (last updated on 14 June 2023) position on this which restricts an AIFM's ability to passport ancillary activities into a host Member State unless it also manages AIFs there. This means that staff based in a host Member State who solely market interests (or perform other ancillary activities in respect) of an AIF managed from the home Member State are prohibited from performing their roles in that jurisdiction. This restriction is unduly limiting and inconsistent with the EU single market principle, especially the freedom to provide services across borders.

The Treaty on the Functioning of the European Union (TFEU) guarantees the rights of authorised firms to provide services throughout the EU, without unnecessary barriers tied to the location of core activities. Linking passporting of ancillary functions to the presence of core management

activities in a host Member State undermines this freedom, creates artificial limitations, and restricts AIFMs from managing AIFs efficiently in the best interests of the investors.

Such restrictions fragment the internal market, increase administrative burdens, and discourage cross-border service provision. The AIFMD passport is designed to allow authorised AIFMs to operate freely and consistently across all Member States, provided they comply with investor protection and regulatory standards. The proposals above would bring the cross-border passport into closer alignment with this objective.

4.8. Would a lower frequency or amended scope of audits compared to the current AIFMD requirements be appropriate for mid-sized AIFMs, notably those investing in private assets such as unlisted companies? Yes/No/Don't know. Which adjustments, if any, would you find most appropriate and what cost savings would they imply? [textbox, max 5000 characters]

No.

Audit rules are broadly proportionate (minding our general comments on valuation rules).

We note that Member States have sometimes put in place measures requiring audits of the asset managers at different stages of the registration or authorisation processes or throughout the operation of such firms. These should be prohibited during the simplification of the authorization process.

4.9. Would you see significant burden reduction potential for mid-size AIMFs with regard to AIFMD governance-related provisions (other than remuneration)? Yes/No/Don't know. Which adjustments, if any, would you find most appropriate and what cost savings would they imply? [textbox, max 5000 characters]

Although we understand and appreciate the motivations underlying the AIFMD requirements in respect of anti-asset stripping and portfolio company notifications, our view is that these requirements are unnecessary in the context of private funds. It is not clear how they have provided any benefits to Europe's financial markets or to the wider real economy. Given the unnecessary burden which they impose on the sector, we consider that Articles 26-30 AIFMD should be removed.

(a) Anti-asset stripping requirements (Article 30 AIFMD)

The anti-asset stripping rules restrict distributions from a target group that includes EEA companies for two years from the acquisition of control of the EEA entities.

Company law in individual EU Member States provides restrictions which limit distributions and require reserves to be retained on an ongoing basis. Consequently, corporate law regimes across the EU contain limitations which overlap significantly with the AIFMD anti-asset stripping rules. Given that similar restrictions already apply under company law, we consider that the AIFMD rules do not significantly contribute to increased protection for European companies against asset stripping.

While substantively duplicating aspects of company law, the AIFMD anti-asset stripping requirements go further by imposing disproportionate obligations on PE, VC, and infrastructure firms that do not apply to other categories of acquirer, including companies inside and outside the financial sector. This uneven focus imposes burdensome restrictions on private funds which do not take into account the broader reality of M&A activity across the economy, where other acquirers are not subject to equivalent rules. Similarly, we are not aware of equivalent restrictions on private funds in non-EU jurisdictions such as the United States, Asia-Pacific countries, or other major fund domiciles. Therefore, we believe that the additional requirements imposed by the AIFMD anti-asset stripping regime are potentially harmful to EU competitiveness and growth.

Private equity, venture capital, and infrastructure investments are intended to encourage growth and add value to portfolio companies over time. Interests in PE, VC, and infrastructure funds are long-term investments which are held for several years while the underlying businesses are strengthened and expand. The rationale for these investments is to add value to portfolio companies. Consequently, by effectively removing such value, any activity involving "asset stripping" would run counter to the aims of these investments. In our view, the AIFMD anti-asset stripping regime is counter-productive and unnecessary as it reflects a fundamental misunderstanding of the business model of our member firms.

Furthermore, the restrictions have a significant and unnecessary impact on deal structuring and exits. Sponsors are required to consider structuring carefully at an early stage to avoid inadvertently falling foul of the requirements, especially given the lack of clarity in relation to aspects of the AIFMD regime. In particular, any planning for reorganisations or restructuring, or for dividends or redemptions that would otherwise be in the ordinary course of business, early in the cycle needs extensive review. The rules impose additional administration and costs incurred in interpreting and complying with the regime while delivering no clear benefits.

Moreover, the rules apply to non-EEA AIFMs whose funds are registered to market in the EEA as well as funds managed by EEA AIFMs. The cost of the requirements increases the barriers to entry for funds marketed by non-EEA AIFMs, which reduces the availability of these products for EEA investors. Consequently, the rules have a negative impact on investors as well as on AIFMs, thereby placing the EU at a competitive disadvantage compared with other fund jurisdictions.

(b) Portfolio company notifications (Articles 27-29 AIFMD)

Notifications must be filed with regulators whenever an AIF crosses a threshold (10%, 20%, 30%, 50%, or 75%) by acquiring, increasing, reducing or disposing of an interest in a non-listed EEA portfolio company. AIFMs must also ensure that company boards inform employee representatives (or, where none are available, employees) about acquisitions. In addition, where control is acquired of an EEA non-listed company, AIFMD requires AIFMs to submit notifications within 10 working days of completion to regulators and the target company and its shareholders. Notifications are further required in respect of the acquisition of control of an EEA incorporated and listed company.

These notification requirements impose a significant burden on PE, VC firms, and infrastructure firms, especially in respect of acquisitions involving multinational groups comprising multiple entities and a range of Member State regulators. This can be especially time-consuming for non-

EEA AIFMs marketing funds into the EEA which may be required to submit notifications to regulators in multiple Member States. Since the inception of the AIFMD regime, the rules have required the industry to monitor control thresholds and have generated a significant number of notifications which are sent to stakeholders including regulators, target companies, and shareholders. The burden of tracking thresholds and submitting multiple notifications is widely considered to be disproportionate when compared with the hypothetical benefits of these requirements. In addition, it is not clear what use is being made of the data provided to regulators and whether target companies and shareholders actually benefit from receiving formal notifications of this kind. We note that at least two European regulators, namely, the Netherlands regulator AFM and the UK Financial Conduct Authority, have previously queried whether they should receive these notifications. This further suggests that the practical supervisory value of the current notification regime is limited compared with the administrative burden it generates for AIFMs.

4.10. Please rate the potential measures mentioned in this section based on how positive or negative of an impact on the scaling up and cross-border activity (where applicable) of mid-size fund managers you would expect from them. Please rate each item from -2 to 2, with -2 standing for "significant negative impact", 0 for "no impact" and 2 for "significant positive impact":

Simplified and more proportionate depositary requirements	+2
More proportionate authorisation requirements, e.g. adapted to the size, risk profile and/or other factors of mid-size AIFMs	+2
Additional proportionality in risk-management	+2
Additional proportionality in liquidity management requirements	+2
Additional proportionality in stress-testing requirements	+1
Streamlined Annex IV reporting, leverage reporting and regulatory disclosures	+2
Proportional adjustments to valuation requirements	+2
Simplified remuneration requirements	+2
Streamlined or adapted authorisation requirements	+2
Lower frequency or amended scope of audits	+1
Simplified governance-related provisions (other than remuneration)	+1
Other measures; please elaborate [textbox]	

4.11. How do the EU and national cumulative regulatory costs faced by mid-sized EU AIFMs compare to those of non-EU competitors, which provisions are responsible for the largest part of these costs, and which targeted alleviations would most improve the international competitiveness of such EU-based managers? [textbox, max 5000 characters]

The UK and the US remain the primary relevant jurisdictions for asset managers and private capital platforms seeking to scale internationally. While the UK regulatory framework remains closely aligned with the EU AIFMD regime, the UK Financial Conduct Authority is currently reviewing the future regulation of alternative fund managers with the stated objective of enhancing proportionality and the global competitiveness of the UK regime. The FCA has indicated that a detailed consultation setting out potential reforms to many of the areas covered in this response is expected in July 2026. These developments should be closely monitored and, where appropriate, reflected in the evolution of the EU AIFMD framework to ensure that EU-based managers remain competitive in global private capital markets.

At the same time, the global nature of private capital markets means that regulatory interoperability between major fund jurisdictions is increasingly important. Many EU and UK private capital managers raise capital from international investors and deploy it across multiple jurisdictions through internationally structured funds. Maintaining broadly compatible and proportionate regulatory frameworks helps reduce duplication of compliance processes, legal uncertainty and operational complexity for managers operating cross-border. Ensuring that the EU framework remains both competitive and interoperable with other leading jurisdictions will therefore be important to support the international scaling of EU-based managers.

Mid-sized EU AIFMs face higher cumulative regulatory costs than comparable US and UK managers. Generally, the main cost drivers for managers are depositary requirements, reporting obligations, and organisational and governance requirements. These costs are particularly burdensome for mid-sized managers, as many of the associated compliance costs are fixed and do not scale proportionately with assets under management.

These EU-level costs are further compounded by stricter or diverging national interpretations and a multiplicity of registration and supervisory fees across Member States. This places EU managers at a disadvantage

In our view, marketing registration and supervisory fees could be streamlined and applied in a transparent and proportionate manner.

Targeted alleviations that would most improve the international competitiveness of EU-based managers include (i) greater proportionality in depositary requirements for private asset funds, (ii) streamlining reporting and other regulatory reporting obligations, (iii) simplifying authorisation processes and governance requirements for mid-sized AIFMs and (iv) greater alignment of supervisory practices and marketing notification procedures across Member States.

Taken together, these targeted adjustments would reduce cumulative regulatory costs while preserving the core investor protection and supervisory objectives of the AIFMD framework.

4.12. To what degree would more proportionate requirements applicable to mid-size AIMFs (assuming the elements mentioned in this section of the consultation were revised) lead to the following impacts? ("1: "Negligible impact", 2: "Limited impact", 3: "Moderate impact", 4: "Large impact", 5: "Very large impact")

Lower cost of operating investment fund vehicles	5
Faster processes, leading to faster deployment of capital	5
Greater cross-border fundraising activity	5
Greater cross-border investments (in underlying markets)	3
As a second-order effect, increased investments into EU real economy	5
As a second-order effect, reduced fees for end investors / limited partners	3
Potential adverse impacts on legal certainty or market integrity	1
Potential adverse impacts on effectiveness of supervision	1
Potential adverse impacts on investor protection	1
Potential adverse impacts on level playing field	1
Other impacts - please specify, including potential negative impacts	

Section 5: Functioning of the EuVECA and EuSEF frameworks

5.1. To what extent do you agree with the following statements regarding the functioning of the EuVECA framework? ("-2: "Fully disagree", -1: "Disagree", 0: "Neutral or no opinion", +1: "Agree", +2: "Fully agree"). Please explain and where possible, support your statements with evidence or examples:

The EuVECA framework has been successful in achieving its objective of creating a European system for the cross-border fundraising of venture capital funds	**+1**
Agree, EuVECA has been very helpful in achieving this objective because it offers sub-threshold managers a route to raise capital cross-border without full AIFMD authorisation. The review should therefore strengthen the regime rather than dilute it into a horizontal label. The priority should be to preserve its focused identity while removing operational frictions, national gold-plating and	

targeted eligibility constraints that currently limit its use in practice. Cross-border fundraising is however be hindered by the absence of a clear management passport.

As a general remark, we feel that EuVECA is playing an important role that could be strengthened as part of this review.

The ambition should be to make the passport:

- more agile in terms of investment opportunities – while keeping its general focus on investments in unlisted businesses and avoiding a transformation into a broad horizontal regime (we oppose some of the more "original" ideas laid out in this consultation)
- more flexible on some of the requirements (on own funds in particular) – while keeping the existing structure
- more relevant to managers based in Member States where AIFMD rules have been goldplated – by removing said goldplating and by simplifying and better aligning authorisation processes
- more relevant to mid-sized managers by allowing them to waive AIFMD rules when using the EuVECA

Managers who wish it so should also be able to use the EuVECA as a **full management passport**, as opposed to simply a label for their funds. The exact way to create such a passport should be considered carefully, and without doing a full revamp of the EuVECA framework.

The costs of launching and operating a EuVECA and the regulatory and administrative burdens are appropriate	**+1**

Explicit requirements in the Regulation are broadly appropriate but in practice the costs of launching and operating a EuVECA are too often increased by national implementation, de facto authorisation processes, overlapping reporting and supervisory fees (see below). The issue is therefore less the Regulation itself than the way it is applied in some Member States.

Given that EuVECA is established by a directly applicable EU Regulation, national measures that effectively introduce additional requirements risk undermining the uniform application of the framework. The Commission should therefore take active steps in securing consistent implementation across Member States, including through supervisory convergence and the use of its enforcement powers under EU law, including infringement procedures under Article 258 of the Treaty on the Functioning of the European Union (TFEU). We feel the European Commission has the tool to take action against Member States, even without legislation, to make EuVECA a bigger success.

The requirements imposed on EuVECA managers are proportionate to the benefits of having a marketing passport.	- **1**

The label regime is generally very flexible but national goldplating is affecting the passport in a very significant way.

In many countries, regulatory requirements for EUVECA managers have become much more AIFMD-like, as if funds or their managers were fully regulated. The amount of reporting, the number of required policies (even when not directly required by law), and the number questions being

asked is high, with often overlapping reporting on similar topics and requests of format that mean the information can only be provided by an external provider, charging high fees.

Moreover, the fact that the oversight of service providers is required at the level of the manager leads to inefficient duplication of work.

In some Member States, such as Portugal, it is effectively impossible to use EuVECA if you are only a registered manager. As part of the current review of its national framework, Italy envisages to prevent registered-only managers to become EuVECAs – which could put it in breach of the EuVECA Regulation.

Because of this, EuVECA is an easy-to-use marketing passport in Member States which have implemented AIFMD-inspired sub-threshold regimes. In countries where the regulator implements current rules appropriately, the experience is significantly more positive.

The original objective of the EuVECA Regulation to create a European system for the cross-border fundraising of venture capital funds remains relevant today	**+2**

For all sub-threshold managers meeting the eligibility conditions, EuVECA is the only route to actively market cross-border at EU level (managers can also rely on national private placement regimes). As such, its importance is vital to the venture and growth ecosystem.

We in fact argue that EuVECA must remain an important alternative to the creation of a sub-threshold framework, by giving certain types of managers the ability to operate cross-border without the hassle of complex AIFMD requirements AND the hassle of complex national rules.

We also argue that transforming EuVECA into a different, much broader passport could have negative implications on VC and growth fund managers – as this passport is unlikely to be as flexible the current label.

Also for fully regulated managers the EuVECA passport is a very simple means to raise funds from sophisticated investors that are not professional investors under MiFID.

The EuVECA framework generally reflects well the needs of small-size AIF managers	**+2**

Yes, in theory, it reflects the need of small-size managers.

However, there are two important elements the European Commission should take into account:

- As mentioned above, national goldplating significantly affects the use of EuVECA
- EuVECA eligibility criteria bring legal uncertainty for third-country investments which are important for VC managers to be attractive for investors

The requirement that qualifying portfolio undertakings be located in jurisdictions having tax information exchange agreements aligned with Article 26 of the OECD Model Tax Convention with each Member State where the EuVECA is marketed (see our answer to Q 1.6)

- EuVECA eligibility criteria are too restrictive, deter some managers from using the framework, and make it irrelevant for some strategies, such as venture debt

Certain eligibility constraints make the framework less useful for some modern venture and growth strategies, including certain venture debt or quasi-equity approaches.

- The practical scope of the EuVECA passport could also be clarified to ensure that it effectively enables cross-border management of EuVECA funds across the Union, and not only cross-border marketing, clarifying that EuVECA managers can operate their funds on a pan-European basis without additional regulatory requirements beyond those already provided for in the EuVECA framework.
- In addition, consideration should be given to confirming that EuVECA funds should not be subject to additional retail disclosure frameworks such as the PRIIPs KID where the regime already provides a targeted framework for investors committing at least €100,000.

Removing this additional layer would help preserve the intended simplicity of the regime and reduce unnecessary compliance costs for small managers. Again, the solution here is to create a de minimis test for all investments in AIFs.

The EuVECA framework generally reflects well the needs of fund managers with AIFMD licence	**-2**

EuVECA is largely irrelevant to anyone already authorised under AIFMD, with the notable exception of the ability to market to sophisticated investors. The only benefit of EuVECA is having a cross-border passport, which AIFMD *de facto* provides.This is why there are very few EuVECAs in countries where sub-threshold fund managers are subject to AIFMD-like rules or where NCAs require EuVECA to *de facto* comply with most AIFMD requirements.

More fundamentally, the framework currently does not create meaningful advantages for fully authorised AIFMs wishing to launch funds under the EuVECA label. Authorised AIFMs should be able to benefit from the lighter product framework associated with EuVECA with respect to their EuVECA funds, including simplified marketing to investors meeting the €100,000 minimum commitment threshold, without automatically triggering the full set of AIFMD product-level requirements (for example depositary requirements) where the EuVECA regime already provides an appropriate and proportionate framework.

In addition, managers that have obtained a full AIFM licence should remain able to register EuVECA funds and benefit from the EuVECA regime, including where the AIFM authorisation was obtained prior to the EuVECA registration. The regime should therefore be structured in a way that allows EuVECA to function both as a scaling tool for emerging managers and as a flexible venture capital product regime within authorised AIFM platforms.

Strengthening the practical usability of EuVECA in this way would significantly increase its relevance for the financing of innovative companies and SMEs across the Union, and would support the broader objective of mobilising private capital towards the real economy and innovation ecosystems in Europe.

The EuVECA framework offers sufficient incentives for sub-threshold fund managers to launch and operate EuVECAs	**+1**
The main incentive for using EuVECA remains its marketing passport, including the ability it provides to market to entrepreneurs and high net worth individuals (a key need of the private equity industry as a whole, in light of the trading-oriented definition of a professional investor). This feature is particularly valuable because it allows long-term funds financing innovation and growth to access a broader pool of sophisticated private capital across the Union, including investors who are formally treated as retail investors under EU law despite being capable of making substantial commitments. For sub-threshold managers in particular, this cross-border marketing passport provides a practical route to raise capital across the Union without having to obtain full authorisation under the Alternative Investment Fund Managers Directive. Beyond this passport, however, the framework currently offers limited additional incentives: although the label is seen positively, its "VC" branding means it is harder to use for growth managers, which have to demonstrate to their investors they don't solely have a VC strategy. That said, if the reforms suggested above were implemented — in particular those aimed at reducing unnecessary regulatory frictions and ensuring that the EuVECA framework operates as a genuinely lighter regime — the framework would offer significantly stronger incentives. In that case, EuVECA could become a genuinely attractive tool both for emerging managers seeking to scale their activities and for authorised platforms launching venture and growth products. Against this background, consideration could be given to adapting the name of the passport or clarifying its positioning, while maintaining its focus on venture, growth and similar equity-oriented strategies meeting the eligibility criteria. Strengthening the EuVECA brand, replicating the UCITS success, could help make the label more popular and attractive to investors.	
The introduction of EuVECA framework, viewed in hindsight, has brought added value compared to national frameworks.	**+2**
EuVECA has brought added value as it allowed managers marketing cross-border, including to high net worth individuals. Its main interest – when this is effectively possible in light of the national frameworks - is that it completes these frameworks, allowing managers to continue operating nationally as a manager while having the ability to market one or several funds as EU. Most of the managers we have talked to have stressed the relevance of EuVECA as a way to avoid being AIFMD authorised. This feature of the passport should be kept at all costs. Preserving this function is essential, as it allows smaller venture and growth managers to build a track record and scale their activities progressively while still benefiting from access to investors across the Union. In this respect, EuVECA plays an important role in supporting the development of the European venture and growth ecosystem and contributes to improving the availability of financing for	

innovative companies and SMEs across the Union. We also understand there is a strong correlation between use of EuVECA and EIF financing.	
Distinct types of rules in the EuVECA framework (e.g. eligible assets, passporting, own funds, investor protection) are coherent with each other	**+1**
EuVECA requirements are broadly proportionate. We find that restricting eligible assets to investments in unlisted companies is generally appropriate, although some tweaks could be made including: - to eligible assets to reflect how venture and early growth funds invest; - to make the regime more attractive for venture and early growth funds considering whether to use the EuVECA regime at the start of their fundraise and so increase take up of the EuVECA regime; and - to allow modern VC funds with a debt strategy (i.e. venture debt) to also be eligible under specific conditions. The rules on third-country investments should be substantially simplified as they currently require an elaborate review of 27 tax information exchange regimes and thus entail much legal uncertainty. Investing in the UK and US is important for EuVECA managers to become and remain attractive for investors.	
The legal requirements for cross-border marketing / placement of EuVECAs on a cross-border basis is adequate and appropriate	**+1**
The marketing passport, which is straightforward in principle, can however be hindered by complex authorisation processes at national level (see comments below). First-time sub-threshold managers, in particular, frequently lack the human and financial resources to complete a EuVECA registration (or obtain AIFM authorisation), due to the procedural complexity, expectations regarding organisational structures and function separation and associated cost (both capital requirement and advisor fees). As a result, they must incur the financial risk without any certainty regarding investor interest. This can explain lack of attractiveness of EuVECA in some cases. Also, certain NCAs interpret the EuVECA regime to permit a review of the documentation before forwarding it to the other NCAs resulting in a delay of multiple months before cross-border fundraising may be taken up.	
The absence of the management passport for EuVECA managers is appropriate	**-2**
The lack of a clear management passport is one of the key issues of EuVECA (see comments in other questions). From a legal perspective, **the absence of an explicit management passport does not necessarily mean that cross-border management of EuVECA funds is prohibited.** Under the general principles of EU law and the freedom to provide services within the internal market,	

activities that are not expressly restricted should remain permissible. In practice, however, the absence of explicit clarification creates legal uncertainty and divergent supervisory interpretations across Member States. This reduces the practical usability of the regime for managers seeking to operate venture and growth funds on a pan-European basis.

Clarifying that EuVECA managers may manage their EuVECA funds across the Union without additional regulatory requirements beyond those already set out in the EuVECA Regulation would therefore materially improve the scalability of the regime. Providing this clarity would also align the EuVECA framework with the broader European objective of strengthening capital markets integration and supporting the scaling of innovative companies and SMEs across the Union.

The scope of eligible investment assets under the EuVECA regime is appropriate (including the geographical limitations, the scope and concept of "qualifying venture capital fund", "qualifying portfolio undertaking", "qualifying investments", etc.)	**+1**

There are some targeted improvements that could be made to make the framework more flexible (for example, investments in fintechs, quasi-equity instruments, convertible instruments, venture debt or in larger businesses in specific situations).

However, we do not suggest increasing the passport beyond investments in unlisted companies and listed companies that have recently been IPOed.

The rules on third-country investments should be substantially simplified as they currently require an elaborate review of 27 tax information exchange regimes and thus entail much legal uncertainty. Investing in the UK and US is important for EuVECA managers to become and remain attractive for investors.

Own-fund, capital buffer or bank guarantee/insurance indemnity requirements applicable to EuVECAs are coherent and adequate	**-2**

No.

Setting own funds requirements for the small, venture capital fund managers for whom EuVECA is designed, is counterproductive, as it is a high cost with limited benefits. This is a clear example of a rule taken from more liquid assets whose relevance is questionable in an illiquid fund context.

The venture capital model is based on strict separation between the fund (which owns the underlying assets) and the fund manager (who carries out the business of investing into and developing those assets). This means that even if the manager ceases to do business the real assets are fully protected and the investors will simply appoint another manager to operate them.

High capital requirements on the fund manager therefore add no protection for the investor, nor for the underlying entrepreneurs or companies being backed. Nor would there be any financial stability concerns should a small venture capital manager be unable to continue to operate.

In light of this, an initial capital requirement of EUR 50,000 would be enough. This is provided this is only a capital / balance sheet test on investments rather than a requirement to maintain cash or

other locked liquid assets. If it were a requirement for cash or other liquid assets, this would only lock-up more capital that cannot be used productively.

Managers also take out PII policies to cover general investment risks: these policies should be deemed as an appropriate and proportionate safeguard in this context.

EuVECA's conflict of interests and co-investment rules are coherent and adequate	**0**
We have received no concerns on these rules.	
National measures and discretions and supervisory fees/charges charged to EuVECAs play a positive role in the functioning of the EuVECA regime	**-2**
Any discretions and fees act ultimately as barriers. There should never be any host fees or marketing fees in an EuVECA context.	
EuVECA fund rules are consistent with the current EU policy objectives, notably to increase financing available for startups and scaleups	**+1**

As mentioned above, EuVECA rules are broadly appropriate. There should however be specific amendments to allow investments in scale-ups – which can grow much beyond the 500 employees mark, especially if they want to compete globally.

The vast majority of companies financed by VC funds have less than 750 employees (only 34 of 6000 investments in single companies) – however that number goes up to 10% when looking at growth funds (375 investments). When looking at amounts invested (which is relevant for the 70% threshold), on average 6% of investments are made in companies with more than 750 employees. **For growth funds, that number goes up to 35%.**

In other words, EuVECA thresholds are too narrow to allow larger growth funds to be eligible to the passport.

EuVECA should therefore be amended to allow such investments, without necessarily increasing the number of employees thresholds (see detailed comments below). While eligibility criteria are assessed at the time of investment and companies may naturally grow beyond these thresholds thereafter, the current framework remains too restrictive for certain growth-stage investments where companies already exceed the thresholds at the time of entry but still require venture or growth capital to scale internationally.

In addition, modern venture and growth strategies increasingly combine equity investments with other financing instruments, including venture debt or quasi-equity structures used to support the scaling phase of innovative companies. Clarifying that such instruments can fall within the scope of qualifying investments would better reflect current financing practices while remaining fully aligned with the objective of increasing the availability of capital for start-ups and scale-ups across the Union.

The EuVECA Regulation grants EuVECA managers sufficient flexibility to pursue a broad range of investment strategies to finance EU innovation and growth	**0**

EuVECA is relatively flexible as it stands. While eligibility criteria are assessed at the time of investment and companies may naturally grow beyond the thresholds thereafter, the framework can still be restrictive for certain growth-stage investments where companies already exceed those thresholds at entry but still require venture or growth capital to scale internationally . EuVECA as a concept should also move away from VC exclusively and also focus on growth, including the ability to invest in listed companies just after IPOs.

We strongly **oppose an extension of EuVECA to real estate**. Real estate is not at all relevant to EU innovation financing and most real estate funds have strategies, such as the use of debt, that differ from traditional equity funds.

EuVECA could however be extended to investments in projects, i.e. in real or intangible assets. Such an extension should be carefully crafted not to lead to new obligations for fund managers but could be beneficial to infrastructure or small VC managers.

We invite the European Commission to find a balance between making the EuVECA suited to "modern" VC strategies, which may include venture debt in some cases, while maintaining the coherence of a regime whose core objective is to encourage investment in "real" businesses, and in particular start-ups and scale-ups. This would allow EuVECA managers the ability to innovate as the market for funding early stage businesses develops in the future, to compete against often better resourced and more lightly regulated US venture managers, and to support EU based businesses across their capital structure as they grow.

Please also see our important comments in Question 5 and earlier in this section regarding the practical issues created by the reference to the OECD Model Tax Convention, which can create unnecessary operational complexity for funds marketed across multiple Member States.

Supervisory practices within Member States, including fees and charges, pose hurdles to the operation of EuVECAs	**+2**

Sub-threshold AIFMs relying on the EuVECA framework have reported several inconsistencies in its application across Member States.

In some jurisdictions, the label is not fully recognised or additional conditions are imposed, undermining the ability of EuVECA managers to benefit from the intended ease of pan-European fundraising. These obstacles reduce the practical effectiveness of the passport and create an uneven playing field for smaller managers. Such divergences are particularly problematic given that EuVECA is established through an EU Regulation intended to create a uniform framework across the Union, and where the Commission already has tools to ensure consistent application across Member States.

For example, in Germany, EuVECA managers have to use fund structures designed for retail investors, which come with several added requirements at fund level.

The EuVECA could clarify that fund managers should have the choice of their fund structure. The EuVECA could clarify that fund managers should have the choice of their fund structure without

being required to adopt national structures designed for retail distribution where the EuVECA regime already provides a dedicated framework for investors committing at least €100,000.

5.2. To what extent do you agree that the following provisions or elements of the current EuVECA regime require legislative review? ("-2: "Fully disagree", -1: "disagree", 0: "Neutral or no opinion", +1: "Agree", +2: "Fully agree")? Please explain and where possible, support your statements with evidence or examples:

EuVECAs should be able to reach a higher AuM before being subjected to a full-scope AIFMD licensing requirement	**+2**
We fully support this idea, which should be one of the top priorities of the review. It is however worth flagging that, for this to be possible, EuVECA should be transformed into a fully fledged passport – as the current label applies to the fund and not the manager. In that context, EuVECA could effectively become a de facto separate regime, which could be used by both sub-threshold and above-threshold managers that meet certain conditions. Such an approach would allow the EuVECA framework to function both as a scaling tool for emerging managers and as a specialised regime for venture and growth capital strategies within larger platforms. This should be irrespective of the overall size of the manager: a large VC manager with a few billions of assets should be in a position to continue using the regime as long as it meets the EuVECA conditions. We suggest that what gives the right to the manager to remain sub-threshold even above the AIFMD threshold is not its size, but its specific investment policy (i.e.: investment in unlisted companies), which reflects the fundamentally different risk profile and long-term nature of venture and growth capital investments compared with other alternative investment strategies aligns with the relevance of this policy for the competitiveness of the EU economy. Maintaining access to a proportionate regime for managers pursuing such strategies would also support the broader European objective of increasing the availability of long-term capital for start-ups and scale-ups and strengthening the competitiveness of the EU innovation ecosystem.	
EuVECAs should have a broader flexibility to invest, including the ability to invest across the capital structure, fund-of-fund investments, indirect investments, investments in AIFs, employing master-feeder structures, etc.	**+1**
Yes, we support increased flexibility – see specific comments below.	
EuVECAs should have a broader flexibility to invest in, directly or indirectly, real assets, infrastructure, patents, intellectual property rights and any other	**+1**

assets related to and/or owned by eligible undertakings	
First, the typical investments made by VC and growth funds, as well as by infrastructure funds, remain equity investments in businesses. Extending the regime to a wide range of asset classes such as real assets or infrastructure could dilute the original purpose of EuVECA, which is to facilitate the financing of innovative companies and SMEs. Based on the feedback received from members, it is unclear to what extent the proposed changes would make a difference. Investments in projects or real assets are typical of the infrastructure community, but most infrastructure managers we represent are relatively large (larger than € 3 billion of assets, as a minimum) and would be unlikely to benefit from changes to EuVECA. The VC managers we talked to have not expressed a specific need to see patents and IP rights being included. This is because traditional VC funds are about investing in the control of companies (i.e.: where the investment ultimately relates to an operating company), not of assets. The Commission should therefore be careful that the inclusion of real assets, patents and other related assets does not lead to concerns from regulators that EuVECA would be opened to specialist funds whose model is effectively closer to other types of alternatives. From that perspective, the precedent of ELTIF is interesting – and could serve as a precedent – but has its limits: contrary to ELTIFs, EuVECAs are very simple structures whose core ask is to have a proportionate, i.e.: light, framework. If this extension – whose value is not entirely clear from a traditional VC perspective, is accompanied by new requirements, this could cause serious concerns as it could make the existing passport less relevant for those for whom it was originally created. Much more relevant would be the extension of EuVECA 1) to allow investments in larger businesses under specific circumstances (follow-on investments in scale-ups) 2) to allow investments in fintechs 3) to allow follow on investments (both defensive and opportunistic stake-building) after IPO exits 4) to make it easier for secondary funds and funds-of-funds to become eligible 5) to create a venture debt regime within EuVECA, potentially separate from traditional equity compartments (venture debt is different in form to VC, and a known market trend in the VC community) See our comments below in Question 5.3	
EuVECA managers would benefit substantially from the standardisation of registration requirements (e.g. pre-determined templates, deadlines, procedures, etc.)	**+1**
Yes – although some degree of flexibility should be left to cater to national situations, standardisation would make the process easier. In particular, the use of common EU templates, clearer timelines and more predictable procedures for registration would significantly improve	

the usability of the regime for small managers. We suggest that efforts on standardisation should first and foremost focus on EuVECAs, as opposed to all sub-threshold managers.

Strategically this could incentivise EU managers to choose the EuVECA passport to avoid being subject to AIFMD requirements.

EuVECA managers would greatly benefit from the reduced ability of Member States to exercise national discretions	**+2**

National discretions are **effectively making EuVECA irrelevant in some countries**. Removing national AIFMD-inspired sub-threshold regimes is therefore key for EuVECA to be relevant as a "lighter" regime.

Given that EuVECA is established through an EU Regulation intended to create a uniform framework across the Union, the scope for national discretions is meant to be extremely limited by nature. Divergent national interpretations and additional requirements undermine the effectiveness of the passport and create an uneven playing field for smaller venture capital managers seeking to raise capital across several Member States, and the Commission should ensure a consistent application of the Regulation across the Union.

5.3 With regards to the potential widening of the scope of investable assets and strategies under the EuVECA regime, how would you rate the expected overall impact of the following amendments? Please rate each item from -2 to 2, with -2 standing for "significant negative impact", 0 for "no impact" and 2 for "significant positive impact":

Broadening the scope of qualifying venture capital funds under EuVECA regulation	***2***

We suggest that the text should refer to "VC and growth funds" and not solely VC funds.

The restriction to invest only a certain percentage of the assets in companies with less than 499 employees is somewhat appropriate for a venture and growth passport that is of biggest relevance to small and mid-sized market players.

Nonetheless, as we flagged in answers to the previous question, the number of employee thresholds prevents investments in scale-ups.

There could be potential ways to make the passport broader, without diluting its nature, in light of the need to support the scale-up community.

One way to achieve this objective could be to allow investments in companies that have recently grown rapidly (i.e. scale-ups that once were start-ups), hereby allowing continuation of investments in successful growing businesses.

While EuVECA fund managers already have the ability to make "follow-on" investments in companies they have initially invested in, the reality is that different (and typically larger) venture capital firms will also join the initial VC manager(s) in the later funding rounds. This is logical as

business expertise will differ depending on the size of the company – and it is frequent that VC managers focus their portfolios on investments in companies of a certain size, on top of focusing on certain business sectors. Additionally, a VC manager will often establish separate growth or opportunity funds for follow-on investments in companies that they have invested in with their EuVECA funds as risk-return profiles vary. it should be possible to use the EuVECA regime for such growth or opportunity funds.

Making eligible investments into businesses that have recently grown would ensure that new VC firms can take the baton from old ones and allow EuVECAs to be focused on every type of innovative businesses. This will naturally incentivise later-stage funding rounds supporting future European champions.

This idea will transform the EuVECA into a true passport for anyone investing in start-up + scale-ups while avoiding the risk it would be used to finance large, well-established businesses.

In practice, it should be possible for Fund manager Z to invest in a large business provided that business met the initial criteria less a few years ago, irrespective of the fact that business was at the time only supported by Fund Manager Y. All information necessary to verify this would be publicly available as part of the companies' accounts and annual reports.

An alternative would be to use the new scale-up definition- but this should then be on top of the current "number of employees" threshold, not replacing it.

Removing or relaxing the 70% (qualifying investments) and 30% (other assets) thresholds and allowing more concentrated investments	**1**

This should not be a priority compared to increasing the ability of larger VC and growth managers to operate under the regime, provided that the third-country regime is simplified.

Modest reductions of the 70% qualifying investments requirement and the 30% of commitments cap for loans to qualifying portfolio undertakings are likely to increase the use of the EuVECA regime by managers at the start of their fundraising who are required to assess their current and future deal pipeline, likely incidence of investment in non-qualifying jurisdictions, and non-qualifying investments in secured debt in turnaround situations or similar. Reducing the 70% threshold to 60%, increasing the 30% cap on loans to portfolio undertakings to perhaps 40%, and removing the requirement that a qualifying investment has to be made in a portfolio company before a qualifying loan is made, should reduce concerns from potential EuVECA managers around the investment restrictions.

It is however important that the threshold remains as high as it currently is to avoid managers with a different strategy to use the regime and maintain its coherence and flexibility. Please also see our comments on Question 1.5 on the application of the rules.

Finally, as mentioned above, certain practical elements linked to the application of the 70% qualifying investment threshold could be clarified. In particular, the requirement that qualifying portfolio undertakings be located in jurisdictions having tax information exchange agreements aligned with Article 26 of the OECD Model Tax Convention with each Member State where the EuVECA is marketed can create unnecessary operational complexity for funds marketed across

several Member States. Simplifying or reconsidering this condition would significantly improve the practical usability of the regime without undermining the objective of ensuring transparency and proper tax cooperation.

Allowing to also invest in quasi-equity	**2**

EuVECA, or at least an equity component if venture debt strategies are recognised alongside it, should remain an equity passport. However, it is important that the definition of equity also better acknowledges industry practices.

Venture and early growth managers often invest in convertible instruments that convert on a later funding round, including shareholder loans, convertible loan agreements (CLAs), SAFEs (Simple Agreement for Future Equity) and SAFTs (Simple Agreement for Future Tokens). The current definition of "quasi-equity" in the EuVECA framework requires both a combination of equity and debt, and that the return on the instrument is linked to the profit or loss of the portfolio company – while a purposive holistic pre-and post conversion analysis is possible – it seems preferable to update "quasi-equity" to reflect current venture investment methods and provide for some future development too.

Any shareholder loans or CLAs granted by private equity or venture capital firms are **equity deals in essence** because:

- they rank junior to any other liability of the enterprise by agreement, and
- either they are converted into equity in the next financing round; or
- the financing round does not happen and the enterprise gets written off.

It should be noted that such shareholder loans are neither highly rewarding nor the main purpose of shareholders but simply used as interim financing.

Rather than opening the framework to any type of non-equity, we suggest clarifying that, for the purpose of this legislation, the following should be classified as equity:

"loans issued as interim financing to a company with a view to convert them into an equity investment in a future financing round of the company, and which are subordinated to any other debt of the company""

Allowing to also invest in debt (e.g. venture debt and mezzanine financing)	**0**

While Invest Europe does not represent (venture) debt funds, some of our VC members do venture debt. In that context, we do see the value in allowing, under specific conditions and as part of a separate label, venture debt funds to become EuVECA authorised.

However, this should be implemented in a way that does not impose additional prudential or structural requirements on managers pursuing traditional equity strategies, which remain the core focus of the regime.

It should also be noted that venture debt strategies – which we do not represent but which some of our members are engaged in - are closely aligned with the venture capital ecosystem and support the same objective of financing innovative SMEs and scale-ups. Venture debt providers

typically conduct extensive due diligence on portfolio companies and frequently receive equity kickers linked to the future value of the company. In that sense, venture debt investors often act in a manner comparable to equity investors and contribute to the same scaling process for innovative companies.

Generally speaking, venture debt and venture equity pose little to no risk to financial stability, particularly where such strategies focus on financing innovative SMEs rather than engaging in leveraged financial activities. We invite the European Commission to read submissions of our sister associations representing debt funds.

Generally speaking, venture debt and venture equity pose little to no risk to financial stability. We invite the European Commission to read submissions of our sister associations representing debt funds.

Allowing EuVECAs to invest in related infrastructure, including those supporting, serving, or relating to the business or activities of qualified venture capital undertakings and innovative undertakings	**-1**

As an association representing infrastructure managers, we are not opposed to the inclusion of infrastructure funds within the framework.

However, it is worth pointing out that nearly all managers involved in infrastructure are very large and the proposed change would therefore have limited impact.

As a reminder, most infrastructure funds invest in businesses running real assets (brownfield, for example, companies running airport) as opposed to real assets (greenfield, for example, physical data centers). In that context, it is unclear how relevant the proposed changed would be to the infrastructure community.

It would make more sense to carve out large infrastructure managers from some of the AIFMD rules than to change EuVECA. This would require for the amendments made as a result of comments to Section 4 of this response do not solely focus on mid-sized managers but to the largest managers as well, when they follow certain strategies. In other words, what matters most to the infrastructure community is a recognition of their features in AIFMD, including for very large managers, not changes to EuVECA.

Overall, ELTIF is a more relevant passport for infrastructure than EuVECA is.

Allowing EuVECAs to hold a certain share in listed companies, notably to continue holding an exposure following an IPO of one of more of portfolio companies	**2**

For investments in listed businesses, we would suggest a simple "Follow the Company" principle, allowing follow-on investments in businesses to be eligible. If a company was a qualifying startup when I invested, it should remain qualifying even after an IPO.

This would allow EuVECA managers to accompany companies throughout their growth trajectory — from start-up to scale-up and ultimately to public markets — which is fully aligned with the objective of strengthening the European innovation ecosystem and would solve the liquidity problem for managers (where they need to hold post-IPO) without the risk of turning EuVECA into a generic "listed equity" fund.

Allowing EuVECAs to invest in any AIFs	**2**

We agree that EuVECAs shall be allowed to invest in AIFs, EuVECAs or not, provided the overall eligibility requirements are met at the level of the top fund.

Some venture capital managers are looking to use a portion of their venture fund for incubator or seed fund investments, a practice that has been used effectively by US based VC fund managers to expand their origination pipeline. Those incubator or seed programmes can often be structured as a subsidiary partnership of the venture fund and are typically managed by a specialist team within the fund manager's wider investment team. Allowing an EuVECA fund to invest in those types of programmes (and for funds-of-funds to invest in an EuVECA fund that has such a programme without the current 10% look through restriction) would improve EuVECA fund managers' ability to compete with US VC firms who use incubator and seed programmes within their funds and are subject to less regulation, and improve access to capital for EuVECA funds from funds-of-funds.

Funds-of-funds (FoFs) are a common and effective way of rapidly obtaining exposure to illiquid assets (especially real assets). Allowing these structures to be used more easily would allow investors to access more VC vehicles through larger EuVECA structures. As fund-of-funds are logically larger on average, such a change should go hand-in-hand with an increase of the thresholds under which the EuVECA passport can be used without having to comply with AIFMD: otherwise, the benefit would be limited, as we do not expect AIFMD authorised managers to be interested in the EuVECA label.

If going down that route, the European Commission should seek an ambitious approach, especially in light of the limitations seen in the context of ELTIF. Two elements should in particular be considered:

- the assessment of eligibility shall be made at the level of the fund-of-fund – and not of each underlying funds (i.e.: funds-of-funds shall be able to invest not only in funds that meet the specific EuVECA criteria – but to have flexibility in building a portfolio that overall meets the conditions
- it should be possible to EuVECA funds-of-funds to invest in funds that also invest in funds: we understand the take up of ELTIF FoFs is limited – or even in practice made impossible - by the obligation that underlying funds themselves cannot invest more than 10% of their capital in collective investment undertakings.

Making FoFs – and secondaries funds - eligible would undeniably make the regime more appealing to investors and managers alike, ultimately increasing the sums of capital being invested in the European economy through that channel.

Allowing for master feeder structures and EuVECA funds of funds.	**2**
See comments made above. If master-feeder structures are less prevalent for VC and growth funds than they are for ELTIFs , we agree that EuVECAs should be able to feed into AIFs, provided that the overall eligibility criteria of the EuVECA regime are respected on a look-through basis at the level of the master fund. In line with the considerations described above regarding funds-of-funds structures, applying a look-through approach would significantly simplify compliance while reflecting how venture and growth ecosystems operate. Venture capital funds frequently invest through intermediary vehicles, co-investment structures or feeder arrangements in order to obtain diversified exposure to innovative companies across sectors and Member States. Assessing eligibility at the level of the master fund portfolio as a whole would therefore make the regime easier to apply while preserving its core policy objective of financing innovative unlisted companies. Again these changes are less core to the regime than changes that would guarantee the ability of EuVECAs to invest in scale-ups.	
In connection to potential changes above, substituting the "EuVECA" designation and replacing it with a broader and more inclusive fund designation	**2**
Yes, a lot of managers with VC AND growth strategies have suggested that the name EuVECA was too VC-focused. Some managers are choosing not to use the EuVECA because they feel the passport would not fit with their marketing strategy, as they want their fund to be perceived as being more than just a VC fund. A broader, more positive name, such as EuGrowth, could also help make the passport more attractive beyond EU borders.	
Other adjustments to scope of assets and strategies, if so which ones: [textbox up to 2000 characters]	
Fintechs We suggest that EuVECAs should be allowed to make investments in fintechs (mirroring the ELTIF change). Current EuVECA eligibility requirements still prevent their capital to be committed into the fintech businesses that could drive the EU's digital transition. This is the direct result of a provision, set that prohibits EuVECAs to commit capital to financial undertakings as a whole. According to Invest Europe data, venture and growth funds invested € 9.4 billion in the past few years in more than a 1000 financial undertakings, many of which were innovative fintech businesses offering new digital solutions to clients. During the last years FinTechs have revolutionised the traditional financial services industry, providing access to new and more convenient financial solutions to all Europeans and fostering	

financial inclusion. FinTechs have not only gained traction with European consumers, but also the attention of investors in Europe. This is reflected in the appetite of investors to channel their funds into the different business models that the FinTech industry represents to encourage further growth of the European FinTech industry, generating new technical jobs and the capacity for smaller European players to scale-up across borders.

5.4. What specific changes in applicable rules for EuVECA managers would you consider most appropriate and impactful and why? Please include any relevant cost figures or estimates, where available. [textbox, max 5000 characters]

Several targeted adjustments could significantly improve the effectiveness of the EuVECA regime and strengthen its role in mobilising private capital for European innovation, start-ups and scale-ups. However, we oppose fundamental changes to the passport that could make it harder for venture and growth managers to use the passport – and would therefore affect start-up financing in the EU.

1. Clarify and strengthen the EuVECA passport

- Clarify that the EuVECA framework effectively enables cross-border management of EuVECA funds across the Union, without adding any additional requirements.
- Ensure that EuVECA managers can operate their funds on a pan-European basis without additional regulatory requirements beyond those already provided for in the EuVECA framework.
- Actively address gold-plating divergences, including undue fees, in national implementation and application and use existing tools to enforce uniform application of the Regulation, including Article 258 TFEU, rather than creating new layers or structures.

2. Make the EuVECA relevant for above-threshold managers

- EuVECA managers should be able to reach higher assets under management before being required to obtain a full AIFMD authorization (for example: € 3 billion to correspond to the mid-sized regime)
- Allow authorised AIFMs to use EuVECA as a lighter product framework for eligible EuVECA funds, without automatically triggering the full set of AIFMD product-level requirements where the EuVECA regime already provides an appropriate and proportionate framework.

3. Improve the practical usability of the regime

- Introduce standardised EU registration templates, procedures and timelines for EuVECA registration.
- Simplify authorisation procedures to reduce legal and compliance costs for emerging managers.

- Reduce unnecessary documentation and duplicative reporting requirements that may arise from national supervisory practices.

4. Improve investments by high net worth individuals

- Confirm that EuVECA funds should not be subject to additional retail disclosure frameworks such as the PRIIPs KID (which would be partially solved by the introduction of a de minimis rule for large-sized investors)
- Ban Member States for imposing retail-like requirements, including at fund level, to managers solely marketing to investors committing more than 100K

5. Improve flexibility of eligible investment strategies

Several targeted adjustments could ensure that the regime better reflects modern venture and growth financing practices while preserving its focus on innovative unlisted companies:

- Introduce targeted flexibility to allow investments in scale-ups.
- Allow investment in fintechs
- Allow follow-on investments after IPO ("follow the company" principle) where the company qualified as an eligible undertaking at the time of the initial investment.
- Clarify that quasi-equity instruments (such as convertible loans or subordinated shareholder loans used as interim financing, but also other types of assets) qualify as eligible investments.
- Consider the creation of a separate venture debt compartment
- Reconsider the requirement that qualifying portfolio undertakings be located in jurisdictions having tax information exchange agreements aligned with Article 26 of the OECD Model Tax Convention with each Member State where the EuVECA is marketed, as this can create unnecessary operational complexity in practice.
- Allow EuVECA funds to invest in AIFs (fund-of-funds or master-feeder structures), provided that the overall eligibility requirements are respected at the level of the portfolio.
- Allow the eligibility assessment to be made at the level of the top fund, rather than requiring each underlying fund to independently meet all EuVECA criteria.

We strongly oppose the extension of EuVECA to real estate.

6. Preserve the proportionality of the regime

- Review own funds, capital buffer, bank guarantee or indemnity insurance requirements, which are disproportionate for small EuVECA managers and recognise professional indemnity insurance as an appropriate and proportionate safeguard in this context.
- Avoid introducing additional requirements that would make EuVECA closer to the full AIFMD framework.

- Maintain a light and proportionate regime adapted to venture and growth strategies and to emerging managers.

7. Improve the attractiveness and positioning of the regime

- Consider replacing the "EuVECA" designation with a broader name reflecting venture and growth financing, like EUGrowth, in order to better reflect modern investment strategies and improve the global recognition of the passport.
- More generally, strengthen the visibility and credibility of the label as a European passport for venture and growth financing, capable of supporting the full start-up to scale-up lifecycle.

Taken together, these targeted reforms would significantly improve the usability and scalability of the EuVECA framework while preserving its core objective of mobilising private capital to support European innovation, start-ups and scale-ups.

5.5. To what degree do you agree with the following statements regarding the European Social Entrepreneurship Funds (EuSEF) framework? ("-2: "Fully disagree", -1: "disagree", 0: "Neutral or no opinion", +1: "Agree", +2: "Fully agree")

Not directly applicable to our membership. However, we consider that relevant improvements made to the EuVECA framework should, where appropriate, be applied mutatis mutandis to the EuSEF regime in order to ensure consistency between the two frameworks.

While the EuSEF framework has historically seen more limited market traction than EuVECA, the underlying policy objective of facilitating investment in social enterprises remains important. In the current economic and geopolitical context, strengthening the financing ecosystem for social innovation and impact-driven businesses can contribute to building a more resilient and inclusive European economy over the long term.

In that context, the European Commission could consider reviewing the scope and practical usability of the EuSEF framework in light of recent market developments and broader policy discussions on Europe's competitiveness, resilience and long-term sustainability.

Section 6: Closing questions

6.1. What specific challenges or inefficiencies within the current regulatory framework (outside the scope of the market integration and supervision package which reviews the AIFMD regarding fund managers operating in a group structure, passporting for depositary services and improved cross-border marketing of funds) have not been addressed in this consultation, and should be considered by the Commission in the EU venture and growth capital funds reform? [textbox, max 5000 characters]

We would like to insist on three challenges:

- difficulties in fundraising arising from other regulatory frameworks (but that can be solved in AIFMD)

- issues with delegation rules and their application

- issues with the scope of activities that AIFMs can carry

Initiatives to bring additional investors to long-term funds

As mentioned above in this paper, we think the question of access to investors is key – and perhaps even more relevant than AIFMD-related questions surrounding marketing of funds and rules governing the managers' operations.

We reiterate here our ask to create a "one off" category (or a de minimis test) to allow sophisticated investors to commit capital to EuVECAs - marketing by EuVECAs to these investors is allowed, but this marketing remains subject to complex retail rules at fund and manager level- and to the wider AIFMD ecosystem.

We suggest amending Art 43 to allow investments by high-net-worth individuals, effectively harmonising existing national frameworks at EU level, in the spirit of the overall proposal:

1a. By way of derogation from Annex II of [MiFID], a natural or legal person who does not satisfy the criteria in that Annex may exceptionally be treated as a professional client by the AIFM for the purposes of this Directive in relation to a specific investment in the units or shares in an AIF where the following conditions are met:

(a) the person has expressly requested to be treated as a professional client for that purpose;
(b) the person (in the case of a legal person, acting through a duly authorised representative) has given explicit written consent to such treatment in a document which is separate from the agreement used to subscribe for or acquire the relevant units or shares in the AIF; and
(c) the amount invested by the person is:
(i) at least EUR 100,000, if the person has provided reasonable evidence to the AIFM that the person has a portfolio of investable assets (defined as including cash and financial instruments, including savings products) with a value of at least EUR 1,000,000; or
(ii) at least EUR 200,000 in any other case.

Upon request by its competent authority, the AIFM shall provide details of the number of clients that have requested this derogation and the investments in respect of which it applied

Additional ancillary services under Art. 6 (4) AIFMD

With AIFMD II, the list of ancillary services set out in Art. 6 (4) AIFMD is extended to include the administration of benchmarks and credit servicing activities. Further activities should be included in the list of permissible activities. In particular certain MiFID activities set out in Section A of Annex I of MiFID should be included, such as execution of orders on behalf of clients or placing of financial instruments without a firm commitment basis. AIFMs require the flexibility to execute orders on behalf of clients without performing that function as part of a fund or segregated account mandate, such as acting as a "dealing desk" on behalf of another fund managers in the group. At present, an AIFM cannot perform that function.

It is also important to allow AIFMs to conduct the regulated activity of placing financial instruments, alongside the existing activities of investment advice and reception and transmission of orders in relation to financial instruments, as non-core services. An AIFM may perform these services in the course of marketing funds managed by other AIFMs, in particular AIFMs within its group. In addition to performing the activity of reception and transmission of orders, it would be **extremely helpful for the AIFM to perform the related activity of placing financial instruments**. There are no indications that performing this related activity would impose additional risks on the AIFM

A risk-based approach to delegation

A risk-based approach to the delegation of functions could reduce unnecessary operational burdens on mid-sized AIFMs, without undermining investor protection or the effectiveness of regulatory oversight.

Under Art. 20 AIFMD and Art. 75 to 82 of the Level 2 Regulation, all AIFMs are subject to detailed and strict rules regarding the delegation of their functions. AIFMD II tightens these requirements, requesting AIFMs (among others) to provide detailed information on delegates and measures taken to monitor the delegated activity to competent authorities.

ESMA has taken the view that the requirements on delegation should apply to all functions listed in Annex I of AIFMD, while some national regulators have taken different approaches as to what functions require a delegation by the AIFM if provided by a third party. More extensively, ESMA has taken the view that, if the AIFM chooses not to perform itself the additional functions set out in Annex I point 2 of AIFMD, these functions should be considered as having been delegated by the AIFM to a third party, with the AIFM retaining the responsibility for compliance with the delegation requirements and compliance by the third party with the AIFMD requirements.[5] This implies that it is not possible for an AIF with legal personality to appoint an AIFM to perform the portfolio management and risk management for the AIF, and for the AIF to appoint a third party to carry out the other functions in Annex I point 2 of AIFMD, such as fund administration, without the need to establish a delegation arrangement between the AIFM and the third party.

Under AIFMD II, the new introductory sentence in Art. 20 (1) of AIFMD clarifies that the strict requirements on delegation apply to all functions listed in Annex I and to the list of ancillary services set out in Article 6(4): '*AIFMs which intend to delegate to third parties the task of carrying out, on their behalf, one or more of the functions referred to in Annex I or of the services referred to in Article 6(4) shall notify the competent authorities of their home Member State before the delegation arrangements become effective. The following conditions shall be met:*'.

However, the new provision remains silent on the question whether this also means that any of the additional functions listed in Annex I point 2 AIFMD are core functions of the AIFM that must be subject to a delegation arrangement with the AIFM in accordance with the delegation rules, if it is the intention of the AIFM, the AIF or the investor to appoint a third party to carry out one of these functions. The fact that an applicant can obtain authorization as AIFM with a license for

[5] ESMA Q&A on AIFMD, Question 2 on Delegation.

portfolio management and risk management without also having to obtain a license for these additional functions (arg. e. Art. 6 (5) lit. d AIFMD) suggests that this is not the case.

We take the view that only functions that are critical for the fund management from a risk perspective should be subject to the requirements on delegation. Applying the strict requirements on delegation in a broad and undifferentiated manner to those functions that present a low risk regarding a possible negative impact on the management of the AIF or on the interests of investors would place an excessive burden on the operations of mid-size AIFMs, which typically require the services of third party service providers to perform the additional functions of Annex I point 2, for reasons of cost-efficiency by utilizing external specialists. It would also counteract the intended purpose of the delegation rules, which is to limit the risks associated with a delegation by the AIFM. In this context, the development of technical standards in consultation with stakeholders to determine functions and procedures that are relevant for the day-to-day operations of an AIFM respectively of an AIF and their assessment as critical or less critical from a delegation risk perspective would be helpful. The fund structure should also be considered. As already stated by the European Commission, 'The fund structure appears to be mostly relevant when considering which functions have been attributed to the AIFM and therefore can be also subject to delegation by the AIFM.'[6]

With the newly introduced Art. 20(6a), the AIFMD II legislator has taken a first step to allow the exclusion of one of the functions listed in Annex I point 2 – the marketing function – from the strict delegation requirements. The new provision clarifies that where the marketing function is performed by one or several distributors acting on their own behalf and which market the AIF in accordance with MiFID or through insurance-based investment products in accordance with IDD, such function shall not be considered to be a delegation subject to the strict requirements of Art. 20 AIFMD, irrespective of any distribution agreement between the AIFM and the distributor. In addition to the marketing function, the tasks listed under the administration function (Annex I point 2 (b)) and the function of activities related to the assets of AIFs (Annex I point 2 (c)) should be evaluated with regard to their risk potential for the management of the AIF and possible negative impact on investor protection.

6.2. Which regulatory issues should be considered to ensure the coherent interaction and application of the rulebook for AIF, EuVECA, ELTIF and EuSEF managers, including enabling ELTIF and EuVECA managers to benefit from the potential AIFMD alleviations, allowing for grandfathering/transition to a potential new legal framework, etc.? [textbox, max 5000 characters]

There should be a more coherent and consistent interaction between the EuVECA framework - whether in the existing form of a fund label or in a separate, improved form of a fund management passport - national AIF regimes, which often take the form of "AIFMD-lite" rules, and the full AIFMD framework.

The first and most fundamental point, which is not consistently implemented today, is that **EuVECA should be usable by sub-threshold managers in all circumstances**. Authorisation to

[6] European Commission Q&A on AIFMD, page 4.

use the EuVECA label should depend solely on compliance with the EuVECA Regulation itself. Going forward, situations such as those currently observed in certain Member States should no longer arise. For example, in Germany, EuVECA managers are required to use specific fund structures that were primarily designed for UCITS, while in Italy, France, and Spain, EuVECAs cannot be effectively established unless they are subject to an AIFMD-like regime. These divergences undermine the purpose of a harmonised European framework.

Second, it should become possible for managers that market and manage EuVECAs and exceed the AIFMD threshold to remain under the EuVECA regime without being subject to the full set of AIFMD requirements, provided that they do not engage in certain activities and do not exceed a higher, clearly defined threshold. This approach would allow managers that play a specific and targeted role in financing the economy to benefit from a regulatory treatment that is better adapted to their actual activities and risk profile. Such a mechanism could also represent a credible alternative to a general increase of the AIFMD threshold.

Finally, the European Commission should further assess the interaction between fund legislation applicable to AIFs at national level and the rules governing fund managers. In practice, these two layers of regulation often overlap and result in duplicative requirements, as illustrated by the Luxembourg example discussed in response to Question 3.1 (again: this is the example of a very light regime!). Reducing unnecessary duplication would improve regulatory efficiency without weakening investor protection.

6.3. Are there areas where technological innovation (e.g. digitalisation, tokenisation, etc.) should be better reflected or supported in the EU venture and growth capital funds reform? [textbox, max 5000 characters]

As we explained in our response, venture and growth funds are on average small managers with small teams and fundraising strategies that focus on large institutional investors and a few sophisticated investors.

We do not believe that, at least at this stage, developments in the digitalisation and tokenisation space are at this stage relevant to the broader venture capital ecosystem. If they may deserve examination later, they should not distract from the more relevant objectives of this review for the VC and growth community.

6.4. In the context of the EU venture and growth capital funds reform, which potential non-legislative measures (such as guidance to Member States on relevant matters falling under national competence) could support the possible legislative actions? [textbox, max 5000 characters]

The success of this review and of any future regimes depends as much on the regulatory amendments brought to this proposal than on the limitations in the Member States ability to impose complex rules that are disproportionate for small fund managers.

The European Commission has a key role to play in developing competitiveness-friendly best practices and improving the level of competence of national competent authorities. In many countries, the small size of the VC market means that regulators effectively do not understand

the industry well and, as a result, copy paste rules created for the UCITS or MiFID entities to managers which have very different business practices.

The European Commission could also promote the EuVECA as a label at an international level – as such a label could help global investors know where to invest in the EU. We understand EuVECA is not well known from US investors – despite it having all the features of a positive brand.

Finally, the success of the EuVECA could of course be linked to specific tax incentives – the past has shown, in Italy and Spain, notably, that this was often sufficient, even if the passport had no other interest, for people to use it.

6.5. To what degree do you consider the findings of the above-mentioned study (such as obstacles to marketing, burdensome and lengthy authorisation process, burdens stemming from reporting, etc.), which focused on venture and growth capital funds, to be also applicable to other small and mid-size AIF managers? ("5: "Fully applicable", 4: Largely applicable", 3: "Neutral", 2: "Not very applicable", 1: "Not applicable at all"). Please explain [textbox, max 5000 characters].

Neutral.

There is, in practice, little difference between a growth fund manager and a small buy-out manager when it comes to obstacles to marketing, access to fundraising, and the length and complexity of authorisation processes. From a regulatory perspective, these managers typically rely on similar fund structures and are subject to comparable constraints, notwithstanding differences in investment strategy.

This situation contrasts with other categories of alternative investment funds, such as real estate funds or hedge funds, which are characterised by different asset classes, liquidity profiles, risk exposures and operational features. These differences justify distinct regulatory treatments and policy considerations.

We cannot comment comprehensively on all other categories of small AIF managers, but in some cases similar issues may arise – but there will be many situations where different risk profiles, investment longevity, liquidity and leverage, mean these funds differ significantly.

Hence, we suggest that the EuVECA framework would not necessarily be appropriate for structures other than traditional equity structures (with a potential to add a venture debt compartment). On the contrary, extending or sharing the EuVECA passport with funds that have fundamentally different characteristics could ultimately be detrimental to venture capital and growth funds, as experience with the implementation of the AIFMD has shown.

6.6. Is there a need for regulatory action to promote the availability of exit options for investors in private markets to help venture and growth capital funds achieve their investment returns and free up capital available for financing innovative companies? [textbox, max 5000 characters]

Yes. As mentioned above, we feel it should be possible for managers to consider as eligible investments companies that have recently been IPOed.

Overall, any measure that makes operation on exchanges easier would make it easier for managers to use the IPO route as an exit strategy. At the moment, IPOs do not represent more than 10% of the exits. This situation is not solely due to regulation: the multiplicity of European stock exchanges, the lack of strong SME growth markets and their general lack of attractiveness compared to their EU counterparts is also part of the problem.

6.7. Do you have any additional observations or evidence, with relevance for EU venture and growth capital fund managers, not explicitly covered in this consultation? [textbox, max 5000 characters]

Fundraising is everything to managers.

While the EU marketing passport are crucial in that regard, we invite the Commission to look at the ability of institutional and retail investors to commit capital to private equity as being paramount to their success.

Today EU legislation is effectively doing everything to prevent long-term investments. None of the recent changes to IORP or Solvency II (long-term equity investments) are effectively changing this. Changes to the CRR, driven by Basel, have effectively gone three steps in the wrong direction, making banks effectively incapable of being equity investors.

In a charged geopolitical context and being mindful than capital coming from large institutional investors often comes from the United States, the level of ambition should be extremely high in powering our own sources of capital. Without this, the point of the proposed review will essentially be moot.

Introducing changes to capital charges for banks and insurers when investing in VC and growth funds is not an option, nor it is a deviation from the overarching prudential objectives: large insurers and pension funds should be able to devote a much more significant part of their capital to diversified portfolios of private capital.

A change in pension schemes or regulatory burdens in some countries to allow for more capital to be deployed in private markets would be a huge step forward. Europe should invest in Europe. European scale-up companies are having real issues to go beyond procurement in European corporations and mostly find it easier to look for clients elsewhere in the world.

The lack of investment from insurance companies, pension schemes or alike into funds or into companies or pre-IPO situations is leading to vastly underserved markets in Europe. European scale-ups get customers from the US or other regions, then leave Europe to be in a position to fundraise.

Opening the fundraising debate more broadly should be one of the core priorities of this revision.