



Asset Management and Investment Funds newsletter

January 2022

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A. Cyprus updates

Welcome to the semi-annual issue of our newsletter with all the latest news in the asset management industry for the period July-December 2021 in Cyprus and Europe.

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1. The Companies Law Cap.113 (Amendment) of 2021

On the 5 November 2021, the Law 150(I)/2021 amending the Companies Law Cap 113 (the “Basic Law”) was published in the official gazette. The purpose behind such legislative amendment is to include provisions that will govern and apply to Variable Capital Investment Companies (V.C.I.C.) and also being consistent with the Alternative Investment Funds Law 124(I)/2018 (the “AIF Law”) and Open-Ended Undertakings for Collective Investment (UCI) Law 78(I)/2012.

The key changes include:

- Under a new Part XA of the Basic Law, additional prerequisites and conditions have been added for all existing and new V.C.I.C. in relation to the content of the Memorandum and Articles of Association of such companies - in particular as this relate to its share capital - as well as the procedure to be followed for amendments of the same.
- A new section 370B provides that the Memorandum of Association shall specify the following:
 - That the share capital of the V.C.I.C. is equal to the current value of the issued share capital of the company;
 - That the share capital of the V.C.I.C. is divided into a fixed number of shares without assigning any par value to those; and
 - That the current number of issued shares shall not be smaller than the lowest number, which is fixed in the memorandum of association and, where the share capital is divided into different classes of shares, the class, or classes, of shares that represents this lowest number of issued shares as above mentioned.
 - It is specified that the Memorandum and the Articles of Association of a V.C.I.C. shall be drafted in accordance with the model incorporated in the First Schedule, Table E of the Companies Law or as close to it as circumstances permit.
- A new section 370Δ provides that the Memorandum or Articles of Association shall specify the following:
 - That the value of the issued share capital is always equal to the value of the assets of the company after deducting all the liabilities; and
 - That the shares of the company may be redeemed at the request of any of the shareholders, directly or indirectly out of the assets of the company, provided that the number of issued shares does not fall below the minimum number as stipulated in the Memorandum of Association in accordance with the provisions of section 370(1)(γ) of the Companies Law.
- The new section 370Θ provides that:
 - The provisions of the memorandum of association regarding the number of shares, the minimum number of issued shares and any class of shares may be amended by ordinary resolution. A copy of the resolution and relevant notification attaching a copy of the amended memorandum is to be filed with the registrar of companies within one month of the amendments.
- The new section 370IZ provides that:
 - The reinstatement of a V.C.I.C. following its strike off is possible within two years of strike off, and not the 20-year period that applies to a limited liability company.
- The new section 370IΔ clarifies that sections 198 to 200 of the Companies Law will apply accordingly in case of the conversion of a limited liability company other than a variable capital investment company to a V.C.I.C. to convert its share capital into a specified number of shares without any par value. The relevant notification accompanied by the court order is to be submitted to the Registrar of Companies.

A. Cyprus updates (cont.)

- The new section 118 (1)(c) clarifies that a V.C.I.C. is exempted from disclosing certain information required under the Sixth Schedule Part 1 of the Companies Law and which are to be included for a limited liability company in its annual return. The exemption relates to information regarding the share capital and the shareholders of the V.C.I.C.
- In accordance with section 370 IE (2) an existing V.C.I.C. (i.e., a company operating as V.C.I.C. under the AIF Law before the entry into force of the present amendment,) must by a special resolution within twelve months from the entry into force of the amendment, revise (where appropriate) its Memorandum and Articles of Association to incorporate the provisions of this new Part XA.

2. Transposition of new EU rules regarding the cross-border distribution of AIFs and UCITS

The European Union has taken steps to facilitate the cross-border distribution of funds (both undertakings for collective investments "UCITS" and alternative investment funds "AIFs") by introducing the Cross-Border Distribution of Funds package of measures (the "CBDF legislation").

The CBDF legislation includes a Directive (EU) 2019/1160 amending both the UCITS Directive and AIFMD and a directly effective Regulation 2019/1156 supplemented by ESMA guidelines on marketing communications for UCITS and AIFs published on the 27 May 2021.

The Directive was implemented in Cyprus with the publication on the 18 October 2021 in the official gazette of amending legislations to the Alternative Investment Fund Managers Law (135(I)/2021) as well the Open-Ended Undertakings for Collective Investment (UCI) Law 134(I)/2021.

The new rules increase the harmonisation on the marketing of AIFs and UCITS, reduce regulatory barriers, improve cost efficiencies and enhance investor protection.

For a summary of the key points please refer to our Alert on the subject matter which can be found [here](#).

3. Crypto Asset services providers register kept by CySEC

On 25 June 2021, the Cyprus Securities and Exchange Commission (CySEC) released its directive on the maintenance of the Crypto Asset Services Providers ("CASP")¹ register, the [CASP Directive](#) (last revised on the 10 September 2021), which forms the subsidiary legislation issued under section 61E of the Prevention and Suppression of Money Laundering and Terrorist Financing Law of 2007-2021 ("AML/CFT Law").

Under the amended AML/CFT Law CASPs that provide their services in or from Cyprus, qualify as obliged entities within the meaning of the said law and are therefore subject to all AML/CFT obligations. Under the AML/CFT Law, CASPs must be registered with CySEC, except for entities that are domiciled in another EEA Member State and which are registered with an EEA National Competent Authority, under the respective national Law transposing the EU AML 5th Directive.

Furthermore, on 13 September 2021, CySEC issued a [Policy Statement](#) on the Registration and Operations of CASPs (the "Policy").

The regulatory framework includes rules, inter alia, in relation to:

- The fitness and probity of the CASP beneficiaries and persons holding a management position;
- The conditions in relation to CASPs registration;
- The organisational and operational requirements;
- Performing Know Your Client and other client due diligence measures;
- Drawing the economic profile of clients;
- Identifying the source of client funds;
- Monitoring the clients' transactions;
- Identifying and reporting suspicious transactions;
- Undertaking a comprehensive risk assessment in relation to the clients' activities and take proportionate measures per client, the activity and the crypto-asset in question.

¹ means a person who provides or exercises one or more of the following services or activities to another person or on behalf of another person, which do not fall under the services or activities of the obliged entities mentioned in paragraphs (a) to (h) of article 2A of the AML/CFT Law:

a) Exchange between crypto-assets and fiat currencies; b) Exchange between crypto-assets;

c) Management, transfer, holding and/or safekeeping, including custody, of crypto-assets or cryptographic keys or means which allow the exercise of control over crypto-assets; d) Offering and/or sale of crypto-assets, including the initial offering; and e) Participation and/or provision of financial services regarding the distribution, offer and/or sale of crypto-assets, including the initial offering.

A. Cyprus updates (cont.)

CySEC published in October 2021 the relevant documents which are required to be completed, along with their documentation requirements for the authorisation process which includes among other:

- The application form ([Form 188-01](#))
- The questionnaires for CASP Beneficiaries ([Forms 188-02 or 188-03 or 188-04](#) depending if the Beneficiary is a natural person - a legal person or a Trust) and for Persons Holding a Management Position² ([Form 188-05](#)).
- The Internal Operations Manual of the applicant (as per Annex F of the application form). The procedures and processes shall demonstrate robust governance, record keeping, complaint handling, remuneration structure as well as the proper administrative, accounting, internal control, risk assessment, data protection and data systems.
- A Business Plan
- The AML Manual of the applicant.

The applicant needs to comply with initial capital adequacy requirements which depend on the type of crypto-services a CASP shall provide.

4. Ultimate beneficial owners (UBOs) registry

The Registrar of Companies has clarified that all Partnerships registered in the Registrar of Companies pursuant to article 50 of the General and Limited Partnership and Business Names Law (Cap. 116) have the obligation to enter their beneficial ownership details onto the UBO system. The process for Partnerships is similar to that of the submission of beneficial owners' details for companies.

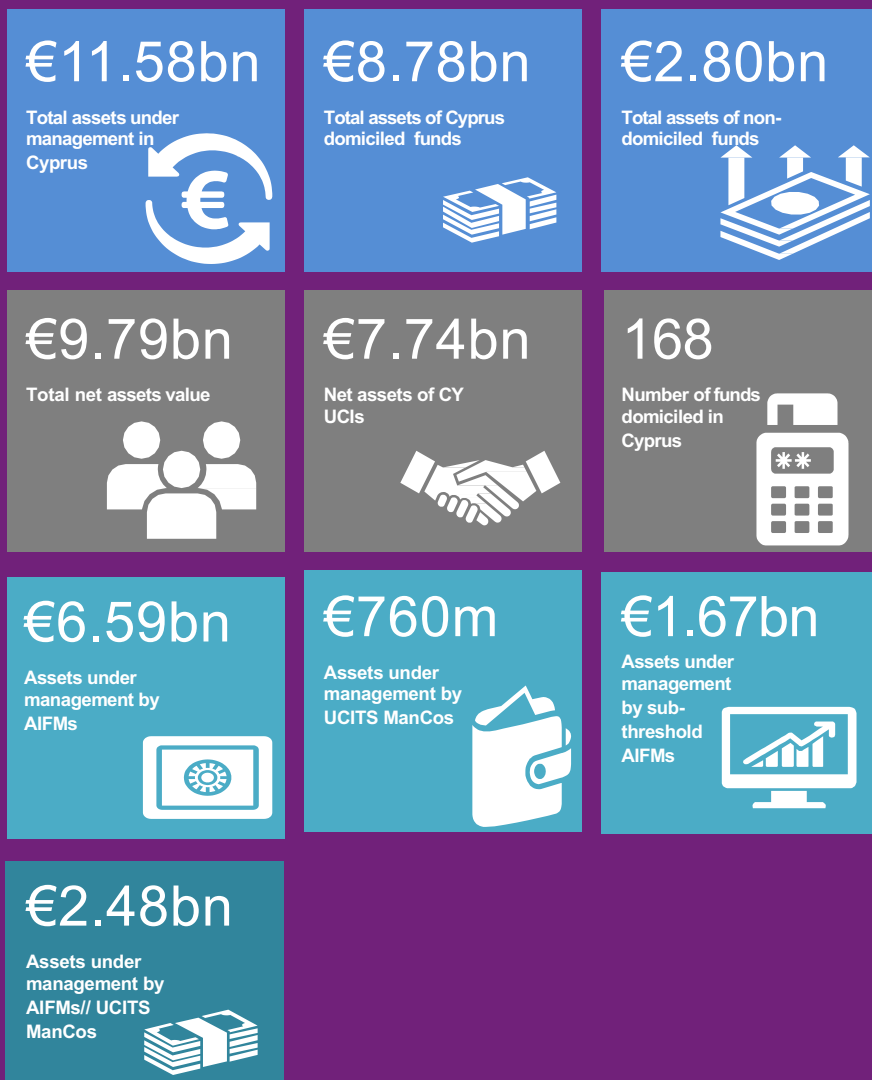
5. CySEC Quarterly statistics

Based on the latest available statistics for the 3rd quarter of 2021 the value of total Assets Under Management (AuM) reached €11.6 billion, recording an 8.6% increase compared to the 2nd quarter of 2021. Approximately 57% of the AuM relate to assets managed by the AIFMs, 14% by the sub-threshold AIFMs, 21% by managers licensed as AIFMs and UCITS Management Companies, 7% by the UCITS Management Companies and only 1% by regulated UCIs that are managed by foreign fund managers. There are in total 187 undertakings for collective investment (UCIs) with operations. The 76% of the total AuM, relates to 168 UCIs domiciled in Cyprus (11 UCITS, 51 AIF 64 AIFLNP and 42 RAIF). The statistics can be accessed [here](#).

²a CASP board must be composed of at least 4 directors whereby 2 perform executive duties and 2 are non-executive directors. The majority of the directors need to permanently reside in Cyprus.

A. Cyprus Updates (cont.)

The Cyprus funds industry in numbers (30.09.2021)



B. European updates

6. European securities and markets authority (ESMA) and European commission updates

6.1 ESMA publishes annual work programme for 2022

On 27 September 2021, ESMA published its [annual work programme for 2022](#). With respect to fund management activities the work programme notes that the review of the AIFMD (and possibly of the UCITS Directive) and ELTIF Regulation may lead to some additional single rulebook work in relation to these pieces of legislation. Further, ESMA expects to launch a discretionary peer review on the depositary obligations under the UCITS Directive and AIFMD, which would focus on the oversight and safekeeping functions of depositaries. ESMA also expects to follow up on the peer review on the Guidelines on ETFs and other UCITS issues commenced in 2021. Further, in relation to sustainable finance, ESMA will implement a roadmap for supervisory convergence in the area of sustainable finance, covering a number of priority sectors, including asset management and issuer disclosure.

6.2 ESMA updates q&as on the UCITS and AIFM directives.

The updated [UCITS](#) and [AIFMD](#) Q&As each provide two new Q&As in relation to performance fees in UCITS and certain types of AIFs, namely: (i) the application of the guidelines to funds with multiple portfolio managers; and (ii) the crystallisation of performance fees where there is the creation of a new AIF/UCITS/compartments/share class in the course of the financial year.

Also [\[last update 17 December 2021\]](#) a new question is introduced relating to the scope of application of the AIFMD to managers of undertakings investing in crypto-assets

6.3 ESMA publishes consultation paper on MIFID II remuneration requirements

On 19 July 2021, ESMA published a [consultation paper on guidelines on certain aspects of the MiFID II remuneration requirements](#). The paper is addressed to investment firms and credit institutions providing certain services, but also to UCITS management companies and external AIFMs when providing investment services and activities in accordance with the UCITS Directive and the AIFMD. The draft guideline aims at replacing the existing ESMA guidelines on the same topic, issued in 2013.

The draft guidelines are divided into three sections (i) Design of remuneration policies and practices; (ii)

Governance; and (iii) Controlling risks that remuneration policies and practices create.

The consultation paper:

- Takes into account new requirements under MiFID II;
- Provides additional details on some aspects that were already covered under ESMA's 2013 guidelines; and
- Incorporates the results of supervisory activities conducted by national competent authorities on the topic.

ESMA expects to publish its final report and guidelines by end-Q1 2022. The deadline for submissions in respect of the consultation was 19 October 2021.

6.4 ESMA seeks stakeholder input on shaping advice on retail investor protection

ESMA published on the 1st October 2021 a [call for evidence on a number of retail investor protection topics under MiFID II](#). The consultation follows a request from the European Commission (EC) for ESMA (and separately, EIOPA³) to provide advice on potential reforms as part of the EU's retail investment strategy. Among the topics considered are disclosures, and digital tools and channels such as robo-advice and online brokerage.

The call for evidence is open until 2 January 2022. ESMA will consider the information received when drafting its advice to the EC which will be delivered by 30 April 2022.

6.5 European commission adopts priips regulatory technical standards

On 7 September 2021, the European Commission adopted the [PRIIPs regulatory technical standards and supporting Annexes](#), which amends Commission Delegated Regulation (EU) 2017/653 on the presentation, content, review and revision of key information documents and the conditions for fulfilling the requirement to provide such documents by setting out, in particular:

- New methodologies underpinning the calculation of appropriate performance scenarios and a revised presentation of these scenarios;
- Revised summary cost indicators and changes to the content and presentation of information on the costs of PRIIPs;

B. European updates (cont.)

- A modified methodology underpinning the calculation of transaction costs;
- Modified rules for PRIIPs that offer a range of options for investment; and
- Standards for information on past performance, which is to be provided by certain types of UCITS, retail AIFs and insurance-based investment products.

The draft RTS is now subject to approval by the European Parliament and Council. The text proposes that the draft RTS apply from 1 July 2022. This is intended to coincide with amendments to the UCITS Directive, which will end the obligation for retail investment funds to publish UCITS KIIDs as of 1 July 2022, to avoid duplicate pre-contractual disclosures.

6.6 European commission issues call for advice to the european supervisory authorities on the protection of retail investors

On 3 August 2021, the European Commission issued a call for advice to ESMA (see point 6.4 above), EIOPA³, and the joint committee of the European Supervisory Authorities on the protection of retail investors, with a view to assisting the Commission in the preparation of legislative proposals implementing aspects of the retail investment strategy. With respect to the call for advice to ESMA, the Commission seeks advice on a number of focused areas:

- Addressing and enhancing investor engagement with disclosures through the identification of any significant overlaps, gaps, redundancies and inconsistencies across investor protection legislation that might have a detrimental effect on investors, in addition to those identified as part of the PRIIPS level 2 work.
- Drawing out the benefits of digital disclosures for consumers in a digital a smartphone age.
- Assessing the risks and opportunities presented by new digital tools and channels, and whether the existing regulatory requirements continue to be appropriate given the new risks presented. Further, advice is sought as to whether and how far value chains should be opened up by the sharing of specific investor data amongst investor firms and third party providers.

The Commission requests ESMA to deliver the report to the Commission by 30 April 2022, and also requests that ESMA consult as widely as possible within the available timeframe.

6.7 Delegated regulation and directive on sustainability risks and sustainability factors to be taken into account by AIFMs and UCITS published in the official journal

On 2 August 2021, Commission [Delegated Regulation \(EU\) 2021/1255](#) and Commission [Delegated Directive \(EU\) 2021/1270 on sustainability risks and sustainability factors](#) to be taken into account for AIFMs and UCITS respectively were published in the Official Journal of the European Union. The measures will apply from 1 August 2022 (see point 2 above for the Cyprus transposition).

6.8 Capital markets union: forthcoming legislative package

On 25 November 2021 the European Commission (EC) presented a [package of reforms within the framework of its Capital Markets Union \(CMU\) Action Plan](#).

The package includes four legislative proposals:

- A proposal to amend the Alternative Investment Funds Managers Directive (“AIFMD”);
- A proposal to amend the European Long-Term Investment Funds (“ELTIF”) Regulation;
- A proposal to amend the Markets in Financial Instruments Regulation (“MiFIR”) and for an EU Consolidated Tape; and
- A proposal to create a European Single Access Point (“ESAP”) for company financial and sustainability related data.

The key amendments to the AIFMD proposed by the Commission will impact both alternative investment funds (“AIFs”) and UCITS, as the proposal includes amendments which would harmonise rules between the AIFMD and the UCITS Directive on delegation, liquidity risk management and reporting. The amendments also address the provision of depositary and custody services and loan origination by alternative investment funds.

³ EIOPA is the European Insurance and Occupational Pensions Authority

B. European updates (cont.)

In brief the amendments address the following:

- Delegation

The EC acknowledges that the delegation regime allows for efficient management of investment portfolios and for sourcing the necessary expertise in a particular geographic market or asset class. However, it is observed that differing national supervisory practices in fulfilling the EU requirements for delegation of risk or portfolio management to third parties create inconsistencies that may reduce the overall level of investor protection.

The review concluded that ESMA should be provided with more information on delegation arrangements in the cases where risk or portfolio management is delegated outside the EU and should make use of already available powers such as conducting peer reviews. It is therefore proposed that ESMA should receive notifications of delegation arrangements where more risk or portfolio management is delegated to third country entities than is retained. ESMA is empowered to develop draft regulatory technical standards prescribing the content, forms and procedures for the transmission of delegation notifications. ESMA will be required to present regular reports analysing market practices regarding delegation, compliance with the requirements applicable to delegation, and supervisory convergence in this area to the European Parliament, the Council of the EU and the EC to “facilitate in formed policy decision in this area”. This might suggest that restrictions on delegation to third countries may be introduced in the future, depending upon the content of these ESMA reports.

An AIFM or UCITS management company would be required to employ or commit at least two EU residents on a full-time basis to conduct the AIFM’s business.

The UCITS framework would be aligned with the AIFMD framework so that a UCITS would be required to justify its entire delegation structure based on objective reasons. The EC proposes to extend the Level 2 implementing rules under the AIFMD in relation to delegation to UCITS.

Sub-delegation is explicitly banned to non-authorised entities.

- Liquidity Risk Management

The EC’s proposal includes measures regarding the availability and use of liquidity management tools (“LMTs”) example – Suspensions, Notice Periods, Gates, Redemption Fees, Swing Pricing, Anti-Dilution Levies, In Specie Redemptions and Side Pockets etc.- during times of market stress. The ability to activate LMTs can protect the value of investors’ money, reduce liquidity

pressure on the fund and mitigate against broader systemic risk implications in situations of market-wide stress. In addition to being able to suspend redemptions, it is proposed that AIFMs and UCITS management companies would be required to choose at least one other LMT from the relevant annexes (which harmonise the minimum list of LMTs that should be available anywhere in the EU) and to include this in fund rules or instruments of incorporation. AIFMs would be required to notify competent authorities about activating or deactivating an LMT.

Competent authorities would be empowered to require that an AIFM activates or deactivates a relevant LMT.

- Loan Origination by AIFs

It is proposed to amend the AIFMD to require that AIFMs of loan-originating AIFs implement effective policies, procedures and processes for the granting of loans. Lending would be restricted to a 20% limit for a single borrower, when this borrower is a financial institution or AIF / UCITS, to reduce the risk to the financial system. An AIF would be prohibited from lending to its AIFM or its staff, its depositary or its delegate. It is proposed that AIFs would be required to retain an economic interest of 5% of the notional value of loans they have granted and sold off, to avoid moral hazard situations where the loans are originated to be immediately sold off on the secondary market. AIFs would be required to adopt a closed-ended structure where they engage in loan origination to a significant extent (60%).

- Depositary Rules

Central securities depositaries (“CSDs”) would be brought into the custody chain where they are providing competing custody services, with a view to levelling the playing field among custodians and ensuring that depositaries have access to the information needed to carry out their duties. Depositaries would be relieved from the requirement to perform ex-ante due diligence where the custodian is a CSD because the CSD has been sufficient vetted when seeking to be authorised as a CSD.

The proposal does not include the introduction of a depositary passport. However, member states are to allow depositary services to be procured in other member states until the introduction of a depositary passport. Depositaries will be required to cooperate with additional national competent authorities (“NCAs”) in addition to the home NCA, including the NCA of the AIF that has appointed the depositary and to the NCAs of the AIFM.

B. European updates (cont.)

- Reporting

The Commission has proposed that limitations to data reporting would be removed which could result in full portfolio reporting rather than reporting on "main instruments traded". ESMA is given a mandate to amend the Annex IV reporting template.

- Fees and Charges

AIFMs would be required to disclose a list of fees and charges that will be applied in connection with the operation of the AIF and that will be borne by the AIFM or its affiliates. AIFMs would be required to report on a quarterly basis on all direct and indirect fees and charges that were directly or indirectly charged or allocated to the AIF or to any of its investments.

The new proposals will now be considered by the European Parliament and the EU Council. Discussions are likely to continue throughout much of 2022. EU Directives are not directly effective and must be implemented into national law within 2 years of entering into force following publication in the EU Journal. Therefore, it is likely to be late 2024 or 2025 before we see these new changes become effective.

6.9 European Commission delays the implementation of the sustainable finance disclosure regulation (SFDR) level 2 (rts)

The European Commission published a [letter](#) to the European Council and the European Parliament. The statement confirms that it will legislate to delay the implementation of the Sustainable Finance Disclosure Regulation (SFDR) Level 2 (RTS) requirements from 1 July 2022 to 1 January 2023. The delay is due to the late adoption of the RTS and the reduced time for the market to implement the final rules. Although the letter also confirms that the first principal adverse impact reports must still be published by 30 July 2023 with reference to the entirety of 2022 (i.e. data and metrics must be completed before the RTS take effect on 1 January 2023).

7. Industry and other updates

7.1 EFAMA calls for reasonable implementation timeline for priips changes

On 9 September 2021, EFAMA (European Fund and Asset Management Association) and a number of other financial industry associations published a joint response raising concerns in respect of a consultation conducted by the European Commission on planned changes to

the Packaged Retail and Insurance-based Investment Products (PRIIPs) framework. The response notes that the Commission is proposing to maintain 1 July 2022 as the date upon which the new requirements apply to all product manufacturers, and states that the unexpected delay to the adoption of the revised PRIIPs RTS cuts the implementation period for the industry by more than two months, leaving PRIIPs manufacturers and distributors with too short a period to implement the new rules.

In order to ensure a smooth and orderly implementation and application of the revised RTS, the associations urge the Commission to maintain a 12 month implementation period from the adoption of the RTS proposals as the minimum time needed for all products and all market participants. Further, in order to ensure a consistent transitional regime across providers, the necessary legal certainty while UCITS remain exempted from the PRIIPs Regulation, and a smooth implementation of the new PRIIPs RTS, the associations reiterate the importance to align the expiry date of Article 18 of the PRIIPs RTS with the new end date of the UCITS exemption.

The European Commission published a letter to the European Council and the European Parliament. The statement confirms that it will legislate to delay the implementation of the Sustainable Finance Disclosure Regulation (SFDR) Level 2 (RTS) requirements from 1 July 2022 to 1 January 2023. The delay is due to the late adoption of the RTS and the reduced time for the market to implement the final rules. Although the letter also confirms that the first principal adverse impact reports must still be published by 30 July 2023 with reference to the entirety of 2022 (i.e. data and metrics must be completed before the RTS take effect on 1 January 2023).

7.2. EFAMA publishes latest statistics on FUNDS

On 14 December 2021 EFAMA released its latest international quarterly statistics, describing trends in the worldwide investment fund industry in Q3 2021.

The main developments can be summarised as follows:

- Net assets of worldwide investment funds increased in euro terms - Net assets of worldwide investment funds increased by 2%. Measured in US dollar terms, worldwide investment fund net assets measured dropped by 0.6% due to the appreciation of the dollar.
- The asset growth of worldwide net fund assets was limited in Q3 2021 as global stock markets remained relatively flat over the quarter.

B. European updates (cont.)

- Solid net inflows into long-term funds continued Worldwide long-term funds recorded net inflows of EUR 677 billion, up compared to EUR 673 billion in Q2 2021. Net inflows reached EUR 208 billion in the United States, EUR 206 billion in Europe and EUR 160 billion in the Asia-Pacific region.
- Bond funds attracted the largest net sales (EUR 287 billion), mainly due to strong demand in the United States (EUR 130 billion), Europe (EUR 67 billion) and China (EUR 53 billion).
- Net sales of equity funds stayed strong (EUR 195 billion), with the United States (EUR 72 billion), Europe (EUR 57 billion) and Japan (EUR 26 billion) recording the highest net sales.
- Multi-asset funds recorded EUR 163 billion of net inflows, up from EUR 119 billion in Q2 2021. Europe accounted for the majority of global net sales (EUR 75 billion), followed by China (EUR 32 billion) and Canada (EUR 20 billion).
- Despite greater stock market volatility over the quarter, net inflows into long-term funds continued solid across all major regions.
- Sustainable investing – Asset managers have become key contributors to the transition to a sustainable economy by incorporating ESG factors in their investment processes and engaging in more effective and assertive stewardship activities. By the end of Q1 2021, asset managers in Europe applied an ESG investment approach to circa EUR 11 trillion of assets, of which about EUR 6 trillion (or 55%) are managed in investment funds, and EUR 5 trillion in discretionary mandates.
- ESG funds – The introduction of the Sustainable Finance Disclosure Regulation (SFDR) in March 2021 led to the emergence of two distinct categories of funds: so-called Article 8 funds, with sustainability characteristics, and Article 9 funds, with sustainability objectives. At end Q1 2021, French asset managers were leaders in the management of SFDR Article 8 and Article 9 funds.
- Industry clients – At the end of 2020, retail investors formed the largest category of clients of the industry, with a market share of 28%, ahead of pension funds (26%), insurance companies (23%) and other institutional clients (21%). The share of retail clients in total AuM increased slightly in 2020 as European households regained an appetite for capital market instruments. Another recent trend is the steadily increasing share of other institutional clients, such as foundations, charities, holding companies or large corporations.
- Domestic and foreign clients – Domestic clients are by far the biggest clients of the European asset management industry. Yet, the importance of foreign clients has been steadily growing in recent years, rising from 26% in 2017 to 31% at the end of 2020. This development is in line with one of the key goals of the EU's Capital Markets Union (CMU), namely the further integration of national capital markets into a genuine single market.
- Asset allocation – At the end of 2020, bond assets accounted for 40% of investment portfolios managed by asset managers in Europe, compared to 31% for equity assets and 7% for money market and cash equivalents. The remainder of the portfolio (23%) was made up of other assets, such as infrastructure, hedge funds, structured products, and private equity.

Finally, on the 16 December 2021 EFAMA has released the 13th edition of its Asset Management in Europe report, which provides in-depth analysis of recent trends in the European asset management industry:

Key findings include:

- Assets under management (AuM) – Total assets under management in Europe reached continued to rise in 2021 and reached an estimated EUR 31.3 trillion at the end of September.
- Investment funds and discretionary mandates – Investment fund assets represented EUR 15,371 billion or 54% of total AuM at the end of 2020. The share of discretionary mandate assets in total AuM stood at 46% and amounted to EUR 13,052 billion. The share of investment funds in total AuM has steadily risen over the last decade.
- AuM across countries – Asset management in Europe is concentrated in six countries where almost 85% of the asset management activity takes place. The United Kingdom is the largest European asset management market, followed by France, Germany, Switzerland, the Netherlands and Italy.

B. European updates (cont.)

7.3. EFAMA responds to call for feedback on the platform on sustainable finance's draft report on social taxonomy

On 6 September 2021, EFAMA published its [response to the call for feedback on the Platform on Sustainable Finance's draft report on social taxonomy](#). The response notes that EFAMA supported the development of a social taxonomy due to the increasing ESG awareness of investors and to in order to enable funds with social objectives to show their degree of taxonomy alignment, and therefore be distributed according to clients' sustainability preferences under the MiFID Delegated Acts. EFAMA notes that such a taxonomy should provide a clear framework for defining business activities and performance that are widely accepted as socially beneficial.

As a first step, EFAMA considers that the policy objectives of a social taxonomy need to be defined. In this regard, in a first stage, EFAMA has a slight preference for a standalone social taxonomy, as this would not require re-opening of the level 1 of environmental taxonomy. However, applying the social taxonomy in combination with environmental taxonomy could be considered in the long term, once both taxonomies were established in practice, to avoid conflicting situations with one activity qualifying as taxonomy-aligned from an environmental perspective, while undermining some social objectives, and vice-versa. EFAMA also recommends that the social taxonomy 'do no significant harm' dimension be harmonised with SFDR principal adverse impacts indicators in order to improve usability and further legislative consistency.

7.4. EFAMA responds to call for feedback on the platform on sustainable finance's draft proposal for an extended taxonomy to support economic transition

On 6 September 2021, EFAMA published its [response to the call for feedback on the Platform on Sustainable Finance's draft proposal for an extended taxonomy to support economic transition](#). The response notes that EFAMA supported the extension of the taxonomy framework to significantly harmful activities and provided five policy recommendations, namely:

1. That a significantly harmful taxonomy should not blacklist companies but support their transition away from such activities.
2. The development of Paris aligned reference

trajectories for every relevant sector to make firms' emission reduction strategies credible, comparable and science-based.

3. The establishment of a "Transition Asset Ratio" alongside the Green Asset Ratio to reward companies entering the transition and incentivising their access to financing without misrepresenting transitioning activities as green.
4. Non-prioritisation of a legally binding "no significant impact" taxonomy, given the marginal significance of such companies for the transition at a macro-level.

7.5. EFAMA markets insights – SFDR

EFAMA issued in November 2021 its [issue no.7 on market insights](#) relating to the European ESG market at end Q1 2021 and the introduction of the SFDR.

Based on the EFAMA survey results featured in this publication, net assets of SFDR Article 8 and Article 9 funds amounted to EUR 3.7 trillion and EUR 340 billion respectively, at the end of March 2021, with a relatively high concentration in a limited number of countries. Other key findings are:

- Domestic market shares of SFDR Article 8 and 9 funds vary widely across European countries. These differences are not only driven by variations in actual amounts of ESG investing across countries but also by national regulators' divergent interpretations of the SFDR Level 1 text.
- Net assets of SFDR Article 8 funds totalled EUR 3.7 trillion, making up 22% of the European fund market at the end of Q1 2021. The main domiciles of SFDR Article 8 funds are Luxembourg (35%), France (16%), the Netherlands (13%), Sweden (13%) and Ireland (9%). Combined, the net assets of these five domiciles amounted to 85% of the total net assets of SFDR Article 8 funds.
- Equity funds represented half of the total universe of SFDR Article 8 funds (47%) at the end of March 2021. Bond funds accounted for 26%, followed by multi-asset funds (16%) and money market funds (8%). Compared to the total net assets of UCITS and AIFs, the market share of equity funds is higher among SFDR Article 8 funds. Market shares of bond funds and multi-asset funds are similar.
- SFDR Article 9 fund net assets amounted to EUR 340 billion, or about 2% of the European fund market at

B. European updates (cont.)

the end of Q1 2021. Luxembourg accounted for more than half of the total SFDR Article 9 fund net assets, followed by France (16%) and the Netherlands (9%).

7.6. ESA propose new rules for taxonomy-related product disclosures

On 22 October 2021, the ESAs delivered a [final report](#) to the European Commission containing their final draft Regulatory Technical Standards ('RTS') on disclosures under the SFDR, relating to financial products that make sustainable investments contributing to environmental objectives. The draft RTS aim to provide disclosures to end-investors on investments in financial products in environmentally sustainable economic activities and to provide them with comparable information facilitating informed investment choices. The draft RTS also establishes a single rulebook for sustainability disclosures under the SFDR and Taxonomy Regulation ('TR').

The report contains a number of proposals, including (for products under Articles 5 and 6 of the TR):

1. Inclusion of pre-contractual and periodic disclosures that identify the environmental objectives to which the product contributes, and show how and to what extent the product's investments are aligned with the EU Taxonomy;
2. For measuring how and to what extent activities funded by the product are aligned with the EU taxonomy, the proposals comprise two elements, namely: (1) two graphs showing the taxonomy-alignment of investments of the financial product based on a specified methodology that calculates that alignment; and (2) an assurance provided by an auditor or a review by a third party that the economic activities funded by the products that qualify as environmentally sustainable are compliant with the criteria of the TR.
3. For pre-contractual and periodic disclosures, amendments are made to the mandatory templates for financial products that promote environmental and/or social characteristics or have a sustainable investment objective under the SFDR, so as to include additional disclosures for Article 5 and Article 6 products under the TR.

The European Commission will examine the draft RTS and will decide whether to endorse them within three months. In this regard, The Commission has informed the European Parliament and Council that it intends to

incorporate all the SFDR RTS (both the original ones submitted to the Commission in February 2021 as well as the ones covered in the Final report) in one instrument.

7.7. ESAs invite stakeholders' input on priips review

On 21 October 2021, the European Supervisory Authorities ('ESAs') opened a [call for evidence regarding the Packaged Retail and Insurance-based Investment Products \('PRIIPs'\) Regulation](#). This will feed into the ESAs' technical advice to the European Commission on a review of the key information document ('KID') for PRIIPs. The ESAs are requesting information from stakeholders on a range of topics including:

- Use of the KID, including the number and type of products and their market share for which PRIIPs KIDs are produced and distributed;
- Operation of the comprehension alert;
- Practical application of the rules under the PRIIPs Regulation, including the amount and nature of costs per PRIIP to various market participants of complying with the PRIIPs Regulation,
- Use of digital media for delivering displaying the PRIIPs KID;
- Scope of the PRIIPs Regulation, including whether the exemption of certain products should be maintained, or whether the Regulation should be expanded to include additional financial products;
- Differentiation between different types of PRIIPs;
- Complexity and readability of the KID, and whether specific changes should be made to improve comprehensibility or readability;
- Performance scenarios and the treatment of past performance;
- PRIIPs offering a range of options for investment (Multi-Option Products); and
- Alignment between the information on costs in the PRIIPs KID and other disclosures.

The call for evidence was open until 16 December 2021, with the ESAs planning to hold a stakeholder event in Q1 2022 before finalising the advice.

B. European updates (cont.)

7.8. European banking authority consults on new guidelines on the role of AML/CFT compliance officers

On 29 July 2021, the European Banking Authority (EBA) launched a public [consultation on new guidelines on the role, tasks and responsibilities of AML/CFT compliance officers](#). Once adopted, the guidelines will apply to all 'financial sector operators' within the scope of the AML Directive. The guidelines address, inter alia:

- The role and responsibilities of the management body within the AML/CFT framework and specific tasks to be performed by it, as well as the role and responsibilities of the senior manager responsible for AML/CFT;
- The minimum information to be provided to the management body to enable informed decision-making in relation to AML/CFT issues;
- The role and responsibilities of the AML/CFT compliance officer, conditions to ensure their independence, as well as screening criteria to determine their suitability, skills and expertise;
- The organisation of the AML/CFT compliance function at group level, including the obligations on parent and subsidiary entities; and
- The review of the AML/CFT compliance function by competent authorities.

The deadline for submissions was 2 November 2021.

8. International organization of securities commissions- IOSCO

8.1 IOSCO publishes guidance for intermediaries and asset managers using artificial intelligence and machine learning.

On 7 September 2021, IOSCO published a [report containing guidance for intermediaries and asset managers using artificial intelligence \('AI'\) and machine learning \('ML'\)](#). This follows a Consultation Report released in June 2020, highlighting a number of areas where potential risk and harms may arise in relation to the development, testing and deployment of AI and ML, namely: governance and oversight; algorithm development, testing and ongoing monitoring; data quality and bias; transparency and explainability; outsourcing; and ethical concerns.

The guidance consists of six measures that reflect expected standards of conduct by market intermediaries and asset managers using AI and ML. Although the

guidance is not binding, IOSCO members are encouraged to consider these measures carefully in the context of their legal and regulatory frameworks. IOSCO members and firms should also consider the proportionality of any response when implementing these measures.

Among the measures:

1. Appropriate governance, controls and oversight frameworks over the development, testing, use and performance monitoring of AI and ML;
2. Staff with adequate knowledge, skills and experience to implement, oversee, and challenge the outcomes of the AI and ML;
3. Robust, consistent and clearly defined development and testing processes to enable firms to identify potential issues prior to full deployment of AI and ML; and
4. Appropriate transparency and disclosures to their investors, regulators and other relevant stakeholders.

8.2 IOSCO publishes guidance on sustainability-related practices, policies, procedures and disclosures for national regulators and policy makers in the asset management industry

On the 2 November 2021 IOSCO published a [final report](#) containing a set of recommendations on sustainability related practices, policies, procedures and disclosure in asset management. The final report also sets out the findings from IOSCO fact finding exercises that included a survey of its members concerning regulatory and supervisory approaches relating to sustainability related practices and disclosures at both the asset manager and product levels, as well as regulatory and supervisory oversight in this area.

The recommendations are in five parts and cover:

1. Setting of regulatory expectations around practices, policies and procedures,
2. Clarification and guidance to include product-level disclosures;
3. Supervisory and enforcement tools;
4. Encouraging common terms and definitions; and
5. Enhance or promote financial and investors education initiatives relating to sustainability.

B. European updates (cont.)

9. Financial action task force- FATF

9.1 FATF guidance in relation to virtual assets and virtual asset service providers

On the 28 October 2021 the FATF [updated its 2019 guidance for a risk-based approach to virtual assets and virtual asset service providers](#) (VASPs).

The FATF standards require countries to assess and mitigate their risks associated with virtual asset financial activities and providers, license or register providers and subject them to supervision or monitoring by competent national authorities. VASPs are subject to the same relevant FATF measures that apply to financial institutions.

The 2021 guidance includes updates focusing on the following six key areas:

1. Clarification of the definitions of virtual assets and VASPs;
2. Guidance on how the FATF standards apply to stablecoins;
3. Additional guidance on the risks and the tools available to countries to address the money laundering and terrorist financing risks for peer-to-peer transactions;
4. Updated guidance on the licensing and registration of VASPs;
5. Additional guidance for the public and private sectors on the implementation of the “travel rule”⁴; and
6. Principles of information-sharing and co-operation amongst VASP regulators.

⁴ “travel rule” is the common name for FATF Recommendation #16 on combating money laundering. It requires both financial institutions and crypto companies—otherwise known as Virtual Asset Service Providers (VASPs)—to collect personal data on participants in transactions exceeding 1,000 USD/EUR. For financial institutions and crypto companies, this means gathering the names and account numbers of both senders and recipients. The Travel Rule also requires banks and crypto platforms to share sender and recipient data with each other during transactions. That is why this regulation is called the “Travel Rule,” because the personal data of the transacting parties ‘travels’ along with their transfers.

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