Fondbolagens förening
SWEDISH INVESTMENT FUND ASSOCIATION

The European Commission

2025-06-10

Response to the European Commission's targeted consultation on the integration of EU capital markets

PART 1

1. Simplification and burden reduction

Q 1) Is there a need for greater proportionality in the EU regulatory framework related to the trade, post- trade, asset management and funds sectors?

We agree. There is a clear need to strengthen proportionality in the EU regulatory framework for the fund sector. Over the past decade, the framework has become increasingly extensive and complex, resulting in a growing administrative burden, particularly for small and medium-sized entities. This risks hampering competition, innovation, and market participation.

While the current framework does include some proportionality considerations, there is room for improvement in both design and application. To enhance proportionality, regulatory requirements should be better tailored to the size, risk profile, and complexity of the entity. For example, smaller management companies and AIFMs could be exempted from certain extensive reporting obligations.

Proportionality should also take better account of the liquidity profile of the assets under management. AIFMD was initially designed with liquid hedge funds using high leverage in mind, and several of its requirements can be difficult to apply to funds investing in illiquid assets, such as private equity.

Importantly, proportionality should not be limited to reducing burdens for smaller firms. Efforts should also focus on reducing overall complexity and enhancing clarity, thereby benefiting all market participants.

At the same time, proportionality must be implemented in a way that preserves a level playing field and ensures minimum standards of investor protection. Importantly, any proportionality measures introduced should not result in increased regulatory fragmentation or complexity at EU level.

DAVID BAGARES GATA 3B, SE-111 38 STOCKHOLM, SWEDEN, TEL +46 (0)8 506 988 00, INFO@FONDBOLAGEN.SE,FONDBOLAGEN.SE

Finally, proportionality should be treated as a continuous consideration, not only during the design of new rules, but also throughout implementation and future revisions. Harmonised application across Member States is essential to avoid competitive distortions arising from divergent supervisory practices.

Q 2) In particular, in relation to question 1 above, should the AIFMD threshold for sub-threshold AIFMs take into consideration for instance the market evolution and/or the cumulated inflation over the last 10-15 years?

We disagree. We do not support introducing a delegated act to allow automatic threshold adjustments. Any review of the AIFMD thresholds should be preceded by a broader policy assessment of potential market and supervisory impacts.

The thresholds serve an important purpose in defining the scope of full regulatory and supervisory requirements. Raising them based on inflation or market growth risks weakening investor protection and reducing regulatory consistency across Member States.

Proportionality should instead be ensured within the existing thresholds, for example through targeted simplifications in reporting requirements for smaller or less complex AIFMs, including those who only manage closed-ended funds, where operational and liquidity risks are typically lower. This approach is preferable to automatic index-based adjustments, which do not necessarily reflect the supervisory rationale behind the thresholds and may lead to threshold effects and inconsistent application.

Q 3) Would you see a need for introducing greater proportionality in the rules applying to smaller fund managers under Alternative Investment Fund Managers Directive (AIFMD)?

We strongly agree that greater proportionality must be introduced in the rules applying to smaller fund managers under AIFMD. A proportionate framework better fulfils the objectives of AIFMD by ensuring that regulation is risk-based, cost-effective, and tailored to the diversity of market participants and investor types. Proportionality measures must be applied in a harmonised and transparent manner across Member States to prevent fragmentation, strengthen legal certainty, and ensure a level playing field. A properly calibrated regime enhances competitiveness, supports innovation, and contributes to a more diverse and resilient EU fund market.

The current framework imposes extensive and inflexible requirements on all authorised AIFMs, regardless of size, complexity, or risk profile. While these rules are justified for large and complex managers, they impose disproportionately high compliance costs on smaller AIFMs. This is particularly evident in areas such as reporting, governance, and internal control functions, where a one-size-fits-all approach creates unnecessary administrative burdens for firms managing relatively simple or low-risk strategies. These requirements restrict market access and growth, reduce diversity among market participants, and divert resources from core investment activities.

Targeted adjustments are necessary. Simplified reporting obligations, flexible governance arrangements, and proportionate internal control requirements can reduce compliance costs by an estimated 15–30%, without compromising regulatory standards or investor trust.

The investor protection regime under AIFMD is also misaligned with the characteristics of the intended investor base. Although the framework targets professional investors, it applies investor protection requirements that exceed what is necessary for this group's level of sophistication. This mismatch has resulted in an overly rigid regulatory framework. The rules need recalibration to reflect actual investor protection needs, including by introducing a clearly defined category of semi-professional investors, those who do not meet the formal MiFID criteria but possess sufficient knowledge, experience, and capacity to understand and bear the risks associated with alternative investments. Allowing AIFMs to market their funds to such investors enables broader participation in alternative strategies and closes the gap between professional and retail segments.

Q 4) Are there any barriers that could be addressed by turning (certain provisions of) the Alternative Investment Fund Managers Directive (AIFMD), Financial Collateral Directive (FCD), Markets in Financial Instruments Directive (MiFID), Undertakings for Collective Investment in Transferable Securities Directive (UCITSD), Settlement Finality Directive (SFD) into a Regulation?

We disagree. Turning key provisions of the AIFMD, FCD, MiFID, UCITSD or SFD into directly applicable Regulations is not the appropriate solution to address the barriers in the functioning of the single market. Such a shift would eliminate necessary flexibility for Member States to adapt implementation to national legal systems and market structures. This flexibility is essential in areas where national frameworks already function well and without significant gold-plating, as is generally the case for the UCITS framework in several fund domiciles. Replacing these Directives with Regulations would involve significant transition costs and could disrupt functioning national regimes without effectively addressing the underlying issues.

The primary obstacles to cross-border activity are not rooted in the legal form of the current instruments but in divergent supervisory practices, inconsistent interpretations, and procedural differences across Member States. Simply converting a Directive into a Regulation does not resolve these discrepancies unless it is accompanied by effective supervisory convergence and a uniform application. Without such alignment, a Regulation risks repeating the shortcomings observed under SFDR, where directly applicable rules have been implemented inconsistently, leading to legal uncertainty and market fragmentation.

MiFID presents similar challenges. Divergent national rules on what constitutes a licensable service or how outsourcing is treated have created practical barriers to cross-border activity. In certain Member States, MiFID firms must establish unlicensed subsidiaries to provide services that are otherwise permitted elsewhere, resulting in regulatory complexity and inefficiencies. Moreover, the scope of the MiFID licence does not always correspond with activities allowed under AIFMD, particularly for managers of illiquid strategies. The absence of passporting for certain services and inconsistent definitions of financial instruments further complicate cross-border operations.

In light of these examples, the focus should be on targeted amendments, clearer supervisory guidance, and stronger coordination among national competent authorities, as harmonisation is best achieved through practical convergence rather than structural legal changes.

Q 5) Are there areas that would benefit from simplification in the interplay between different EU regulatory frameworks (e.g. between asset management framework and MiFID)?

We strongly agree. There is clear merit in simplifying the interaction between EU regulatory frameworks, particularly between AIFMD, UCITSD, MiFID, and cross-cutting rules such as SFDR. Firms operating under multiple frameworks are subject to overlapping and inconsistent requirements, especially in areas such as organisational rules, delegation, conflicts of interest, product governance, and sustainability-related disclosures. These duplications increase legal complexity and compliance costs without strengthening investor protection or improving sustainability outcomes. Eliminating such inefficiencies enhances regulatory clarity and supports the competitiveness of the European fund industry.

Aligning similar provisions across AIFMD, UCITSD, and MiFID, where regulatory objectives are comparable, removes redundant obligations for the same activities. Clarifying responsibilities between manufacturers and distributors under MiFID, particularly regarding product governance and target market assessments, ensures consistency and reduces administrative uncertainty. Greater coherence in terminology and cross-referencing across frameworks lowers legal uncertainty and minimises the risk of divergent interpretations. For example, the definition of "conflict of interest" is not aligned between the Benchmark Regulation and Commission Directive 2007/16/EC, resulting in situations where an index may be fully compliant with the Benchmark Regulation but still not eligible for investment by a UCITS fund. This creates unnecessary legal and operational complexity for fund managers and index providers.

In addition, outsourcing rules are not aligned between UCITS, AIFMD, MiFID, and the CRD framework. This creates particular challenges for group structures, where the same arrangement may be treated differently under different regimes, sometimes considered outsourcing under one set of rules but not under another. On top of this, the DORA Regulation introduces a separate layer of outsourcing-related requirements, further increasing fragmentation and legal uncertainty. Harmonising outsourcing requirements across frameworks would significantly reduce complexity and ensure more consistent supervisory outcomes.

In the sustainability area, requirements under MiFID (suitability preferences), SFDR (disclosures), and the Taxonomy Regulation impose overlapping obligations that result in duplicative data collection and inconsistent investor information. Streamlining these regimes into a more integrated approach reduces compliance burdens and improves usability.

Simplification measures of this kind reduce compliance costs by 20–35%, primarily by decreasing the need for legal reviews, simplifying procedures, and improving internal coordination across regulatory domains. They also facilitate supervisory convergence, enhance legal certainty, and contribute to a more efficient and competitive single market for financial services and sustainable investments.

Q 6) Would the key information documents for packaged retail and insurance-based investment products (PRIIPs KID) benefit from being streamlined and simplified?

We strongly agree. There is a clear need to simplify and streamline the PRIIPs Key Information Documents (KIDs), particularly for UCITS and AIFs. Several aspects of the current framework impose unnecessary complexity and cost, without delivering corresponding benefits for retail investors.

The transaction cost methodology needs to be simplified. It is excessively complicated, which results in asset managers bearing costs for new data and calculations. Moreover, the results shown in the KIDs often appear random, depending both on market movements and the varying access to data across asset managers, resulting in very low informational value for investors. If the disclosure of implicit transaction costs is still deemed relevant, a return from the "arrival price" methodology (Delegated Regulation 2017/653/EU Annex IV, p.12–20a) to the simplified "new PRIIPs" methodology (p.21–23) would be of substantial benefit to both asset managers and investors. According to the our estimations, this would reduce the costs of the calculation by 80–90 percent and at the same time provide investors with more comparable information. Another area for improvement is the presentation of performance information. The current forward-looking performance scenarios are complex, often counterintuitive, and difficult for retail investors to understand. In many cases, they fail to add value and may even mislead. Replacing them with UCITS-style past performance disclosures, based on actual historical returns, would be more intuitive and more useful for end investors.

Further simplification is needed by removing the obligation to maintain additional supplementary disclosures on the product manufacturer's website. This requirement duplicates information in the KID without adding value and increases compliance costs.

Replacing the arrival price model, reinstating past performance disclosures, and eliminating redundant website requirements would substantially reduce regulatory costs, improve clarity and comparability for investors, and restore the PRIIPs KID as a functional and effective disclosure tool.

Lastly, we oppose the introduction of a new section ("product at a glance dashboard"). The KID is already a short document and adding a summary within it does more harm than good.

Q 7) Do you have other recommendations on possible streamlining and simplification of EU law, national law or supervisory practices and going beyond cross-border provision?

Yes.

<u>High priority areas</u>:

<u>First</u>, the definition of "management fees and other administrative or operating costs" should be adjusted to better reflect performance leakage or hidden costs in structured UCITS. In particular, this should include the financing costs and adjusted indices used for swaps and OTC derivatives, which are currently not adequately captured. This could be achieved by clarifying the definition in the UCITS framework and requiring consistent inclusion of such cost components in the total expense ratio.

Second, the regulatory framework should address additional cost layers added by distributors of UCITS, such as mandatory currency exchange fees when investing in fund shares denominated in a foreign currency, as well as other ongoing or transactional costs that may not be sufficiently transparent to investors today. One solution could be to introduce explicit disclosure requirements for such distributor-imposed costs within the PRIIPs KID or other investor-facing documents, ensuring comparability and full fee transparency across distribution channels.

Third, national divergences in authorisation procedures continue to pose a significant barrier to efficient market functioning. Authorisation processes and timelines for UCITS and AIFs vary substantially between Member States, creating legal uncertainty and procedural inefficiencies, particularly for fund management companies operating cross-border. To address this, common supervisory guidelines and service standards should be introduced at EU level, including maximum processing timeframes, standardised application templates, and clear criteria for when an application is deemed complete. ESMA should play a central role in coordinating such efforts through Level 3 guidance.

Fourth, the sustainability-related disclosure frameworks, SFDR, MiFID II, the Taxonomy Regulation and CSRD, should be streamlined. The current layering of rules has led to overlapping definitions, inconsistent data requirements, and disproportionately high compliance costs, especially for entities subject to multiple frameworks. Efforts should focus on improving coordination between existing rules. In particular, greater alignment in terminology, scope, and reporting obligations is essential to ensure consistency, reduce duplication, and lower the administrative burden for market participants.

Medium priority areas:

First, improving the transparency and accessibility of supervisory interpretations and practices. In several important areas, such as delegation and outsourcing to service providers, there is insufficient public guidance on supervisory expectations. This can lead to inconsistent interpretation, legal uncertainty, and unnecessary delays.

A concrete example concerns the responsibilities of the management company when delegating functions such as fund administration. In the absence of clear guidance, national competent authorities (NCAs) and auditors may interpret the oversight obligation in a way that requires the management company to replicate the delegated function, for example, by performing daily reconciliations or re-calculating NAVs, in order to demonstrate control. This defeats the purpose of outsourcing, creates disproportionate costs, and discourages efficiency-enhancing delegation.

To improve predictability and ensure more consistent application of rules, NCAs should be encouraged to publish non-binding Q&As, interpretative guidance, and anonymised case summaries where appropriate. ESMA could support this by facilitating the exchange of supervisory practices across NCAs and developing common principles for proportional and risk-based oversight of delegated functions.

Second, the scope of Article 16(2) of the Market Abuse Regulation (MAR) requires legislative clarification. Fund management companies that neither receive nor transmit orders, nor execute transactions, are still expected to comply with surveillance obligations. In Sweden, for instance, fund managers are not members of trading venues and rely on investment firms to execute transactions. Yet ESMA Q&As have caused some NCAs to impose Article 16(2) obligations, resulting in redundant surveillance by trading venues, investment firms, and fund managers. This imposes high costs without proportional supervisory benefit and creates distortions between market participants. The European Commission must clarify the scope of Article 16(2) through legislation, not soft law, to eliminate redundant requirements and restore a level playing field.

Low priority area:

Terminology used in investor-facing documents, such as "management fees and other administrative or operating costs" in thePRIIPs delegated regulation 2017/653/EU , should be clarified and made more intuitive. Standardised, plain-language definitions at EU level would improve the usefulness of disclosures for retail investors.

Q 8) Does the EU trade, post-trade, asset management or funds framework apply disproportionate burdens or restrictions on the use of new technologies and innovation in these sectors?

We are neutral. Rather than introducing new rules, the focus should be on clarifying how existing frameworks apply to emerging technologies, promoting consistency in supervisory practices, and encouraging structured dialogue between supervisors and market participants. Existing initiatives such as the DLT Pilot Regime (tokenisation of assets) and the EU's digital finance strategy are welcome steps and should be further developed to support innovation within a well-regulated environment. The use of blockchain in asset management can significantly enhance market efficiency by increasing transparency, reducing reliance on intermediaries, and further strengthening compliance and reporting. Achieving this requires close cooperation between regulators and the industry.

The current EU frameworks for asset management and funds do not explicitly prevent the use of new technologies. However, certain regulatory requirements and supervisory interpretations may, in practice, pose challenges to innovation, particularly for smaller firms or early adopters. One area that merits attention is the application of outsourcing and delegation rules. While these rules are intended to be technology-neutral, they are sometimes applied in ways that are difficult to reconcile with the operational realities of cloud-based services, AI tools, or other digital solutions.

Another concern is the divergence in supervisory approaches across Member States. For example, differences in how national authorities interpret the use of non-EU service providers or define "critical functions" can lead to fragmentation and limit the scalability of technology-driven solutions across borders.

In addition, the regulatory burden under the UCITS framework is comparatively high when measured against substitute structures such as OTC-certificates or standardised mandates. This creates an uneven playing field that discourages innovation within regulated fund structures.

Q 9) Would more EU level supervision contribute to the aim of simplification and burden reduction?

We disagree. Efforts to reduce administrative burden and improve regulatory efficiency should prioritise streamlining existing rules, eliminating duplication, and enhancing supervisory convergence, rather than transferring supervisory responsibilities to the EU level. Clearer EU-level guidance and improved coordination between authorities are more effective tools for achieving simplification and consistency than structural changes to the supervisory architecture.

While stronger EU-level supervision may in theory support greater consistency, it does not necessarily lead to simplification or reduced burden in practice. On the contrary, introducing an additional supervisory layer risks increasing complexity, reducing proximity to market participants, and creating overlaps with national competent authorities (NCAs).

Many of the current regulatory burdens arise not from how supervision is allocated, but from the overall complexity of the EU financial rulebook and the accumulation of detailed reporting, disclosure, and compliance obligations. NCAs are often better placed to assess local market conditions, and shifting towards centralised supervision may force firms to navigate both EU and national procedures, especially in areas lacking full harmonisation.

A more effective approach is to focus on improving the clarity, consistency, and proportionality of the existing framework, supported by coordinated supervisory practices across Member States.

PART 2

5. Asset management and funds

5.2. Authorisation Procedures

5.2.1. Authorisation of Management Companies (UCITS and AIFMD)

Q 13) Are the current authorisation / supervisory approval processes for management companies under AIFMD/UCITSD sufficiently clear and comprehensive to enable the smooth provision of asset management and supervision thereof?

No.

The framework for authorisation and supervisory approval processes is set out in AIFMD and UCITSD, with further detail provided in delegated acts. While these legal instruments establish the basic structure and principles, they do not comprehensively address the operational aspects necessary to ensure consistent and efficient application across Member States. As a result, there remains significant room for interpretation by national competent authorities (NCAs), which can lead to divergent practices and reduce predictability, particularly in cross-border contexts.

In practice, it is often unclear which elements should be assessed at the point of authorisation and which fall under the scope of ongoing supervision. This lack of clarity may lead to unnecessarily extensive assessments during the authorisation phase. For example, some NCAs assess a wide range of aspects and apply a level of detail that might be more appropriate for ongoing supervisory review rather than for the initial authorisation of the manager.

The development of common templates, checklists, and further supervisory guidance could support more consistent and predictable implementation across Member States. Such improvements would enhance legal certainty, reduce administrative burden, and promote a more efficient and harmonised authorisation framework within the internal market.

Q 14) Is the authorisation process proportionate in circumstances where not all requirements are relevant to the activity envisaged by the applicant?

No.

The current authorisation process under AIFMD and UCITSD is not always proportionate, especially in cases where certain regulatory requirements are only partially relevant to the specific activities or business model of the applicant. Although proportionality is an overarching principle in EU financial regulation, neither AIFMD nor UCITSD contains sufficiently detailed mechanisms to ensure that obligations are applied in a tailored and risk-based manner. As a result, all applicants are typically subject to the full set of authorisation conditions, even when specific provisions, such as detailed risk management procedures, extensive compliance frameworks, or internal control functions, may be disproportionate in relation to the entity's size, structure or investment strategy.

This lack of embedded flexibility creates an "all-or-nothing" dynamic in the authorisation process, which can discourage market entry and innovation. It is particularly inefficient for niche applicants with low-risk profiles, such as those managing a single fund or offering a narrowly defined strategy, who nonetheless must meet comprehensive and resource-intensive requirements designed for larger, more complex fund management organisations.

To address this, AIFMD and UCITSD would benefit from explicit proportionality provisions that allow authorisation requirements to be scaled in line with the nature, scale, and complexity of the applicant's intended activity. This could be achieved through delegated acts or guidelines. A more proportionate regime would help reduce unnecessary administrative burdens while maintaining investor protection and regulatory integrity.

Q 15) Does the current authorisation process for management companies under UCITSD/AIFMD act as a barrier to the functioning of the single market?

Yes.

While the UCITSD and AIFMD frameworks provide a legal basis for the cross-border provision of asset management services through passporting, the current authorisation process acts as a barrier to the effective functioning of the single market in practice.

Differences in national implementation, documentation requirements, and supervisory expectations result in incentives for regulatory arbitrage, an uneven playing field, and potentially inconsistent levels of investor protection. For fund management companies seeking to establish operations in multiple Member States, the lack of procedural harmonisation and legal clarity creates friction, delays, and legal uncertainty.

In some countries, applicants are required to repeatedly adapt their internal structures and operational models to comply with varying interpretations of what are intended to be common EU rules. These inconsistencies undermine the efficiency of the internal market and discourage smaller or innovative managers from expanding their activities cross-border.

A more harmonised and transparent authorisation process, based on aligned documentation standards, clear definitions of approval triggers, and common guidance on organisational requirements, is essential to reduce these barriers and to support market integration, competition, and supervisory convergence across the EU.

Q 16) Are the current authorisation processes / supervision for management companies under AIFMD/UCITSD applied in a consistent way across Member States?

No.

The current authorisation processes and supervisory practices under AIFMD and UCITSD are not applied in a fully consistent manner across Member States. Although the directives establish a common regulatory framework, national competent authorities (NCAs) retain significant discretion in how they interpret and implement key provisions. This leads to divergent expectations and procedural requirements in areas such as documentation standards, timelines, organisational requirements, and the interpretation of delegation and outsourcing rules.

A notable example is the variation in how AIFM authorisations are granted in relation to investment strategies, as a result of how NCAs interpret the scope of AIFM authorisation under AIFMD. In some jurisdictions, an AIFM authorisation automatically covers all investment strategies, whereas in others, such as Luxembourg and Denmark, the authorisation may be limited to specific strategies. This requires AIFMs to undergo additional approval processes when launching new strategies not covered by their existing authorisation, resulting in disproportionate burdens and delays.

As a result, fund management companies operating cross-border may face differing supervisory approaches depending on the Member State, which creates legal uncertainty, additional administrative burden, and inefficiencies. These inconsistencies can also distort competition and undermine the objectives of the single market.

Greater convergence through common supervisory guidelines, clear procedural standards, and strong coordination between NCAs ensures a uniform and predictable application of the authorisation and supervision framework across the EU.

Q 17) Are you supportive of further harmonising and streamlining authorisation requirements and procedures for management companies to increase simplification and reduce fragmentation in the EU's asset management sector?

Yes.

There is value in further harmonising and streamlining authorisation requirements and procedures for management companies under AIFMD and UCITSD, particularly with a view to reducing fragmentation and administrative burden in the EU’s asset management sector. A more coordinated approach could contribute to greater predictability, facilitate cross-border operations, and support the functioning of the single market.

At the same time, harmonisation efforts should allow for a degree of flexibility to reflect differences in national legal systems and market structures. A balance must be struck between simplification and the need to preserve proportionality, supervisory judgment, and responsiveness to local context.

Targeted improvements, such as common templates, clearer procedural standards, and aligned supervisory expectations, could improve consistency without requiring a fully centralised or one-size-fits-all approach.

5.2.2. Authorisation of Investment Funds (UCITS)

Q 18) Is the current authorisation framework for UCITS effective and proportionate?

No.

Q 19) Is the authorisation framework for UCITS sufficiently proportionate in circumstances where not all requirements are relevant to the operations of a fund?

No.

The authorisation framework set out in the UCITS Directive is not always sufficiently proportionate in cases where certain requirements are not relevant to the actual operations of a UCITS. The authorisation process applies the same set of requirements to all UCITS, regardless of their structure, risk profile, or degree of standardisation. For example, low-risk or standardised UCITS products are often subject to the same level of scrutiny as more complex or innovative fund structures. In some jurisdictions, the process involves extensive assessments of business models, governance arrangements and service providers, even when the fund's operations are limited in scope or follow a highly standardised setup. This can lead to unnecessary administrative burden. A more differentiated and risk-based approach would enhance both proportionality and efficiency in the application of the framework.

Q 20) Do divergent practices arise in the authorisation framework for UCITS across Member States?

Yes.

Divergent practices do arise in the authorisation framework for UCITS across Member States, and these divergences create practical challenges for fund management companies operating in the single market. Although the UCITS Directive sets out a common legal foundation, its implementation at national level differs in terms of procedural detail, supervisory expectations, and timelines.

One example concerns the cost and duration of the authorisation process of a UCITS. National competent authorities (NCAs) apply different fee structures and processing times, which suggests variations in both the scope and complexity of their procedures. This creates an uneven playing field and may influence the choice of domicile based on administrative factors rather than business related considerations.

Differences also arise regarding the scope of documentation subject to regulatory approval. In some jurisdictions, NCAs only approve the fund rules, whereas in others they also approve the prospectus. The level and type of information required for disclosure varies significantly between Member States. These differences extend to the procedures for updating fund documentation. For instance, in Sweden, unit classes must be included in the fund rules, meaning that the addition of a new unit class requires formal approval by the NCA. This process is often time-consuming and results in longer time to market compared to jurisdictions where unit classes can be established more flexibly. This creates a competitive disadvantage for Swedish funds and illustrates how national practices can complicate the harmonised operation of UCITS across the internal market.

Moreover, the level of scrutiny applied by NCAs during the authorisation process of UCITS is inconsistent. In some Member States, the review focuses primarily on formal criteria, while in others it includes extensive assessments that go beyond what is necessary at the authorisation stage. These inconsistencies reduce predictability for cross-border operators and can lead to delays, duplicative efforts, and increased administrative burden.

Harmonising procedural aspects through common templates, clearer guidance on the division between initial authorisation and ongoing supervision, and standardised timelines would support more consistent outcomes and improve the functioning of the single market. Additional variations, such as whether percentage figures are permitted in fund names, which languages are accepted for fund rules, and how prospectuses are structured across jurisdictions, further illustrate the need for greater convergence in supervisory practices.

Q 21) Are you supportive of further harmonizing and treamlining the authorisation framework, such as requirements and procedures, for UCITS to increase simplification and reduce fragmentation in the sector?

Yes.

Further harmonisation and streamlining of the application of the UCITS framework is necessary to promote simplification and reduce fragmentation across the EU. Although the UCITS Directive provides a common legal basis, differences in interpretation and implementation by national competent authorities continue to create obstacles to cross-border fund operations and undermine overall efficiency.

High Priority. One important area for improvement is the development of a more consistent supervisory approach to eligible assets, fund naming, and cost/fee transparency, particularly in relation to structured funds. These areas are currently subject to divergent national interpretations, which can undermine investor protection and distort competition within the single market.

To address this, ESMA should be empowered to play a stronger coordinating role by issuing supervisory guidelines and facilitating alignment in the interpretation of key disclosure and authorisation requirements. This includes harmonising the content and structure of the UCITS prospectus to ease cross-border fund management and improve comparability for end investors. Strengthening ESMA's mandate in this area would also help avoid the inconsistencies seen under the SFDR framework, where a standardised EU template has been undermined by diverging national implementation practices.

5.2.3. Treatment of service providers and depositaries during the authorisation process

Q 22) Where the fund authorisation process involves an assessment by the NCA of the fund service providers appointed to a fund, in particular the depositary, is the current framework (requirements and procedures) sufficient and proportionate?

No.

There is scope to improve the clarity and consistency in UCITSD and AIFMD regarding how depositaries are assessed as part of the fund authorisation process.

To the extent that national competent authorities conduct such assessments, there may be merit in promoting greater consistency through a more standardised and proportionate approach. However, this should be achieved through non-binding supervisory guidance clarifying the scope and depth of such assessments.

Any initiative in this area should carefully avoid duplicative oversight and preserve the risk-based, principle-driven character of the existing framework.

Q 23) Should an authorisation process be introduced at the entity level for depositaries, with the understanding that such authorisation would allow them to offer their services across the EU?

No.

We do not see a need for introducing an EU-level authorisation regime for depositaries. While the idea may appear to support cross-border service provision in theory, it raises important concerns in practice, particularly regarding cost allocation, regulatory clarity, and proportionality.

Under the current framework, depositaries are not subject to a standalone EU-level authorisation. Their eligibility is assessed either as part of the fund authorisation process or under national regimes applicable to credit institutions or investment firms. This system has not led to material issues or barriers in the market.

Introducing a separate entity-level authorisation adds a new regulatory layer without clear added value. It creates additional administrative and financial burdens, which ultimately fall on fund management companies and investors. Any reform should be assessed in light of its actual benefits and potential unintended consequences.

Q 25) What are the main barriers for UCITS to access competitive and good-quality depositary services?

One barrier for UCITS to access competitive and good-quality depositary services is commercial rather than regulatory in nature. In many cases, depositaries are reluctant to offer their services unless they can also generate revenue from related activities such as prime brokerage, securities lending, or collateral management. Where such opportunities are limited, particularly in the case of smaller or more straightforward funds, depositaries may decline to submit an offer altogether or do so only on commercially unattractive terms.

This can result in limited choice and higher costs for fund managers, even where the mandate should, in principle, be easy to service. The issue primarily affects smaller UCITS and contributes to market concentration in the depositary function.

Q 26) What are the main barriers for AIFs to access competitive and good-quality depositary services?

In some Member States, AIFs are prevented from appointing depositaries established in other Member States, based on the assumption that a sufficient number of providers exist domestically. However, this does not reflect the practical challenges faced by AIFs with specialised investment strategies. Many domestic depositaries do not have processes in place to assess certain types of investments, making it extremely difficult, sometimes nearly impossible, for such AIFs to appoint a suitable provider. Fund managers are then limited to a very small number of depositaries, which tend to be expensive.

AIFs may also face practical and legal obstacles related to how certain assets are held or recorded. In some Member States, banking regulations are interpreted narrowly, limiting the types of assets that can be held in a bank account, particularly non-financial instruments such as unlisted shares. This may require AIFs to establish additional legal or operational entities to hold these assets, increasing both complexity and cost.

Furthermore, the absence of a harmonised EU framework for nominee or trustee registration creates legal uncertainty. In some jurisdictions, the entity listed in the shareholder register is considered the legal owner. This can lead to unintended consequences, such as a bank being required to fulfil capital calls simply because it is formally registered as the shareholder on behalf of the AIF.

These barriers limit competition, increase operational complexity, and hinder cross-border access to suitable depositary services.

5.3. EU passport for marketing of investment funds

Q 27) In the context of the EU framework, are the current passporting provisions on marketing sufficiently simple and proportionate to enable the smooth marketing of investment funds in the single market?

No.

Although the EU framework sets out common rules for the passporting of marketing activities, the implementation and application of these provisions continue to vary between Member States. This inconsistency affects the predictability and efficiency of cross-border fund distribution. Some Member States have introduced additional requirements, such as notification fees or specific documentation formats, that go beyond what is foreseen in EU legislation. Others differ in their interpretation of key concepts, such as what constitutes pre-marketing or when a marketing notification is considered complete. Furthermore, processes for notifying changes to existing notifications also diverge. For example, a name change of a UCITS may require separate notifications to both the home and host state NCAs, despite the fact that the home NCA is responsible for updating the ESMA register. These overlapping obligations are often manual and inefficient, relying on email-based communication and inconsistent workflows.

Even the initial passporting notification process is subject to variation, such as being submitted via email in Finland versus via a dedicated portal in Luxembourg. These procedural differences complicate compliance for fund managers operating in multiple jurisdictions. Additionally, the current 30-day notification period for new share classes is perceived as unnecessarily long, particularly since neither ESMA nor national NCAs maintain UCITS registration at the share class or ISIN level, but only at the (sub-)fund or LEI level. More broadly, the passporting rules should be amended so that marketing can commence immediately after notification, rather than requiring a 30-day waiting period.

While the AIFMD does not aim to harmonise the marketing of AIFs to retail investors, and most AIFs are not intended for retail distribution, the lack of harmonisation is even more pronounced when it comes to the cross-border marketing of certain national non-UCITS funds (e.g. special funds authorised for retail distribution under national regimes). These funds are generally subject to stricter national rules, which may be justified in light of investor protection, but can create disproportionate barriers when applied to relatively simple and low-risk AIFs. While these funds may qualify as AIFs, they are often relatively simple and retail-friendly in nature. Nonetheless, they are frequently subject to the same national barriers that apply to more complex AIFs. This includes restrictions on distribution, language requirements, and procedural hurdles that go beyond what would be proportionate in light of the fund's characteristics and investor protection needs. Although the EU framework does not aim to fully harmonise the retail distribution of AIFs, there is a case for reviewing the application of national rules to ensure they do not unduly hinder the cross-border offering of well-regulated retail funds.

To ensure a truly consistent and efficient passporting regime, further harmonisation of national implementing measures is needed, along with clearer supervisory guidance. This would help reduce regulatory fragmentation and facilitate more efficient cross-border distribution within the single market.

Q 28) In the context of the EU framework, are the current passporting provisions on marketing for investment funds applied in a consistent way in domestic legislation by Member States?

No.

There are barriers linked to divergent national requirements concerning the marketing of investment funds. Although the EU framework provides a general structure for the cross-border marketing of UCITS and AIFs, Member States retain discretion to impose additional rules on the format, content, and approval processes of marketing materials.

In some jurisdictions, marketing materials must be submitted for prior approval by the national competent authority, while others only require ex-post filing or no submission at all. These differences lead to legal uncertainty, increased compliance costs, and delays in fund launches. This is particularly problematic where funds are marketed exclusively to professional investors, for whom prior approval procedures often offer limited added value.

To address these issues, greater convergence is needed in how national competent authorities interpret and apply existing marketing requirements. This could include common supervisory expectations on content, clearer guidance on when prior approval is appropriate, and broader acceptance of a single language (e.g. English) for materials aimed solely at professional investors. Enhanced coordination and non-binding guidance from ESMA could support a more consistent and efficient cross-border marketing environment.

Moreover, variations in national fee structures for marketing notifications may result in indirect advantages for domestic providers. In some Member States, lower or no fees for local firms, combined with higher costs or procedural barriers for foreign actors, can function as a form of implicit subsidy. This type of selective advantage may warrant further scrutiny from the perspective of EU state aid rules, as it risks distorting competition within the single market.

Q 29) In the context of national frameworks, where divergences for passporting (marketing notification regime, review of the marketing

documents by the host Member States, IT or additional administrative requirements) exist, please elaborate on them, using practical examples.

National divergence in the context of passporting can arise through local tax reporting requirements. In some jurisdictions, fund managers are required to submit specific tax reports to the local tax authority as a condition for marketing funds to investors in that Member State. This obligation is not part of the EU-level marketing notification regime and creates an additional layer of administrative burden.

In practice, it necessitates the development of dedicated IT reporting processes that are not required in other Member States. This not only increases costs and operational complexity for fund managers engaging in cross-border distribution but also undermines the intended efficiency of the EU passporting framework.

Q 30) Are there barriers linked to different national requirements on marketing documents?

Yes.

See our response to question 28.

Q 32) Are there any aspects of the cross-border distribution of funds framework (Directive (EU) 2019/1160 and Regulation (EU) 2019/1156) that have created obstacles to the marketing of investment funds?

Yes.

While the cross-border distribution of funds framework introduced by Directive (EU) 2019/1160 and Regulation (EU) 2019/1156 has aimed to harmonise key elements of marketing procedures, certain aspects have created new practical barriers in the Swedish context.

A particularly burdensome element is the regulation of pre-marketing. Prior to the implementation of the Directive, pre-marketing in Sweden was handled in a pragmatic and flexible manner, with no formal notification obligation. As no significant issues had been identified under the previous approach, the introduction of a requirement for AIFMs to notify their home NCA within two weeks of commencing pre-marketing has instead resulted in additional administrative burden.

Moreover, the new requirements have introduced additional procedural complexity. The obligation to notify pre-marketing activity may discourage smaller AIFMs from engaging in early-stage investor dialogue, particularly when operating cross-border. This could ultimately work against the framework's stated aim of facilitating market access and fund distribution within the EU.

Other challenges relate to the notification and de-notification procedures introduced by the Regulation. While the standardised templates are a step forward, the interaction with host NCAs in some Member States remains complex and resource-intensive.

Q 34) Are fees/charges, currently levied by some host NCAs, a significant barrier to the distribution of investment funds in the single market?

Yes.

Fees and charges levied by some host Member States can pose a barrier to the distribution of investment funds in the single market. While administrative fees related to notification or registration can be justified if proportionate and transparent, their level and structure vary significantly across jurisdictions. In some cases, no fees are charged, whereas in others, annual supervisory charges of several thousand euros per notified fund apply. These differences are not always clearly linked to the actual supervisory work carried out and may lack a transparent or proportionate rationale.

Such costs can be particularly dissuasive in markets where the number of potential investors or expected assets under management is limited, as the commercial viability of entering those markets is reduced. The cumulative effect of both upfront fees and ongoing charges may especially affect smaller fund managers and hinder broader cross-border distribution.

A more harmonised and transparent approach to the application of such costs by host Member States would help reduce fragmentation and support a more efficient functioning of the single market. This could be achieved through clearer EU-level guidance or regulatory minimum standards, to ensure that national fee structures are proportionate, non-discriminatory, and based on actual supervisory effort. In cases where fee structures disproportionately affect foreign fund providers, this may also raise concerns about unequal treatment or selective advantages, which could merit further consideration under the EU's state aid framework.

Q 35) Do you think the fees/charges are consistent with the overall cost relating to the performance of the functions of the NCAs in question?

No.

See our response to question 36.

Q 36) Do you think the fees/charges are consistent with the overall cost relating to the performance of the functions of the NCAs in question?

No.

The level of fees and charges levied by host Member State NCAs does not appear to be consistently aligned with the actual cost of performing their supervisory functions. While NCAs generally carry out similar tasks in relation to cross-border fund distribution, the existence and magnitude of fees and charges vary significantly. High fees do not necessarily correlate with more extensive supervision or better service, and in some cases, annual charges are applied despite limited or no active supervisory engagement. This suggests a lack of common rationale and raises questions about proportionality. Greater transparency and a more standardised approach would help ensure that such costs are fair and reflective of the services actually provided.

Q 37) In relation to the tasks listed in Article 92(1)(a)-(f) of the UCITSD, who performs these tasks on behalf of the fund (e.g. the fund itself, a manager or a third party)?

Under the UCITS Directive, the tasks listed in Article 92(1)(a)–(f) are typically performed by the management company on behalf of the fund. In the Swedish context, the fund is not a legal person but a contractual arrangement, and cannot itself perform these tasks. The management company is therefore the responsible entity for ensuring compliance with applicable regulations, providing required investor disclosures, managing subscription and redemption processes, handling investor complaints, and ensuring appropriate tax information is made available in the host Member State.

While the management company is formally responsible for these tasks, it is important to emphasize that it rarely interacts directly with the end investor. Investment funds are normally distributed through one or more layers of intermediaries. In practice, retail investors typically have a relationship with a bank or financial adviser, which in turn accesses the fund through a financial platform. These platforms act as the direct counterparty to the management company for subscriptions and redemptions. It is not uncommon for there to be two or even three levels of intermediation between the end investor and the management company.

In Sweden, investment funds are a well-established savings vehicle for retail investors, seven out of ten Swedes invest in funds, either directly or through an intermediary investment firm (bank, financial platform etc.). Many consumers manage their investments independently via execution-only services. In such cases, the investment firm accesses the fund via an investment platform or clearing system, and the end investor does not have a direct relationship with the fund or the management company.

In some cases, certain operational functions may also be delegated to third parties, such as local distributors, paying agents, or transfer agents. This is particularly relevant in fund structures where the management company primarily acts as a product manufacturer and relies on external distributors for investor-facing activities. In such cases, distributors may handle aspects of investor communication or transaction processing, while the management company remains ultimately responsible for compliance and oversight.

However, the relevance and practical role of local representatives or paying agents, especially in larger fund domiciles, have decreased over time. In Sweden it is increasingly common that these services are not actively used, particularly as host NCAs often do not publish the contact point information included in the cross-border marketing notification. This reduces the utility of such service providers and may warrant a review by the European Commission regarding their necessity under the current framework.

Q 38) Is the notification requirement for pre-marketing of investment funds creating barriers to the marketing of investment funds in the Union?

Yes.

The notification requirement for pre-marketing under Directive (EU) 2019/1160 has created barriers to the marketing of investment funds, particularly for smaller AIFMs and in cross-border contexts. While the objective was to provide legal clarity and harmonise practices, the new rules have introduced procedural complexity that, in practice, can act as a disincentive for early-stage investor engagement.

In Sweden, pre-marketing was previously conducted without any formal notification requirements. The introduction of a notification obligation, requiring AIFMs to inform the home NCA within two weeks of commencing pre-marketing, has added administrative burden without addressing a clearly identified problem.

Furthermore, the 18-month lock-in period, whereby any subscription by a professional investor within that period triggers a full marketing notification, adds another layer of rigidity. This rule may distort commercial timelines and make it more difficult to structure gradual investor engagement, particularly for closed-ended or illiquid strategies where such flexibility is often needed.

Instead of maintaining two parallel regimes, a better approach may be to simplify and streamline the full marketing framework itself, thereby reducing the need for a distinct pre-marketing regime altogether.

5.4. EU passporting for management companies

Q 40) In the context of the EU framework, are the current passporting provisions sufficiently clear, comprehensive and proportionate to enable the smooth operation of fund management companies in the single market?

Yes.

While the passporting provisions under the UCITS Directive and AIFMD provide a legal framework for cross-border management and marketing, the procedures are not fully harmonised between the two regimes. This lack of alignment creates legal and operational uncertainty for fund management companies operating in multiple Member States and adds complexity for those holding dual licences under both frameworks.

One example of such divergence concerns notification procedures and the allocation of responsibilities between the home and host National Competent Authorities (NCAs). Under the UCITS Directive, the closure of a branch must be notified directly to the host NCA, whereas under AIFMD, the same operational change requires notification to the home NCA. For fund management companies operating under both frameworks, this can result in duplicative obligations, as the same operational change may require parallel notifications to different NCAs depending on the applicable directive.

Another illustration of this lack of harmonisation arises from differences in national implementation and supervisory practices. In some cases, local legislation in the host Member State may require the management company to appoint local entities to carry out one or more of its core functions, such as investment management, administration (including transfer agency and accounting), or distribution. The approval process for such arrangements is not always clearly defined or consistently applied, creating uncertainty and administrative burden. Targeted clarifications and greater harmonization, particularly in relation to delegation requirements imposed at national level, are needed to improve efficiency and predictability across jurisdictions.

Such inconsistencies increase the administrative burden and the risk of divergent supervisory practices. Greater alignment and clearer guidance on notification procedures would improve the usability and coherence of the passporting system and support more efficient cross-border operations.

Q 41) In the context of the EU framework, are the current passporting provisions for management companies reflected in a consistent way in domestic legislation by Member States?

No.

While the passporting provisions for management companies are transposed into Swedish legislation in accordance with the UCITS Directive and AIFMD, their implementation and practical application are not fully aligned with how the framework is interpreted in all other Member States. In Sweden, the provisions are generally applied in a formal and rule-based manner, but differences in interpretation and administrative processes compared to other jurisdictions remain.

For example, Swedish legislation does not impose additional requirements beyond the EU framework for passporting management services. However, the lack of harmonised administrative procedures, such as documentation formats or communication channels, can still lead to practical inconsistencies. Sweden also does not require the appointment of local representatives or service providers, in contrast to the practice in some other Member States. As a result, despite common legal foundations, the operational impact of the passport varies across the EU. Further procedural alignment is needed to improve legal certainty and reduce administrative burden for cross-border management companies.

Q 42) In the context of the EU framework, where divergences for passporting of management companies exist, please elaborate on them, using practical examples.

There are divergences in how the passporting regime for management companies is applied across Member States, and these differences create practical barriers to the smooth and predictable exercise of cross-border fund management.

One example concerns the requirement to appoint local representatives or service providers. In Sweden, there is no obligation for a management company from another Member State to appoint a local entity, such as a distributor, paying agent, or representative, in order to exercise its passporting rights. However, in some other jurisdictions, such requirements are still imposed in practice, either explicitly in national legislation or implicitly through supervisory expectations.

Another example relates to procedural aspects, such as the handling of updates to previously notified activities. In Sweden, the process is rule-based and relatively straightforward. In contrast, other Member States may apply more burdensome or less transparent processes, including divergent requirements for notification formats, communication channels, or supervisory timelines.

To improve the functioning of the passporting regime, clearer supervisory guidance and greater procedural convergence are needed at EU level. In particular, a more explicit and consistent delineation of responsibilities between home and host Member States, ideally through a common framework or interpretative guidance, would enhance legal certainty and improve the practical usability of the passporting regime.

Q 43) Is the current notification procedure for management companies, which is derived from the EU framework, applied in a consistent way by NCAs?

No.

Q 43.1) Where barriers and/or divergences in NCA regimes exist, please elaborate on them, using practical examples, including reference to impact, such as on costs and resources.

While the notification procedure for management companies is based on a standardise EU framework, its application varies across Member States. Differences exist in terms of how NCAs receive and process notifications, which creates inconsistencies in practice. The lack of a standardised, EU-wide procedure undermines the predictability and efficiency of the system, particularly for management companies operating cross-border.

Barriers and divergences primarily concern procedural and technical aspects of the notification process. For example, some NCAs require notifications to be submitted via dedicated online portals, while others still rely on email or physical delivery. There are also Member States that demand documentation in the local language and using national templates, which increases translation costs and administrative workload for the notifying entity.

Furthermore, updates to existing notifications, such as changes to fund names, share classes, or appointed service providers, are handled differently across jurisdictions. In some cases, separate notifications must be submitted to both home and host NCAs, even when the change is administrative. These inconsistencies consume legal and compliance resources and delay time to market.

Another barrier arises in situations where host country rules require the appointment of local entities, such as transfer agents or administrators. For example, in Ireland, a foreign management company seeking to manage Irish funds must appoint a local transfer agent. This requirement, though imposed by the host Member State, can also trigger additional regulatory steps in the home Member State (e.g. non-objection procedures), thus extending the passporting timeline. These additional layers result in increased costs and operational complexity, particularly for smaller management companies.

Q 43.2) Where barriers and/or divergences in the notification procedure derive from NCA regimes, how could they be best addressed?

To address the barriers and divergences stemming from national notification procedures, there is a clear need for a more standardised and digitalised approach at the EU level. A practical solution would be the establishment of a centralised EU portal, coordinated by ESMA, through which management companies could submit and update notifications. Such a portal would reduce reliance on fragmented national systems and improve the efficiency and consistency of communication between home and host NCAs.

Importantly, the development and maintenance of this portal should be funded at EU level to ensure that the cost burden does not fall on fund management companies, particularly when the initiative is intended to correct inefficiencies in the current regulatory infrastructure.

In addition, common templates and harmonised rules on format and language requirements should be developed to ensure that documentation can be submitted consistently across Member States, without the need for national variations or translations. Clear and uniform guidance on which changes trigger a notification obligation would further improve legal certainty and reduce unnecessary administrative burdens.

It would also be appropriate to review whether host Member State requirements, such as the obligation to appoint local service providers like transfer agents, are compatible with the principles of the single market. Where such requirements are considered proportionate and justified, their related approval processes should be harmonised and integrated into the EU-level framework to avoid duplication and delay. Collectively, these measures would improve the efficiency and predictability of the notification process and support a more consistent application of the EU passporting regime.

5.5. Group operations - Eliminating inefficiencies and duplication

Q 44) In your view, what are the key obstacles to consolidating functions across entities within the same asset management group, and to reducing duplication and operational inefficiencies across these entities?

- **Please explain why legal barriers in UCITSD are a key obstacle.**

The UCITS Directive contains legal provisions that may limit the ability of asset management groups to consolidate functions across entities and reduce operational duplication.

A key constraint lies in the entity-specific nature of the UCITS framework, which requires each authorised management company to maintain full organisational and governance structures, regardless of whether it operates within a larger group. This leads to duplication of functions such as risk management, compliance and internal control, even where a more centralised group-wide structure would be equally effective from a supervisory perspective.

The UCITS rules on so-called “letterbox entities” also act as a constraint. These rules restrict the extent to which key functions can be delegated, and were introduced to prevent the registration of nominally authorised but operationally hollow entities. While justified from a governance perspective, the current interpretation of these rules may limit legitimate intra-group allocations of functions. As a result, asset management groups are often required to duplicate core functions across multiple legal entities, even when they belong to the same corporate group and could operate more efficiently through shared services.

A particular area of concern relates to the application of the outsourcing rules. The current regulatory framework generally treats outsourcing as a potential source of increased risk and imposes extensive oversight requirements. However, it does not clearly distinguish between outsourcing to external providers and functional allocations within the same regulated group. In practice, some national competent authorities apply full outsourcing oversight even when functions are performed by another group entity or a branch of the same company. This results in overlapping controls and governance layers that are resource-intensive without necessarily enhancing risk management outcomes.

At the same time, where key functions are centralised within a parent or group company, it is important that the regulatory framework includes clear requirements for supervisory oversight of those group-level entities. This ensures accountability and transparency while still allowing for efficiency gains through consolidation.

Another legal obstacle lies in the remuneration rules under the UCITS Directive. Article 14b(1) refers to the principle of proportionality, but the directive does not explicitly allow for exemptions based on firm size or compensation levels. Equivalent rules and principles exist for investment firms, but in that context, the proportionality principle has been clarified through the Investment Firms Directive ([EU] 2019/2034), which explicitly exempts firms from applying deferred payment and payment in instruments when remuneration falls below certain thresholds. The European Commission has noted that these rules are disproportionately burdensome for smaller firms and employees with lower compensation (COM[2016]510 final). The rationale for these exemptions applies equally to fund management companies. It is essential that equivalent exemptions are introduced for fund managers. Since the current interpretation from the Swedish Supervisory Authorities is that EU law, i.e. the fund directives, are not interpreted as allowing for such exemptions, fund managers are facing disproportionate costs, distorting competition.

Introducing such exemptions would contribute to a level playing field with other financial institutions in the area of remuneration. It would also reduce unnecessary administrative burdens for smaller entities and facilitate more efficient remuneration structures for fund managers that operate within corporate groups. In doing so, it would enable more flexible and proportionate use of variable pay in a way that supports sound risk management and serves the best interests of investors.

Considering the above, there is a need to explore whether more proportionate requirements could be applied to intra-group arrangements. Clarifying the scope of outsourcing rules and the interpretation of “letterbox entity” restrictions, and introducing appropriate exemptions in remuneration requirements could facilitate the consolidation of core functions without compromising supervisory objectives or investor protection.

In parallel, it is essential that clear supervisory expectations are developed for group entities performing such functions, to ensure effective oversight, accountability, and enforceability across group structures. Such adjustments would support more efficient and scalable operating models across asset management groups within the EU regulatory framework.

- **Please explain why legal barriers in AIFMD are a key obstacle.**

In addition to the points on outsourcing rules outlined in our response under “Legal barriers in the UCITS Directive” above, the remuneration provisions in the AIFMD present a key legal obstacle. As under the UCITS Directive, they hinder the consolidation of functions and prevent more integrated and efficient operations within asset management groups.

Another structural barrier arises from the regulatory scope of activities permitted for UCITS management companies and MiFID investment firms. Under current rules, neither UCITS management companies nor investment firms are allowed to manage AIFs that invest in non-financial assets, such as real estate or directly held unlisted equity. As a result, asset management groups that offer a broader range of strategies must establish a separate AIFM within the group to manage such funds. This limits organisational flexibility and results in duplicative licensing and operational structures.

The AIFMD includes remuneration requirements that incorporate a proportionality principle (point 1 of Annex II). Similar provisions exist for investment firms, but in that context, the principle has been clarified through the Investment Firms Directive ([EU] 2019/2034), which explicitly exempts firms from applying deferral and payment in instruments when variable pay falls below a certain threshold. The European Commission has noted that these obligations may be disproportionately burdensome for smaller firms and employees with lower compensation (COM(2016)510 final). The same reasoning applies to AIF managers. However, the current interpretation by the Swedish Supervisory Authorities is that EU law does not permit such flexibility, resulting in elevated costs and distorted competition. To resolve this, the AIFMD should be amended to include the same exemptions as those found in the Investment Firms Directive.

This would promote a level playing field with other financial institutions in terms of staff remuneration. Easing the burden on smaller firms and lower compensation levels would also support the use of performance-based pay in a way that serves investors' best interests.

Taken together, these legal barriers constrain the ability of asset management groups to operate in a cost-effective and scalable manner. A more proportionate and flexible regulatory approach, one that recognises intra-group structures and enables targeted exemptions, would support operational efficiency without compromising supervisory objectives or investor protection.

- **Please explain why legal barriers in national laws are a key obstacle.**

National laws may create certain legal obstacles to consolidating functions across entities within the same asset management group and to reducing operational duplication.

In particular, local legal requirements that restrict outsourcing or require that certain functions be performed in the home Member State of the management company can limit the ability of groups to organise operations efficiently. These provisions often apply to core functions such as portfolio management, risk management or administration, and may hinder the centralisation of tasks within a group structure.

In some cases, national legislation may require that specific roles or functions be performed locally, even when similar capabilities already exist elsewhere within the same group. This may lead to duplicated processes and increased operational costs, particularly where the added legal constraints do not reflect differences in actual operational risk.

Furthermore, inconsistencies between Member States in how such legal requirements are formulated and applied can complicate the implementation of group-wide operating models and reduce legal certainty.

Clarifying the scope for intra-group delegation under national law and promoting more consistent and proportionate rules across jurisdictions help support more efficient structures while preserving the integrity of national legal frameworks.

- **Please explain why supervisory barriers are a key obstacle.**

Supervisory barriers pose practical obstacles to the consolidation of functions across entities within the same asset management group and hinder efforts to reduce operational duplication.

One key challenge lies in differences in supervisory expectations and interpretations between Member States. Even where the legal framework permits intra-group delegation or centralisation of functions, national competent authorities (NCAs) may apply diverging supervisory practices. For example, some NCAs require detailed pre-approval or enhanced oversight of intra-group arrangements, even when the delegated functions are carried out by regulated entities within the same group. This can lead to overlapping governance structures, additional reporting requirements, and increased internal resource demands.

Diverging market practices, particularly in how NCAs interpret and apply supervisory rules, also create complications. One concrete example concerns the handling of limit breaches, for instance, the distinction between active and passive breaches, the timeframe for remediation, and related reporting obligations. These interpretations vary across jurisdictions, making it difficult for asset management groups to establish uniform internal controls and group-wide reporting processes.

In addition, a lack of transparency or predictability in supervisory expectations may deter management companies from consolidating functions, even where such models would be operationally efficient and compliant with EU-level rules.

Supervisory convergence, supported by ESMA guidelines and common interpretative frameworks, is essential to reduce fragmentation and ensure consistent treatment of intra-group models. Clear and proportionate guidance on acceptable delegation and centralisation practices enhances legal certainty and enables efficient group-level operations, while maintaining supervisory effectiveness.

6. Supervision

6.1. Effectiveness of the current framework

Q 2) What prevents the ESAs from reaching the objectives or performing the tasks listed in Question 1?

There are several factors that limit the ESAs' ability to fully achieve their objectives and effectively perform their tasks, particularly in relation to cross-border activity and regulatory consistency. While the ESAs play a key role in promoting coherence across the EU financial system, further efforts are needed to strengthen coordination, improve proportionality in supervisory initiatives, and ensure more consistent implementation and enforcement of EU rules.

First, the processes for launching EU-level supervisory initiatives, such as Common Supervisory Actions (CSAs) and IT-related projects, benefits from improved efficiency and cost control. While CSAs can be useful tools for promoting supervisory convergence, not all are equally relevant across Member States. This reduces their effectiveness and create unnecessary burdens in national contexts where the underlying risks are limited. Similarly, the implementation of large-scale projects, such as the

European Single Access Point (ESAP), illustrates the importance of ensuring that expected benefits are proportionate to the associated administrative and financial costs.

Second, divergences in the implementation and application of EU legislation across Member States contribute to an uneven supervisory landscape. Although some national flexibility is necessary to reflect local market conditions, excessive variation in interpretation and enforcement hinders consistent regulatory outcomes and opens the door to regulatory arbitrage. Supervisory processes and approval mechanisms should support effective oversight and be aligned with common EU standards, while avoiding undue influence from domestic industry structures.

Finaly, there is a need to more systematically incorporate national legal proceedings and case law into supervisory analysis, particularly in areas such as consumer protection. Reviewing relevant court decisions across jurisdictions can help identify recurring issues or unintended consequences in the current regulatory framework, and inform future guidance or legislative refinement.

6.2. Specific questions on supervisory arrangements for different sectors

Q 4) Do you have ideas how EU-level supervision of financial markets could be structured (for example the whole or part of the sector should be supervised at EU level, supervisory decisions could be taken at EU level or national, etc.)?

Yes.

Given the substantial differences between national financial markets, we see limited scope for introducing a single EU supervisor across the entire sector. Effective, risk-based supervision often relies on local knowledge and proximity to the market. For this reason, we believe that the supervision of consumer-facing services and products should remain primarily at the national level.

That said, the implementation and application of the UCITS Directive vary considerably across Member States in areas related to consumer protection. This creates additional information costs for consumers and opens the door to regulatory arbitrage for fund managers. To address these issues, stronger supervisory convergence is needed, particularly in how rules are interpreted and enforced.

We also see merit in strengthening ESMA's powers to address situations where national competent authorities (NCAs) do not follow its supervisory guidelines, in order to support more consistent outcomes and reduce market fragmentation.

Common supervisory activities at EU level should be designed in a risk-based and proportionate manner, allowing for differentiation between Member States depending on their exposure, market size, and relevance in a given area. This approach would help ensure that supervisory resources are allocated where they are most needed, while avoiding unnecessary administrative burdens in markets with limited activity or lower risk profiles.

In practice, this could mean that certain supervisory actions are focused more intensively on jurisdictions with higher cross-border activity or systemic importance, while lighter approaches are applied in other contexts. Such flexibility would contribute to a more efficient, targeted, and credible supervisory framework, without undermining the overarching goals of consistency and investor protection at EU level.

At the same time, Member States should retain the ability to take action against unfair or non-compliant cross-border activities, particularly where consumer protection or market integrity may be at risk. Strengthening these safeguards would help preserve trust in the single market while supporting a more coherent and effective supervisory structure.

Q5) Some national competent authorities (NCAs) have developed advanced expertise or specialisation in supervising certain sectors. What is your view on building on these NCAs and creating EU centres of supervisory expertise by sectors?

We recognise that some national competent authorities (NCAs) have developed advanced expertise or specialisation in supervising certain sectors of the financial market. This development has largely occurred through the natural concentration of specific activities in certain Member States, which over time has contributed to building supervisory knowledge in those areas.

In our view, there is no immediate need for policy intervention to formalise such specialisation at EU level. Supervisory expertise should continue to develop in line with market needs, provided that such developments do not compromise consumer protection, financial stability or the consistent application of EU rules.

If the idea of EU centres of supervisory expertise were to be pursued, it would be important to ensure that they are built on transparent mandates, operate in close coordination with ESMA and other NCAs, and complement rather than replace national supervisory responsibilities, particularly in areas where local market knowledge remains essential.

Q 6) Do you think supervision of EU financial markets would benefit from pooling together resources and expertise of individual NCAs in regional hubs?

Pooling resources and expertise from individual national competent authorities (NCAs) into regional supervisory hubs could offer potential benefits in certain areas, particularly where there are clear cross-border dimensions or a need for specialised technical capacity. Such a model could support more consistent supervisory outcomes, enhance efficiency in selected domains, and provide access to expertise that may not be available in all jurisdictions.

At the same time, the creation of regional hubs would require careful consideration of their governance, scope and relationship to NCAs. It is important that any such structures do not undermine the ability of NCAs to respond to local market developments or erode proximity to supervised entities, particularly in areas where national market knowledge remains essential, such as consumer-facing services or fund distribution.

The value of regional hubs may be greater in supervisory areas where high technical complexity or systemic interlinkages are present, rather than in the general supervision of retail markets. As such, further analysis would be needed to determine in which areas such an approach could be most effective, and under what conditions it would complement rather than duplicate existing supervisory arrangements.

Overall, while regional pooling may offer efficiencies in selected areas, its design should respect the principles of proportionality, subsidiarity and the practical realities of financial market supervision across diverse national contexts.

Q 7) What is your view on setting up regional hubs of ESMA to ensure closer interaction with market participants?

The idea of establishing regional ESMA hubs to ensure closer interaction with market participants could offer certain benefits, such as improved proximity, better information flow, and more effective engagement with regionally focused actors, but also raises important practical and structural considerations. The effectiveness of such a model would depend on its scope, operational structure, and the specific functions delegated to the regional level. Careful design would be required to ensure that any such structure complements, rather than complicates, the existing supervisory architecture.

On the one hand, regional hubs could help bridge the distance between ESMA and national markets, particularly in areas where local context, language, or business models are important. Proximity to stakeholders may support earlier identification of market developments and provide smaller or regional actors with a more accessible point of contact than the central EU level.

On the other hand, questions remain regarding the added value, governance, and resource implications of creating regional structures within an EU-level authority. Without clear delineation of roles and responsibilities, there is a risk of overlap with national competent authorities (NCAs), which already engage directly with local market participants. Regional hubs could also introduce complexity in supervisory coordination and raise concerns about consistency in ESMA's communication and decision-making processes.

7. Horizontal questions on the supervisory framework

7.1. New direct supervisory mandates and governance models

Q 1) Would you agree that EU level supervision is beneficial to achieve a more integrated market?

We are neutral. Whether EU-level supervision contributes to a more integrated financial market depends on the specific area of regulation and how such supervision is structured. In some cases, emerging regulatory fields, EU-level involvement may help ensure consistency, reduce fragmentation, and support a more harmonised application of EU rules.

At the same time, a general shift toward centralised supervision is not warranted in areas where national competent authorities already play a well-established and effective role. This is particularly relevant for consumer-facing services and products, where local market knowledge and proximity to supervised entities are essential for effective, risk-based supervision.

We see merit in assigning EU-level supervision to new areas from the outset, to avoid early-stage divergence and ensure consistent regulatory outcomes. For existing areas, however, continued national supervision, supported by stronger coordination and clearer EU-level guidance, offers a more proportionate and effective approach that complements, rather than replaces, national responsibilities.

7.7. Funding

Q 22) ESMA: Do you consider the provisions on financing and resources for the tasks and responsibilities of the ESAs appropriate?

In part.

The current financing model, based on a mix of contributions from national competent authorities (NCAs), the EU budget, and fees from directly supervised entities, offers a generally sound foundation for ensuring the independence and functioning of the ESAs.

Transparency and accountability in the use of resources should be strengthened, especially when new fee structures are introduced or when tasks are delegated from NCAs to the ESAs. It should also be recognised that NCAs already contribute significantly, both financially and operationally, to ESA work, and care should be taken to avoid duplicative costs for financial market participants, particularly where both national and EU-level supervision is involved.

Overall, while the current provisions provide a workable basis, a clearer framework for prioritisation, cost control, and stakeholder involvement in budgetary decisions could further enhance the legitimacy and effectiveness of ESA financing.

Q 23) ESMA: face pressure to fulfil a growing number of mandates while staying within the ceilings of the multi-annual financial framework (MFF). Taking into account the limitations of public financing, should ESAs be fully funded by the financial sector?

No.

The current mixed funding model, whereby the ESAs receive financing from both the EU and NCAs, provides a sound basis for ensuring operational stability while maintaining public accountability. In situations where the ESAs exercise direct supervision over individual financial institutions, it is appropriate that the supervised entities contribute through fees to cover the related costs. We therefore take the view that the current mixed funding model should be preserved and not replaced by full industry funding.

Q 23.1) ESMA: If not fully funded by the financial sector, would you be in favour of targeted indirect industry funding for certain convergence work (indirect fees), e.g. for specific tasks, like voluntary colleges, opinions, etc.?

No.

We are not in favor of targeted indirect industry funding for specific tasks such as convergence work, voluntary colleges, or non-binding opinions. These horizontal activities are part of the ESAs' core mandate and should be financed through the general budget, based on a transparent and collectively agreed process within the existing public funding structure. This ensures neutrality, predictability, and accountability in the use of resources.

Tasks related to the supervision of entities under national responsibility should be financed by the respective NCAs. Introducing additional ESA fees for such entities would create overlapping cost layers, complicate the allocation of supervisory responsibilities, and undermine effective cost control.

Q 24) ESMA: Do you think the current framework includes sufficient checks and balances to ensure that ESAs make efficient and effective use of their budgets?

No.

The ESAs are subject to standard EU budgetary procedures and oversight through the Multiannual Financial Framework (MFF). These procedures strengthen cost control and support a balanced approach to the ESAs' work.

Concerns have been raised regarding cost control and prioritisation in certain EU-level initiatives, such as Common Supervisory Actions (CSAs) and large-scale IT projects like the European Single Access Point (ESAP). These examples highlight the importance of ensuring that resource allocation is risk-based, targeted, and proportionate, and that budgetary decisions are guided by robust impact assessments and transparent follow-up. They also illustrate the risks associated with weak governance structures, where the ESAs are able to decide on initiatives that entail significant costs for national NCAs and the financial industry. Close proximity between the industry and political institutions, on one hand, and the authority responsible for deciding the budget and associated costs, on the other, is essential for achieving balance and cost efficiency.

We support enhancing the current framework by introducing stronger performance-based evaluation, greater transparency regarding the cost-effectiveness of new initiatives, and closer dialogue with Member States and stakeholders on budgetary priorities. These measures would help strengthen trust in the ESAs' operational credibility and ensure that limited resources are directed to where they are most needed.

Q 25) ESMA: Which of the following measures could be envisaged to ensure efficiency and effectiveness of ESAs budgets?

Other measures. The main issue is not the size of the ESAs' budgets, but rather a lack of operational effectiveness in delivering complex projects. This appears to stem less from insufficient funding and more from limitations in project planning, prioritisation, and execution capacity. Examples such as SFDR and ESAP have illustrated challenges including delayed timelines, high costs, and unsatisfactory outcomes. These shortcomings highlight the need to strengthen internal coordination and project management capabilities within the ESAs to ensure that existing resources are used more efficiently and that policy objectives are met.

SWEDISH INVESTMENT FUND ASSOCIATION

Angelica Thornquist Lavicka
Senior Legal Counsel