

John Berrigan
Director-General
DG FISMA
European Commission
Rue de Spa 2, 1000
Brussels, Belgium

Brussels, 22 March 2021

Re: AmCham EU response to the review of the Alternative Investment Fund Managers Directive (AIFMD)

Dear Mr Berrigan,

AmCham EU represents over 150 companies of American parentage – from a wide range of sectors – committed to and invested in Europe. The Financial Services Committee brings together banks, asset managers, insurance companies and financial intermediaries who are all committed to building open, innovative and sustainable European financial markets. We are very strong supporters of the EU’s Single Market and the Capital Markets Union.

We recognise that the COVID-19 pandemic presents an unparalleled health crisis, accompanied by unprecedented economic challenges. Capital markets have a critical role to play in both assisting governments, businesses, investors and savers manage through the current crisis and helping to spearhead rapid economic recovery.

It is with this recovery in mind that AmCham EU would like to provide some brief and targeted comments, particularly on the issue of delegation, in response to the European Commission’s review of the Alternative Investment Fund Managers Directive (AIFMD). We would also like to lend our support to the more detailed commentary on the delegation issue made by a number of other trade associations including, but not limited to EFAMA, the U.S. Chamber of Commerce, ICI, ALFI, Irish Funds and the Investment Association.

AmCham EU’s Financial Services Committee is interested first and foremost in avoiding unhelpful transatlantic and global market fragmentation and maintaining safe, well-functioning cross-border capital markets.

The investment management industry plays a crucial role in helping pensioners and savers invest for a better future. At the same time, these investors’ money is channelled into the economy fuelling corporates, SMEs, infrastructure and other opportunities. No jurisdiction understands this better than the European Union. Over decades, through the creation of the Undertakings for Collective Investments in Transferable Securities (UCITS) and more recently the AIFMD regulatory frameworks, the EU has developed the most globally competitive brands of investment funds. UCITS are now the global gold standard of investment funds and have been welcomed in many jurisdictions across Asia and Latin America. In short, both the AIFMD and UCITS frameworks are functioning extremely well and are not in need of a fundamental overhaul.

Delegation, along with investor protection, liquidity and diversification, is one of the key pillars responsible for the success of European funds on the global stage. Delegation has allowed AIFMs to utilise expertise in fields they may not possess themselves and, equally, where they believe that investors will benefit from access to third-parties and the economies of scale that can be created.

We are therefore concerned about assertions in ESMA's letter of August 2020, and in the European Commission's consultation, which suggest there may be deficiencies in rules surrounding UCITS/AIFMD delegation, or that delegation may cause operational or supervisory risk to funds and investors. We would encourage the European Commission, before considering any concrete rule changes, to conduct a thorough, data-driven analysis to assess whether real deficiencies or problems exist.

We would also urge the European Commission to consider the potential impact of disruptions to the global supply chains of asset managers, in particular, creating regulatory impediments to delegation of portfolio management or other functions to global centres of investment management excellence, which would be to the detriment of UCITS/ AIF investors. Knock-on effects of market fragmentation and disruption to supply chains would be likely to include less choice of investment expertise/ strategies and higher costs for UCITS/ AIF investors.

While the potential negative impacts on investors is of most critical importance, we also believe that new restrictions to UCITS/AIF delegation would damage the global success of these financial products as well as the attractiveness of Europe's capital markets.

In conclusion, we would like to finish where we started, with the pandemic and the urgent need for economic recovery. Safe, open, attractive capital markets and a thriving investment management sector will play an important role in helping to manage through the current challenges and eventually build back better. AmCham EU is keen to partner with the European Commission toward these shared goals.

Yours sincerely,



Catherine Davidson
Chair
Financial Services Committee
AmCham EU