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*Committee on Economic and Monetary Affairs*

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**2009/0064(COD)**

16.2.2010

# **AMENDMENTS**

## **980 - 1183**

**Draft report**

**Jean-Paul Gauzès**

(PE430.709v01-00)

on the proposal for a directive of the European Parliament and of the Council  
on Alternative Investment Fund Managers and amending Directives  
2004/39/EC and 2009/.../EC

Proposal for a directive– amending act  
(COM(2009)0207 – C7-0040/2009 – 2009/0064(COD))

AM\_Com\_LegReport

**Amendment 980**  
**Derk Jan Eppink**

**Proposal for a directive**  
**Article 18 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

1. AIFM which ***intend to*** delegate to third parties the task of carrying out on their behalf one or more of their functions ***shall request prior authorisation from the competent authorities of the home Member State for each delegation.***

*Amendment*

1. AIFM ***may*** delegate to third parties the task of carrying out on their behalf one or more of their functions.

Or. en

*Justification*

*Managers should be allowed to delegate certain management and administrative functions (e.g. risk management) to non-EU based offices without having to request prior authorization in every instance.*

**Amendment 981**  
**Othmar Karas**

**Proposal for a directive**  
**Article 18 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

1. AIFM which ***intend to*** delegate to third parties the task of carrying out on their behalf one or more of their functions shall ***request prior authorisation from*** the competent authorities of the home Member State ***for each delegation.***

*Amendment*

1. AIFM which delegate to third parties the task of carrying out on their behalf one or more of their functions shall ***inform*** the competent authorities of ***their*** home Member State ***in an appropriate manner.***

Or. en

*Justification*

*In terms of AIFM a notification procedure may be acceptable, but it should be clear that*

*notification may also be effected ex post. Since service providers are often no regulated entities according to the AIFM Directive, e.g. carrying out limited tasks such as IT tools, there is no need for the entity appointed by delegation to be licensed as an asset manager. In line with the UCITS Directive the functions of the AIFM can also be delegated to the depositary as long as it does not give rise to conflicts of interest.*

## **Amendment 982**

**Thomas Mann**

### **Proposal for a directive**

#### **Article 18 – paragraph 1 – subparagraph 1**

##### *Text proposed by the Commission*

1. AIFM which ***intend to*** delegate to third parties the task of carrying out on their behalf one or more of their functions shall ***request prior authorisation from*** the competent authorities of ***the*** home Member State ***for each delegation***.

##### *Amendment*

1. AIFM which delegate to third parties the task of carrying out on their behalf one or more of their functions shall ***inform*** the competent authorities of ***their*** home Member State ***in an appropriate manner***.

Or. en

## **Amendment 983**

**Wolf Klinz**

### **Proposal for a directive**

#### **Article 18 – paragraph 1 – subparagraph 1**

##### *Text proposed by the Commission*

1. AIFM which intend to delegate to third parties the task of carrying out on their behalf one or more of their functions shall ***request prior authorisation from*** the competent authorities of the home Member State for each delegation.

##### *Amendment*

1. AIFM which intend to delegate to third parties the task of carrying out on their behalf one or more of their functions shall ***inform*** the competent authorities of the home Member State for each delegation.

Or. en

##### *Justification*

*Alignment with MiFID and UCITS.*

**Amendment 984**  
**Syed Kamall**

**Proposal for a directive**  
**Article 18 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

1. AIFM which intend to delegate to third parties the task of carrying out on their behalf one or more of their functions shall ***request prior authorisation from*** the competent authorities of the home Member State for each delegation.

*Amendment*

1. AIFM which intend to delegate to third parties the task of carrying out on their behalf one or more of their ***material*** functions shall ***inform in advance*** the competent authorities of the home Member State for each delegation ***as soon as practicable prior to the delegation becoming effective. The competent authorities may within one month of such notification reject such delegation if it can be shown that the rejection would be in the best interests of investors in the relevant AIF.***

Or. en

*Justification*

*Requiring prior approval would create a delegation regime stricter than UCITS. Given that there have been no issues with delegation under UCITS schemes, the requirements of the AIFM Directive should ideally be no more restrictive than in UCITS IV Art. 13(1)(c).*

**Amendment 985**  
**Astrid Lulling**

**Proposal for a directive**  
**Article 18 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

1. AIFM which intend to delegate to third parties the task of carrying out on their behalf one or more of their functions shall ***request prior authorisation from*** the competent authorities of the home Member State ***for each*** delegation.

*Amendment*

1. AIFM which intend to delegate to third parties the task of carrying out on their behalf one or more of their ***own*** functions shall ***notify*** the competent authorities of the home Member State ***before the*** delegation ***arrangements become effective.***

*Justification*

*See also Article 18 of the revised Presidency compromise proposal dated 15 December 2009.*

**Amendment 986**  
**Jean-Pierre Audy**

**Proposal for a directive**  
**Article 18 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

1. AIFM which intend to delegate to third parties the task of carrying out on their behalf one or more of their functions shall ***request prior authorisation from*** the competent authorities of the home Member State for each delegation.

*Amendment*

1. AIFM which intend to delegate to third parties the task of carrying out on their behalf one or more of their functions shall ***notify*** the competent authorities of the home Member State for each delegation ***before the delegation arrangements become effective.***

Or. en

**Amendment 987**  
**Othmar Karas**

**Proposal for a directive**  
**Article 18 – paragraph 1 – subparagraph 2 – point a**

*Text proposed by the Commission*

(a) ***the third party must be creditworthy and*** the persons who effectively conduct the business must be of sufficiently good reputation and sufficiently experienced;

*Amendment*

(a) the persons who effectively conduct the business ***of the third party*** must be of sufficiently good reputation and sufficiently experienced;

Or. en

*Justification*

*In terms of AIFM a notification procedure may be acceptable, but it should be clear that notification may also be effected ex post. Since service providers are often not regulated*

*entities according to the AIFM Directive, e.g. carrying out limited tasks such as IT tools, there is no need for the entity appointed by delegation to be licensed as an asset manager. In line with the UCITS Directive the functions of the AIFM can also be delegated to the depositary as long as it does not give rise to conflicts of interest.*

#### **Amendment 988**

**Astrid Lulling**

#### **Proposal for a directive**

#### **Article 18 – paragraph 1 – subparagraph 2 – point a**

*Text proposed by the Commission*

(a) ***the third party must be creditworthy*** and the persons who effectively conduct the business must be of sufficiently good repute and sufficiently experienced;

*Amendment*

(a) the persons who effectively conduct the business ***of the third party*** must be of sufficiently good repute and sufficiently experienced;

Or. en

*Justification*

*See also Article 18 of the revised Presidency compromise proposal dated 15 December 2009.*

#### **Amendment 989**

**Markus Ferber**

#### **Proposal for a directive**

#### **Article 18 – paragraph 1 – subparagraph 2 – point b**

*Text proposed by the Commission*

(b) where the delegation concerns the portfolio management ***or the risk management, the third party must also*** be authorised ***as an AIFM to manage an AIF of the same type***;

*Amendment*

(b) where the delegation concerns the portfolio management,

***(i) the mandate shall only be given to undertakings which are authorised or registered for the purpose of asset management and subject to prudential supervision; and***

***(ii) where the third party is domiciled in a***

*third country, supervisory structures equivalent to those in the EU must exist.*

*The Commission shall adopt delegated acts in accordance with Articles 49a, 49b and 49c specifying the criteria for assessing the equivalence of the supervisory structures in third party countries;*

Or. en

### *Justification*

*The restriction to delegate portfolio management to authorised AIFM compliant with EU law will limit the funds' ability to run portfolios outside the EU. This reduces the number of investment opportunities to investors and impacts their ability to diversify risk. The Directive should follow the UCITS approach.*

## **Amendment 990**

**Burkhard Balz**

### **Proposal for a directive**

#### **Article 18 – paragraph 1 – subparagraph 2 – point b**

##### *Text proposed by the Commission*

(b) where the delegation concerns the portfolio management *or the risk management, the third party must also* be authorised *as an AIFM to manage an AIF of the same type*;

##### *Amendment*

(b) where the delegation concerns the portfolio management,

*(i) the mandate shall only be given to undertakings which are authorised or registered for the purpose of asset management and subject to prudential supervision; and*

*(ii) where the third party is domiciled in a third country, supervisory structures equivalent to those in the EU must exist.*

*The Commission shall adopt delegated acts in accordance with Articles 49a, 49b and 49c specifying the criteria for assessing the equivalence of the supervisory structures in third party*



*countries;*

Or. en

*Justification*

*The restriction to delegate portfolio management to authorised AIFM compliant with EU law will limit the funds' ability to run portfolios outside the EU. This reduces the number of investment opportunities to investors and impacts their ability to diversify risk. The Directive should follow the UCITS approach.*

**Amendment 991**  
**Sirpa Pietikäinen**

**Proposal for a directive**  
**Article 18 – paragraph 1 – subparagraph 2 – point b**

*Text proposed by the Commission*

(b) where the delegation concerns the ***portfolio*** management ***or the risk management, the third party must also*** be authorised ***as an AIFM to manage an AIF of the same type;***

*Amendment*

(b) where the delegation concerns the ***investment*** management, ***the mandate shall be given only to undertakings which are authorised or registered for the purpose of asset management and subject to prudential supervision. The delegation shall be in accordance with investment-allocation criteria periodically laid down by the management companies. Where the mandate concerns the investment management and is given to a third-country undertaking, cooperation between the supervisory authorities concerned shall be ensured;***

Or. en

**Amendment 992**  
**Othmar Karas**

**Proposal for a directive**  
**Article 18 – paragraph 1 – subparagraph 2 – point b**

*Text proposed by the Commission*

(b) where the delegation concerns the portfolio management *or the risk management, the third party must also* be authorised *as an AIFM to manage an AIF of the same type*;

*Amendment*

(b) where the delegation concerns the portfolio management, the *mandate shall be given only to undertakings which are authorised or registered for the purpose of asset management and subject to prudential supervision; where this condition cannot be satisfied, delegation may only be given on the condition of prior authorisation by the competent authorities of the home Member State*;

Or. en

*Justification*

*In terms of AIFM a notification procedure may be acceptable, but it should be clear that notification may also be effected ex post. Since service providers are often no regulated entities according to the AIFM Directive, e.g. carrying out limited tasks such as IT tools, there is no need for the entity appointed by delegation to be licensed as an asset manager. In line with the UCITS Directive the functions of the AIFM can also be delegated to the depositary as long as it does not give rise to conflicts of interest.*

**Amendment 993**  
**Wolf Klinz**

**Proposal for a directive**  
**Article 18 – paragraph 1 – subparagraph 2 – point b**

*Text proposed by the Commission*

(b) where the delegation concerns the portfolio management or the risk management, *the third party must also* be authorised *as an AIFM to manage an AIF of the same type*;

*Amendment*

(b) where the delegation concerns the portfolio management or the risk management, *the mandate shall be given only to undertakings which are authorised or registered for the purpose of asset management and subject to prudential supervision; the AIFM shall perform due diligence. Where the mandate concerns*

*the investment management and is given to a third-country undertaking, cooperation between the supervisory authorities concerned shall be ensured; where this condition is not fully satisfied, the delegation may only be given on the condition of prior authorisation by the competent authorities of the home Member State of the AIFM;*

Or. en

**Amendment 994**  
**Astrid Lulling**

**Proposal for a directive**  
**Article 18 – paragraph 1 – subparagraph 2 – point b**

*Text proposed by the Commission*

(b) where the delegation concerns the portfolio management or the risk management, *the third party must also* be authorised *as an AIFM to manage an AIF of the same type*;

*Amendment*

(b) where the delegation concerns the portfolio management or the risk management, *the mandate shall be given only to undertakings which are* authorised or registered for the purpose of asset management and subject to supervision; *where this condition cannot be satisfied, delegation may only be given on the condition of prior authorisation by the competent authorities of the home Member State. Where the third party is established in a third country, it must comply with the conditions set out in Article 39;*

Or. en

*Justification*

*See also Article 18 of the revised Presidency compromise proposal dated 15 December 2009.*

**Amendment 995**  
**Syed Kamall**

**Proposal for a directive**  
**Article 18 – paragraph 1 – subparagraph 2 – point b**

*Text proposed by the Commission*

(b) where the delegation *concerns the* portfolio management or the risk management, *the third party must also be* authorised *as an AIFM to manage an AIF of the same type*;

*Amendment*

(b) where the delegation *is of* portfolio management or risk management *(in whole or in part) the mandate may only be given to undertakings which are* authorised *or registered for the purpose of asset management and subject to prudential supervision; where this condition cannot be satisfied, delegation may only be given if the AIFM has received prior authorisation from the competent authority of its home Member State*;

Or. en

*Justification*

*Many asset managers, including those which are international, use local expertise to invest in certain markets (notably emerging markets). This is allowed even under UCITS. It is important that this practice be allowed to continue so that investors can benefit from local advice without undue delay. Rather than simply banning the practice of international delegation altogether, it would be more appropriate to ensure that the entities to whom there is to be delegation are suitable.*

**Amendment 996**  
**Jean-Pierre Audy**

**Proposal for a directive**  
**Article 18 – paragraph 1 – subparagraph 2 – point b**

*Text proposed by the Commission*

(b) where the delegation concerns the portfolio management or the risk management, the third party must *also* be authorised as an AIFM to manage an AIF of the same type;

*Amendment*

(b) where the delegation concerns the portfolio management or the risk management *or liquidity management*, the third party must *(i)* be authorised as an AIFM to manage an AIF of the same type, *or*

*(ii) be an AIFM that is not domiciled within the Union but is authorized to manage AIFs of the same type in its country of domiciliation;*

Or. en

**Amendment 997**

**Corien Wortmann-Kool**

**Proposal for a directive**

**Article 18 – paragraph 1 – subparagraph 2 – point b**

*Text proposed by the Commission*

(b) where the delegation concerns the portfolio management or the risk management, *the third party must also* be authorised *as an AIFM to manage an AIF of the same type*;

*Amendment*

(b) where the delegation concerns the portfolio management or the risk management, *the mandate shall* be *given only to undertakings which are* authorised *or registered for the purpose of asset management and subject to supervision*;

Or. en

*Justification*

*Alignment with the UCITS Directive. It is common practice for AIFM to delegate part of their portfolio management to local managers (outside the EU) when investing outside the EU, in order to use local knowledge on local investment opportunities. This is sometimes less risky than managing from a distance. These local managers should be adequately supervised.*

**Amendment 998**

**Syed Kamall**

**Proposal for a directive**

**Article 18 – paragraph 1 – subparagraph 2 – point b a (new)**

*Text proposed by the Commission*

*Amendment*

*(ba) where the delegation concerns the portfolio management or risk management and is given to a third*

*country undertaking, there must be, in addition to the requirements in point (b), appropriate cooperation arrangements in place between the competent authority of the AIFM and the supervisory authority of the third country entity;*

Or. en

*Justification*

*Many asset managers, including those which are international, use local expertise to invest in certain markets (notably emerging markets). This is allowed even under UCITS. It is important that this practice be allowed to continue so that investors can benefit from local advice without undue delay. Rather than simply banning the practice of international delegation altogether, it would be more appropriate to ensure that the entities to whom there is to be delegation are suitable.*

**Amendment 999**

**Astrid Lulling**

**Proposal for a directive**

**Article 18 – paragraph 1 – subparagraph 2 – point b a (new)**

*Text proposed by the Commission*

*Amendment*

*(ba) where the delegation concerns the portfolio management or the risk management and is given to a third-country undertaking, in addition to the requirement in point (b), co-operation between the competent authorities of the home Member State and the supervisory authority of the undertaking shall be ensured;*

Or. en

*Justification*

*See also Article 18 of the revised Presidency compromise proposal dated 15 December 2009.*

**Amendment 1000**  
**Astrid Lulling**

**Proposal for a directive**  
**Article 18 – paragraph 1 – subparagraph 2 – point b b (new)**

*Text proposed by the Commission*

*Amendment*

***(bb) where the delegation concerns administration services to AIF referred to in Item 2. of Annex I, the mandate shall be given only to undertakings which are authorised or registered for the relevant purpose and subject to supervision in their home Member State; where this condition cannot be satisfied, delegation may only be given on the condition of prior authorisation by the competent authorities of the home Member State;***

Or. en

*Justification*

*See also Article 18 of the revised Presidency compromise proposal dated 15 December 2009.*

**Amendment 1001**  
**Astrid Lulling**

**Proposal for a directive**  
**Article 18 – paragraph 1 – subparagraph 2 – point c**

*Text proposed by the Commission*

*Amendment*

(c) the delegation shall not prevent the effectiveness of supervision of the AIFM, and in particular it must not prevent the AIFM from acting, or the AIF from being managed, in the best interests of its investors;

(c) the delegation shall not prevent the effectiveness of supervision of the AIFM, and in particular it must not prevent the AIFM from acting, or the AIF from being managed, in the best interests ***of the AIF*** or its investors ***collectively***;

Or. en

*Justification*

*See also Article 18 of the revised Presidency compromise proposal dated 15 December 2009.*

**Amendment 1002**

**Astrid Lulling**

**Proposal for a directive**

**Article 18 – paragraph 1 – subparagraph 2 – point d**

*Text proposed by the Commission*

(d) the AIFM must demonstrate that the third party is qualified and capable of undertaking the functions in question, that it was selected with due care and that the AIFM is in a position to monitor effectively at any time the delegated activity, to give at any time further instructions to the third party and to withdraw the delegation with immediate effect when this is in the interest of investors.

*Amendment*

(d) the AIFM must ***be able to*** demonstrate that the third party is qualified and capable of undertaking the functions in question, that it was selected with due care and that the AIFM is in a position to monitor effectively at any time the delegated activity, to give at any time further instructions to the third party and to withdraw the delegation with immediate effect when this is in the interest of investors ***collectively***.

Or. en

*Justification*

*See also Article 18 of the revised Presidency compromise proposal dated 15 December 2009.*

**Amendment 1003**

**Derk Jan Eppink**

**Proposal for a directive**

**Article 18 – paragraph 1 – subparagraph 2 – point d**

*Text proposed by the Commission*

(d) the AIFM ***must*** demonstrate that the third party is qualified and capable of undertaking the functions in question, that it was selected with due care and that the AIFM is in a position to monitor effectively at any time the delegated

*Amendment*

(d) the AIFM must ***be able to*** demonstrate, ***if required***, that the third party is qualified and capable of undertaking the functions in question, that it was selected with due care and that the AIFM is in a position to monitor effectively at any time the



activity, to give at any time further instructions to the third party and to withdraw the delegation with immediate effect when this is in the interest of investors.

delegated activity, to give at any time further instructions to the third party and to withdraw the delegation with immediate effect when this is in the interest of investors.

Or. en

### *Justification*

*Managers should be allowed to delegate certain management and administrative functions (e.g. risk management) to non-EU based offices without having to request prior authorization in every instance.*

#### **Amendment 1004** **Wolf Klinz**

#### **Proposal for a directive** **Article 18 – paragraph 1 – subparagraph 3**

##### *Text proposed by the Commission*

*No delegation shall be given to the depositary, the valuator, or to any other undertaking whose interests may conflict with those of the AIF or its investors.*

##### *Amendment*

*The AIFM shall ensure that the delegation does not conflict with the interests of the AIF or its investors.*

Or. en

#### **Amendment 1005** **Othmar Karas**

#### **Proposal for a directive** **Article 18 – paragraph 1 – subparagraph 3**

##### *Text proposed by the Commission*

No delegation shall be given *to the depositary, the valuator, or* to any other undertaking whose interests may conflict with those of the AIF *or its investors*.

##### *Amendment*

No delegation shall be given to any other undertaking whose interests may conflict with those of the AIF.

Or. en

### *Justification*

*In terms of AIFM a notification procedure may be acceptable, but it should be clear that notification may also be effected ex post. Since service providers are often no regulated entities according to the AIFM Directive, e.g. carrying out limited tasks such as IT tools, there is no need for the entity appointed by delegation to be licensed as an asset manager. In line with the UCITS Directive the functions of the AIFM can also be delegated to the depositary as long as it does not give rise to conflicts of interest.*

#### **Amendment 1006**

**Astrid Lulling**

#### **Proposal for a directive**

#### **Article 18 – paragraph 1 – subparagraph 3**

##### *Text proposed by the Commission*

No delegation shall be given to the depositary, **the valuator, or** to any other undertaking whose interests may conflict with those of the AIF or **its** investors.

##### *Amendment*

No delegation **of investment management services referred to in Item 1. of Annex I** shall be given to the depositary **or to a delegate of the depositary nor** to any other undertaking whose interests may conflict with those of **the AIFM or the** investors of the AIF **unless those conflicts can be managed.**

Or. en

### *Justification*

*See also Article 18 of the revised Presidency compromise proposal dated 15 December 2009.*

#### **Amendment 1007**

**Olle Schmidt**

#### **Proposal for a directive**

#### **Article 18 – paragraph 1 – subparagraph 3**

##### *Text proposed by the Commission*

No delegation shall be given to the depositary, **the valuator, or** to any **other** undertaking whose interests may conflict with those of the AIF **or its investors.**

##### *Amendment*

No delegation **of portfolio management** shall be given to the depositary **or** to any undertaking whose interest may conflict with those of the AIF **unless those**

*conflicts can be managed.*

Or. en

*Justification*

*The text proposed by the European Commission with respect to the conditions under which AIFM may delegate functions to depositaries are too strict and not in accordance with the current practice. The prohibition ought to be limited to portfolio management.. As regards conflicts of interests, already existing EU legislation such as the Markets in Financial Instruments Directive (MiFID) should be taken into account. MiFID requires that conflicts of interests are appropriately managed, rather than altogether preventing deals where conflicts of interest exists.*

**Amendment 1008**

**Gunnar Hökmark**

**Proposal for a directive**

**Article 18 – paragraph 1 – subparagraph 3**

*Text proposed by the Commission*

No delegation shall be given to the depositary, **the valuator, or** to any **other** undertaking whose interests may conflict with those of the AIF **or its investors**.

*Amendment*

No delegation **of portfolio management** shall be given to the depositary **or** to any undertaking whose interest may conflict with those of the AIF **unless those conflicts can be managed**.

Or. en

*Justification*

*The amendment eases the Commission proposal by stating that the strict prohibition should apply only to the delegation of portfolio management, to be more in line with current practices. Also, it is more in line with other legislation, such as MiFID, to state that it is sufficient that conflicts of interests can be managed.*

**Amendment 1009**  
**Burkhard Balz**

**Proposal for a directive**  
**Article 18 – paragraph 1 – subparagraph 3**

*Text proposed by the Commission*

No delegation shall be given to the depositary, the valuator, or to any other undertaking whose interests may conflict with those of the AIF or its investors.

*Amendment*

No delegation ***of portfolio management*** shall be given to the depositary, the valuator, or to any other undertaking whose interests may conflict with those of the AIF or its investors.

Or. en

*Justification*

*Portfolio management is one of the key tasks of fund managers; it should not be delegated to the depositary which is required to monitor the fund. All other tasks should, however, be delegatable to the depositary, as no conflicts of interest can arise in their case. This is in line with the provisions of the UCITS Directive, so that any restriction here for AIFs would be particularly out of place.*

**Amendment 1010**  
**Astrid Lulling**

**Proposal for a directive**  
**Article 18 – paragraph 2**

*Text proposed by the Commission*

2. ***In no case*** shall ***the AIFM's*** liability be affected by ***the fact that*** the AIFM ***has delegated*** functions to ***a third party, nor*** shall ***the*** AIFM delegate its functions to the extent that, ***in essence***, it ***can no longer be considered to be the manager of the AIF.***

*Amendment*

2. ***The*** liability ***of the AIFM*** shall ***not*** be affected by ***delegation by*** the AIFM ***of any*** functions to third ***parties.*** ***The*** AIFM shall ***not*** delegate its functions to the extent that it ***becomes a letter-box entity.***

Or. en

*Justification*

*See also Article 18 of the revised Presidency compromise proposal dated 15 December 2009.*

**Amendment 1011**  
**Derk Jan Eppink**

**Proposal for a directive**  
**Article 18 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

**3. The third party may not sub-delegate any of the functions delegated to it.** **deleted**

Or. en

*Justification*

*Managers should be allowed to delegate certain management and administrative functions (e.g. risk management) to non-EU based offices without having to request prior authorization in every instance.*

**Amendment 1012**  
**Sharon Bowles**

**Proposal for a directive**  
**Article 18 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

**3. The third party may not sub-delegate any of the functions delegated to it.** **deleted**

Or. en

*Justification*

*Sub-delegation should be possible so that AIFM have access to third-country markets and local expertise.*

**Amendment 1013**  
**Wolf Klinz**

**Proposal for a directive**  
**Article 18 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

**3. The third party may not sub-delegate  
any of the functions delegated to it.** **deleted**

Or. en

**Amendment 1014**  
**Othmar Karas**

**Proposal for a directive**  
**Article 18 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

**3. The third party may not sub-delegate  
any of the functions delegated to it.** **deleted**

Or. en

*Justification*

*Alignment with UCITS. In the area of asset management, sub-delegation of various functions of the asset manager is a widely accepted practice which does not give rise to concerns in the area of systemic risk or investor protection. It should therefore be allowed also in the area of AIF management.*

**Amendment 1015**  
**Markus Ferber**

**Proposal for a directive**  
**Article 18 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

**3. The third party may not sub-delegate  
any of the functions delegated to it.** **deleted**

*Justification*

*Prohibition of sub-delegation risks having an adverse effect on the efficiency of fund management. It could prohibit management solutions of AIF such as multi manager funds offering a range of specialised administration services in different sectors of one single product and Master KAG concepts, while both management solutions do not cause any systemic risk. Higher costs for funds/investors would be the consequence if an AIFM had to enter into a direct contractual relationship with every sub-delegate.*

**Amendment 1016****Burkhard Balz****Proposal for a directive****Article 18 – paragraph 3***Text proposed by the Commission**Amendment*

**3. The third party may not sub-delegate any of the functions delegated to it.** **deleted**

*Justification*

*Prohibition of sub-delegation risks having an adverse effect on the efficiency of fund management. It could prohibit management solutions of AIF such as multi manager funds offering a range of specialised administration services in different sectors of one single product and Master KAG concepts, while both management solutions do not cause any systemic risk. Higher costs for funds/investors would be the consequence if an AIFM had to enter into a direct contractual relationship with every sub-delegate.*

**Amendment 1017****Olle Schmidt****Proposal for a directive****Article 18 – paragraph 3***Text proposed by the Commission**Amendment*

**3. The third party may not sub-delegate any of the functions delegated to it.** **deleted**

*Justification*

*Sub-delegation is essential for global investment management, as well as for valuation and depositary functions.*

**Amendment 1018**

**Sirpa Pietikäinen**

**Proposal for a directive**

**Article 18 – paragraph 3**

*Text proposed by the Commission*

3. The third party may **not** sub-delegate any of the functions delegated to it.

*Amendment*

3. The third party may sub-delegate any of the functions delegated to it ***provided that the conditions laid down in paragraph 1 are fulfilled.***

*Justification*

*Sub-delegation should not be totally forbidden, but should be possible provided that the conditions laid down for delegation are met.*

**Amendment 1019**

**Astrid Lulling**

**Proposal for a directive**

**Article 18 – paragraph 3**

*Text proposed by the Commission*

3. The third party may **not** sub-delegate any of the functions delegated to it.

*Amendment*

3. The third party may sub-delegate any of the functions delegated to it ***provided that the conditions laid down in paragraph 1 are fulfilled.***



*Justification*

*See also Article 18 of the revised Presidency compromise proposal dated 15 December 2009.*

**Amendment 1020**

**Syed Kamall**

**Proposal for a directive**

**Article 18 – paragraph 3**

*Text proposed by the Commission*

3. The third party may **not** sub-delegate any of the functions delegated to it.

*Amendment*

3. The third party may sub-delegate any of the functions delegated to it ***provided that the conditions laid down in paragraph 1 are fulfilled.***

Or. en

*Justification*

*This provision should ideally be completely deleted, to mirror the UCITS Directive. For example, real estate AIF will often delegate property maintenance functions and networks of different service providers are often mobilised so it would be unworkable to ban sub-delegation.*

**Amendment 1021**

**Jean-Pierre Audy**

**Proposal for a directive**

**Article 18 – paragraph 3**

*Text proposed by the Commission*

3. The third party may **not** sub-delegate any of the functions delegated to it.

*Amendment*

3. The third party may sub-delegate any of the functions delegated to it ***provided that the conditions laid down in paragraph 1 are fulfilled.***

Or. en

**Amendment 1022**  
**Marta Andreassen**

**Proposal for a directive**  
**Article 18 – paragraph 3**

*Text proposed by the Commission*

3. The third party may **not** sub-delegate any of the functions delegated to it.

*Amendment*

3. The third party may sub-delegate any of the functions delegated to it ***except monitoring and oversight.***

Or. en

*Justification*

*It is necessary for a fund to have a depositary that chooses a global custodian which can delegate parts of the safekeeping to sub-custodians in different jurisdictions.*

**Amendment 1023**  
**Astrid Lulling**

**Proposal for a directive**  
**Article 18 – paragraph 4**

*Text proposed by the Commission*

***4. The Commission shall adopt implementing measures further specifying the following:***

***(a) the conditions for approving the delegation;***

***(b) the conditions under which the manager could no longer be considered to be the manager of the AIF as set out in paragraph 2.***

***Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 49(3).***

*Amendment*

***deleted***

Or. en

*Justification*

*See also Article 18 of the revised Presidency compromise proposal dated 15 December 2009.*

**Amendment 1024**

**Sharon Bowles**

**Proposal for a directive**

**Article 18 – paragraph 4 – subparagraph 1 – introductory part**

*Text proposed by the Commission*

*Amendment*

4. The Commission ***shall adopt implementing*** measures further specifying the following:

4. The Commission ***may lay down, by means of delegated acts in accordance with Articles 49a, 49b and 49c,*** measures further specifying the following:

Or. en

*Justification*

*This is appropriate wording under the new 'comitology' procedures if this article is retained.*

**Amendment 1025**

**Wolf Klinz**

**Proposal for a directive**

**Article 18 – paragraph 4 - subparagraph 1 - point a**

*Text proposed by the Commission*

*Amendment*

***(a) the conditions for approving the delegation;***

***deleted***

Or. en

*Justification*

*See also Article 18 of the revised Presidency compromise proposal dated 15 December 2009.*

**Amendment 1026**  
**Sharon Bowles**

**Proposal for a directive**  
**Article 18 – paragraph 4 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

***Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 49(3).***

***deleted***

Or. en

*Justification*

*This is appropriate wording under the new 'comitology' procedures if this article is retained.*

**Amendment 1027**  
**Wolf Klinz**

**Proposal for a directive**  
**Article 19 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. An AIFM shall, for each of the AIF it manages, make available an annual report for each financial year. The annual report shall be made available to investors and competent authorities no later than four months following the end of the financial year.

1. An AIFM shall, for each of the AIF it manages, make available an annual report for each financial year. The annual report shall be made available to investors and competent authorities no later than four months following the end of the financial year ***or, in the case of an AIF investing in other AIF, no later than six months following the end of the financial year.***

Or. en

*Justification*

*In order to allow for some more time to obtain data from another AIF, the deadline should be extended by two months.*

**Amendment 1028**  
**Corien Wortmann-Kool**

**Proposal for a directive**  
**Article 19 – paragraph 1**

*Text proposed by the Commission*

1. An AIFM shall, for each of the AIF it manages, make available an annual report for each financial year. The annual report shall be made available to investors and competent authorities no later than four months following the end of the financial year.

*Amendment*

1. An AIFM shall, for each of the AIF it manages, make available an annual report for each financial year. The annual report shall be made available to investors and competent authorities no later than four months following the end of the financial year ***or, in the case of AIF which invest in other AIF, no later than six months following the end of the financial year.***

Or. en

*Justification*

*Private equity funds of funds prepare their annual reports on the basis of the most recent financial information received from the underlying private equity funds in which they invest. Those underlying funds may not publish their annual reports or financial information in time for the fund of funds to meet a mandatory four month period in relation to the preparation of its own annual report. For this reason, funds of funds need additional time in order to complete the preparation of their annual reports.*

**Amendment 1029**  
**Sirpa Pietikäinen**

**Proposal for a directive**  
**Article 19 – paragraph 1**

*Text proposed by the Commission*

1. An AIFM shall, for each of the AIF it manages, make available an annual report for each financial year. The annual report shall be made available to investors and competent authorities no later than four months following the end of the financial year.

*Amendment*

1. An AIFM shall, for each of the AIF it manages, make available an annual report for each financial year. The annual report shall be made available to investors and competent authorities no later than four months following the end of the financial year, ***or, in circumstances where information is required from third parties, such as the audit of any underlying***

*investments of the AIF, no later than six months following the end of the financial year.*

Or. en

#### *Justification*

*The audit of Private Equity Funds may require the audit of portfolio companies to be completed first and any mandatory period under this Directive needs to allow time for this to be done, taking account of the period that such portfolio companies have to produce their own accounts. Therefore, a mandatory four month period for the AIF would not be appropriate.*

#### **Amendment 1030**

**Syed Kamall**

#### **Proposal for a directive**

#### **Article 19 – paragraph 1**

##### *Text proposed by the Commission*

1. An AIFM shall, for each of the AIF it manages, make available an annual report for each financial year. The annual report shall be made available to investors and competent authorities no later than four months following the end of the financial year.

##### *Amendment*

1. An AIFM shall, for each of the AIF it manages, make available an annual report for each financial year. The annual report shall be made available to investors and competent authorities no later than four months following the end of the financial year *or, in circumstances where information is required from third parties, such as the audit of any underlying investments of the AIF, no later than six months following the end of the financial year.*

Or. en

#### *Justification*

*The audit of Private Equity Funds may require the audit of portfolio companies to be completed first and any mandatory period under this Directive needs to allow time for this to be done, taking account of the period that such portfolio companies have to produce their own accounts. Therefore, a mandatory four month period for the AIF would not be appropriate. Furthermore, level 2 implementing measures should be proportionate and not unduly penalize entities when there is no clear benefit attached to the compliance costs.*

## **Amendment 1031**

**Slawomir Witold Nitras, Danuta Jazłowiecka, Danuta Maria Hübner, Enikő Győri**

### **Proposal for a directive**

#### **Article 19 – paragraph 1**

##### *Text proposed by the Commission*

1. An AIFM shall, for each of the AIF it manages, make available an annual report for each financial year. The annual report shall be made available to investors and competent authorities no later than four months following the end of the financial year.

##### *Amendment*

1. An AIFM shall, for each of the AIF it manages, make available an annual report for each financial year. The annual report shall be made available to investors and competent authorities no later than four months following the end of the financial year ***or, in circumstances where information is required from third parties, such as the audit of any underlying investments of the AIF, no later than six months following the end of the financial year.***

Or. en

##### *Justification*

*The audit of Private Equity Funds may require the audit of portfolio companies to be completed first and any mandatory period under this Directive needs to allow time for this to be done, taking account of the period that such portfolio companies have to produce their own accounts. Therefore, a mandatory four month period for the AIF would not be appropriate.*

## **Amendment 1032**

**Burkhard Balz**

### **Proposal for a directive**

#### **Article 19 – paragraph 1**

##### *Text proposed by the Commission*

1. An AIFM shall, for each of the AIF it manages, make available an annual report for each financial year. The annual report shall be made available to investors and competent authorities no later than four

##### *Amendment*

1. An AIFM shall, for each of the AIF it manages, make available an annual report for each financial year. The annual report shall be made available to investors and competent authorities no later than four

months following the end of the financial year.

months following the end of the financial year *or, in circumstances where information is required from third parties, such as the audit of any underlying investments of the AIF, no later than six months following the end of the financial year.*

Or. en

#### *Justification*

*The audit of Private Equity Funds may require the audit of portfolio companies to be completed first and any mandatory period under this Directive needs to allow time for this to be done, taking account of the period that such portfolio companies have to produce their own accounts. Therefore, a mandatory four month period for the AIF would not be appropriate. Furthermore, level 2 implementing measures should be proportionate and not unduly penalize entities when there is no clear benefit attached to the compliance costs.*

#### **Amendment 1033**

**Jürgen Klute**

#### **Proposal for a directive**

#### **Article 19 – paragraph 1**

##### *Text proposed by the Commission*

1. **An** AIFM **shall**, for each of the AIF it manages, make available an annual report for each financial year. The annual report shall be made available to investors and competent authorities no later than four months following the end of the financial year.

##### *Amendment*

1. AIFM, for each of the AIF it manages, **and AIF shall** make available an annual report for each financial year. The annual report shall be made available to investors and competent authorities no later than four months following the end of the financial year.

Or. en

#### *Justification*

*See justification under Title. AIF should also be subject to Articles 19 to 30 of the Directive*



## Amendment 1034

Bernd Lange

### Proposal for a directive

#### Article 19 – paragraph 1

*Text proposed by the Commission*

1. **An** AIFM **shall**, for each of the AIF it manages, make available an annual report for each financial year. The annual report shall be made available to investors and competent authorities no later than four months following the end of the financial year.

*Amendment*

1. AIFM, for each of the AIF it manages, **and AIF shall** make available an annual report for each financial year. The annual report shall be made available to investors and competent authorities no later than four months following the end of the financial year.

Or. en

*Justification*

*AIF should also be subject to Articles 19 to 30 of the Directive.*

## Amendment 1035

Udo Bullmann, Robert Goebbels

### Proposal for a directive

#### Article 19 – paragraph 2 – point c a (new)

*Text proposed by the Commission*

*Amendment*

**(ca) the information listed in Article 20, to the extent it has changed during the financial year covered by the report.**

Or. en

**Amendment 1036**  
**Diogo Feio**

**Proposal for a directive**  
**Article 19 – paragraph 2 – point c a (new)**

*Text proposed by the Commission*

*Amendment*

***(ca) the amount of remuneration, split into fixed and variable remuneration, paid by a systemically important AIFM and, where relevant, by any AIF managed by such an AIFM, to senior executives and other employees having a material impact on the firm's risk exposure.***

Or. en

*Justification*

*Although the opportunity to address remuneration can be contested, if some disclosure on remuneration is to be envisaged, competent authorities should only be concerned with information about compensation from appropriate staff at systemically important AIFM to oversee the implementation of the FSB's and Commission principles. Comparable remuneration policies would not benefit investors in the AIF in the event that it has no right of repayment of any amounts clawed back.*

**Amendment 1037**  
**Syed Kamall**

**Proposal for a directive**  
**Article 19 – paragraph 2 – point c a (new)**

*Text proposed by the Commission*

*Amendment*

***(ca) the amount of remuneration, split into fixed and variable remuneration, paid by a systemically important AIFM and, where relevant, by any AIF managed by such an AIFM, to senior executives and other employees having a material impact on the firm's risk exposure.***

Or. en

### *Justification*

*Competent authorities only need be concerned with information about compensation from appropriate staff at systemically important AIFM to oversee the implementation of the FSB's principles. For all AIFM to report this information is unnecessary, disproportionate and overwhelming for competent authorities.*

#### **Amendment 1038**

**Sari Essayah**

#### **Proposal for a directive**

#### **Article 19 – paragraph 2 – point c a (new)**

*Text proposed by the Commission*

*Amendment*

***(ca) the amount of remuneration, split into fixed and variable remuneration, paid by a systemically important AIFM and, where relevant, by any AIF managed by such an AIFM, to senior executives and other employees having a material impact on the firm's risk exposure.***

Or. en

#### **Amendment 1039**

**Burkhard Balz**

#### **Proposal for a directive**

#### **Article 19 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

3. The accounting information given in the annual report shall be audited by one or more persons empowered by law to audit accounts in accordance with Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC. The auditor's report, including any qualifications, shall be

3. The accounting information given in the annual report shall be ***prepared in accordance with the accounting standards or principles required by the applicable AIF rules or instruments of incorporation or formation*** and audited by one or more persons empowered by law to audit accounts in accordance with Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council

reproduced in full in the annual report.

Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC. The auditor's report, including any qualifications, shall be reproduced in full in the annual report.

Or. en

### *Justification*

*The audit of Private Equity Funds may require the audit of portfolio companies to be completed first and any mandatory period under this Directive needs to allow time for this to be done, taking account of the period that such portfolio companies have to produce their own accounts. Therefore, a mandatory four month period for the AIF would not be appropriate. Furthermore, level 2 implementing measures should be proportionate and not unduly penalize entities when there is no clear benefit attached to the compliance costs.*

### **Amendment 1040** **Sirpa Pietikäinen**

#### **Proposal for a directive** **Article 19 – paragraph 3**

#### *Text proposed by the Commission*

3. The accounting information given in the annual report shall be audited by one or more persons empowered by law to audit accounts in accordance with Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC. The auditor's report, including any qualifications, shall be reproduced in full in the annual report.

#### *Amendment*

3. The accounting information given in the annual report shall ***be prepared in accordance with the accounting standards or principles required by the applicable AIF rules or instruments of incorporation or formation and*** audited by one or more persons empowered by law to audit accounts in accordance with Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC. The auditor's report, including any qualifications, shall be reproduced in full in the annual report.

Or. en

## Amendment 1041

Syed Kamall

### Proposal for a directive

#### Article 19 – paragraph 3

##### *Text proposed by the Commission*

3. The accounting information given in the annual report shall be audited by one or more persons empowered by law to audit accounts in accordance with Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC. The auditor's report, including any qualifications, shall be reproduced in full in the annual report.

##### *Amendment*

3. The accounting information given in the annual report shall be ***prepared in accordance with the accounting standards or principles required by the applicable AIF rules or instruments of incorporation or formation and*** audited by one or more persons empowered by law to audit accounts in accordance with Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC. The auditor's report, including any qualifications, shall be reproduced in full in the annual report.

Or. en

## Amendment 1042

Śławomir Witold Nitras, Danuta Jazłowiecka, Danuta Maria Hübner

### Proposal for a directive

#### Article 19 – paragraph 3

##### *Text proposed by the Commission*

3. The accounting information given in the annual report shall be audited by one or more persons empowered by law to audit accounts in accordance with Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council

##### *Amendment*

3. The accounting information given in the annual report shall be ***prepared in accordance with the accounting standards or principles required by the applicable AIF rules or instruments of incorporation or formation and*** audited by one or more persons empowered by law to audit accounts in accordance with Directive

Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC. The auditor's report, including any qualifications, shall be reproduced in full in the annual report.

2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC. The auditor's report, including any qualifications, shall be reproduced in full in the annual report.

Or. en

*Justification*

*The above wording defines more precisely the requirements for an audit.*

**Amendment 1043**

**Jürgen Klute**

**Proposal for a directive**

**Article 19 – paragraph 4 – subparagraph 1**

*Text proposed by the Commission*

4. The Commission shall adopt *implementing measures* further specifying the content and format of the annual report. *These measures* shall be adapted to the type of AIFM to which they apply.

*Amendment*

4. The Commission shall adopt *delegated acts* further specifying the content and format of the annual report. *Those acts* shall be adapted to the type of **AIF or** AIFM to which they apply.

Or. en

*Justification*

*AIF should also be subject to Articles 19 to 30 of the Directive*

## Amendment 1044

Bernd Lange

### Proposal for a directive

#### Article 19 – paragraph 4 – subparagraph 1

*Text proposed by the Commission*

4. The Commission shall adopt *implementing measures* further specifying the content and format of the annual report. *These measures* shall be adapted to the type of AIFM to which they apply.

*Amendment*

4. The Commission shall adopt *delegated acts* further specifying the content and format of the annual report. *Those acts* shall be adapted to the type of **AIF or** AIFM to which they apply.

Or. en

*Justification*

*AIF should also be subject to Articles 19 to 30 of the Directive.*

## Amendment 1045

Śławomir Witold Nitras, Danuta Jazłowiecka, Danuta Maria Hübner

### Proposal for a directive

#### Article 19 – paragraph 4 – subparagraph 1

*Text proposed by the Commission*

4. The Commission shall adopt *implementing measures* further specifying the content and format of the annual report. *These measures* shall be adapted to the type of AIFM to which they apply.

*Amendment*

4. The Commission shall adopt *delegated acts* further specifying the content and format of the annual report. *Those acts* shall be **appropriate and proportionate and shall be** adapted to the type of AIFM to which they apply **and the AIF to which the report relates, taking account of the different size, resources, complexity, nature, investments, investment strategies and techniques, structures and investors of different types of AIFM and the AIF that they manage.**

Or. en

*Justification*

*The proposed amendment aims to better take account of the specificities of the different types of AIF*

**Amendment 1046**  
**Sirpa Pietikäinen**

**Proposal for a directive**  
**Article 19 – paragraph 4 – subparagraph 1**

*Text proposed by the Commission*

4. The Commission shall adopt *implementing measures* further specifying the content and format of the annual report. *These measures* shall be adapted to the type of AIFM to which they apply.

*Amendment*

4. The Commission shall adopt *delegated acts* further specifying the content and format of the annual report. *Those acts* shall be ***appropriate and proportionate and shall be*** adapted to the type of AIFM to which they apply ***and the AIF to which the report relates, taking account of the different size, resources, complexity, nature, investments, investment strategies and techniques, structures and investors of different types of AIFM and the AIF that they manage.***

Or. en

*Justification*

*Level 2 implementing measures should be proportionate and not unduly penalize entities when there is no clear benefit attached to the compliance costs.*

**Amendment 1047**  
**Burkhard Balz**

**Proposal for a directive**  
**Article 19 – paragraph 4 – subparagraph 1**

*Text proposed by the Commission*

4. The Commission shall adopt *implementing measures* further specifying the content and format of the annual report.

*Amendment*

4. The Commission shall adopt *delegated acts* further specifying the content and format of the annual report. *Those acts*



*These measures shall be adapted to the type of AIFM to which they apply.*

shall be ***appropriate and proportionate and shall be*** adapted to the type of AIFM to which they apply ***and the AIF to which the report relates, taking account of the different size, resources, complexity, nature, investments, investment strategies and techniques, structures and investors of different types of AIFM and the AIF that they manage.***

Or. en

#### *Justification*

*The audit of Private Equity Funds may require the audit of portfolio companies to be completed first and any mandatory period under this Directive needs to allow time for this to be done, taking account of the period that such portfolio companies have to produce their own accounts. Therefore, a mandatory four month period for the AIF would not be appropriate. Furthermore, level 2 implementing measures should be proportionate and not unduly penalize entities when there is no clear benefit attached to the compliance costs.*

#### **Amendment 1048** **Syed Kamall**

#### **Proposal for a directive** **Article 19 – paragraph 4 – subparagraph 1**

##### *Text proposed by the Commission*

4. The Commission shall adopt *implementing measures* further specifying the content and format of the annual report. *These measures* shall be adapted to the type of AIFM to which they apply.

##### *Amendment*

4. The Commission shall adopt *delegated acts* further specifying the content and format of the annual report. *Those acts* shall be ***appropriate and proportionate and shall be*** adapted to the type of AIFM to which they apply ***and the AIF to which the report relates, taking account of the different size, resources, complexity, nature, investments, investment strategies and techniques, structures and investors of different types of AIFM and the AIF that they manage.***

Or. en

**Amendment 1049**  
**Sharon Bowles**

**Proposal for a directive**  
**Article 19 – paragraph 4**

*Text proposed by the Commission*

4. The Commission **shall** adopt **implementing measures** further specifying the content and format of the annual report. These measures shall be adapted to the type of AIFM to which they apply.

*Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 49(3).*

*Amendment*

4. The Commission **may** adopt **delegated acts in accordance with Articles 49a, 49b and 49c** further specifying the content and format of the annual report. These measures shall be adapted to the type of AIFM to which they apply.

Or. en

*Justification*

*This is appropriate wording under the new 'comitology' procedures if this article is retained.*

**Amendment 1050**  
**Othmar Karas**

**Proposal for a directive**  
**Article 20 – paragraph 1 – introductory part**

*Text proposed by the Commission*

1. AIFM shall **ensure that** AIF investors receive the following information before they invest in the AIF, as well as any changes thereof:

*Amendment*

1. AIFM shall **make available to retail** AIF investors the following information before they invest in the AIF, as well as any changes thereof:

Or. en

*Justification*

*Professional investors are deemed as “professional” according to Annex II of MiFID. Furthermore, they have definite views about the information they need relating to their*

*investments. There is clearly no need to stipulate information requirements adjusted to the needs of retail investors also for professional investors. In terms of public distribution, AIFM shall just have the obligation to “making available” the relevant information.*

## **Amendment 1051**

**Wolf Klinz**

### **Proposal for a directive**

#### **Article 20 – paragraph 1 – introductory part**

##### *Text proposed by the Commission*

1. AIFM shall ensure that ***AIF investors*** ***receive*** the following information before they invest in the AIF, as well as any changes thereof:

##### *Amendment*

1. AIFM shall ensure that the following information ***is made available to AIF investors*** before they invest in the AIF, as well as any changes thereof:

Or. en

##### *Justification*

*Alignment with UCITS and MiFID.*

## **Amendment 1052**

**Jürgen Klute**

### **Proposal for a directive**

#### **Article 20 – paragraph 1 – introductory part**

##### *Text proposed by the Commission*

1. AIFM shall ensure that ***AIF*** investors receive the following information before they invest in the AIF, as well as any changes thereof:

##### *Amendment*

1. ***AIF and*** AIFM shall ensure that investors receive the following information before they invest in the AIF, as well as any changes thereof:

Or. en

##### *Justification*

*Disclosure of AIF remuneration policy is indispensable to better transparency. See also Article 10 a (new), as amended.*

## Amendment 1053

Bernd Lange

### Proposal for a directive

#### Article 20 – paragraph 1 – introductory part

##### *Text proposed by the Commission*

1. AIFM shall ensure that **AIF** investors receive the following information before they invest in the AIF, as well as any changes thereof:

##### *Amendment*

1. **AIF and** AIFM shall ensure that investors receive the following information before they invest in the AIF, as well as any changes thereof:

Or. en

##### *Justification*

*Disclosure of AIF remuneration policy is indispensable to better transparency. See also Article 10 a (new), as amended.*

## Amendment 1054

Burkhard Balz

### Proposal for a directive

#### Article 20 – paragraph 1 – introductory part

##### *Text proposed by the Commission*

1. AIFM shall ensure that AIF investors receive the following information before they invest in the AIF, as well as any changes thereof:

##### *Amendment*

1. AIFM shall ensure that, **insofar as applicable to the AIF concerned**, AIF investors receive the following information before they invest in the AIF, as well as any changes thereof:

Or. en

##### *Justification*

*The proposed amendments aim to better take account of the specificities of the different types of AIF.*

**Amendment 1055**  
**Syed Kamall**

**Proposal for a directive**  
**Article 20 – paragraph 1 – introductory part**

*Text proposed by the Commission*

1. AIFM shall ensure that AIF investors receive the following information before they invest in the AIF, as well as any changes thereof:

*Amendment*

1. AIFM shall ensure that, ***insofar as applicable to the AIF concerned***, AIF investors receive the following information before they invest in the AIF, as well as any changes thereof:

Or. en

*Justification*

*The proposed amendments aim to better take account of the specificities of the different types of AIF.*

**Amendment 1056**  
**Śławomir Witold Nitras, Danuta Jazłowiecka, Danuta Maria Hübner**

**Proposal for a directive**  
**Article 20 – paragraph 1 – introductory part**

*Text proposed by the Commission*

1. AIFM shall ensure that AIF investors receive the following information before they invest in the AIF, as well as any changes thereof:

*Amendment*

1. AIFM shall ensure that, ***insofar as applicable to the AIF concerned***, AIF investors receive the following information before they invest in the AIF, as well as any changes thereof:

Or. en

**Amendment 1057**  
**Sirpa Pietikäinen**

**Proposal for a directive**  
**Article 20 – paragraph 1 – introductory part**

*Text proposed by the Commission*

1. AIFM shall ensure that AIF investors receive the following information before they invest in the AIF, as well as any changes thereof:

*Amendment*

1. AIFM shall ensure that, ***insofar as applicable to the AIF concerned***, AIF investors receive the following information before they invest in the AIF, as well as any changes thereof:

Or. en

*Justification*

*Taking into account of the specialities of the different types of AIF.*

**Amendment 1058**  
**Derk Jan Eppink**

**Proposal for a directive**  
**Article 20 – paragraph 1 – introductory part**

*Text proposed by the Commission*

1. AIFM shall ensure that AIF investors receive the following information before they invest in the AIF, as well as any changes thereof:

*Amendment*

1 AIFM shall ensure that AIF investors receive the following information before they invest in the AIF, as well as any ***material*** changes thereof:

Or. en

*Justification*

*The Directive should focus on systemic risk, of which leverage is only one component. The risk of leverage should only be assessed in combination with the underlying investment strategy, risk management processes, and the extent to which a fund's exposures are effectively hedged.*

**Amendment 1059**  
**Wolf Klinz**

**Proposal for a directive**  
**Article 20 – paragraph 1 – point a**

*Text proposed by the Commission*

(a) a description of the investment strategy and objectives of the AIF, all the assets which the AIF can invest in and of the techniques it may employ and of all associated risks, any applicable investment restrictions, the circumstances in which the AIF may use leverage, the types and sources of leverage permitted and the associated risks and of any restrictions to the use of leverage;

*Amendment*

(a) a description of the investment strategy and objectives of the AIF, all the assets which the AIF can invest in and of the techniques it may employ and of all associated risks, any applicable investment restrictions, the circumstances in which the AIF may use leverage, the types and sources of leverage permitted, ***the maximum level of leverage*** and the associated risks and of any restrictions to the use of leverage ***as well as the total amount of leverage, on a periodic basis***;

Or. en

*Justification*

*The information given on leverage should be a bit more detailed.*

**Amendment 1060**  
**Jean-Pierre Audy**

**Proposal for a directive**  
**Article 20 – paragraph 1 – point a**

*Text proposed by the Commission*

(a) a description of the investment strategy and objectives of the AIF, all the assets which the AIF can invest in and of the techniques it may employ and of all associated risks, any applicable investment restrictions, the circumstances in which the AIF may use leverage, the types and sources of leverage permitted and the associated risks and of any restrictions to the use of leverage;

*Amendment*

(a) a description of the investment strategy and objectives of the AIF, all the assets which the AIF can invest in and of the techniques it may employ and of all associated risks, ***of any asset re-use and transfer arrangements and of custody arrangements if appropriate***, any applicable investment restrictions, the circumstances in which the AIF may use leverage, the types and sources of leverage permitted and the associated risks and of

any restrictions to the use of leverage;

Or. en

## **Amendment 1061**

**Derk Jan Eppink**

### **Proposal for a directive**

#### **Article 20 – paragraph 1 – point a**

##### *Text proposed by the Commission*

(a) a description of the investment strategy and objectives of the AIF, all the assets which the AIF can invest in and of the techniques it may employ and of all associated risks, any applicable investment restrictions, the circumstances in which the AIF may use leverage, the types and sources of leverage permitted and the associated risks and of any restrictions to the use of leverage;

##### *Amendment*

(a) a description of the investment strategy and objectives of the AIF, all the assets which the AIF can invest in and of the techniques it may employ and of all associated risks, **and** any applicable investment restrictions; the circumstances in which the AIF may use leverage, the types and sources of leverage permitted and the associated risks and of any restrictions to the use of leverage, **taking into account the AIF's underlying investment strategy and risk management processes**;

Or. en

##### *Justification*

*The Directive should focus on systemic risk, of which leverage is only one component. The risk of leverage should only be assessed in combination with the underlying investment strategy, risk management processes, and the extent to which a fund's exposures are effectively hedged.*

## **Amendment 1062**

**Gunnar Hökmark**

### **Proposal for a directive**

#### **Article 20 – paragraph 1 – point a**

##### *Text proposed by the Commission*

(a) a description of the investment strategy and objectives of the AIF, **all the** assets

##### *Amendment*

(a) a description of the investment strategy and objectives of the AIF, **the type of**



which the AIF **can** invest in and of the techniques it may employ and of all associated risks, any applicable investment restrictions, the circumstances in which the AIF may use leverage, the types and sources of leverage permitted and the associated risks and of any restrictions to the use of leverage;

assets which the AIF **may** invest in and of the techniques it may employ and of all associated risks, any applicable investment restrictions, the circumstances in which the AIF may use leverage, the types and sources of leverage permitted and the associated risks and of any restrictions to the use of leverage;

Or. en

#### *Justification*

*It is more practical to describe the type of assets rather than the specific assets in which the AIF may invest. It would be overly restrictive to require AIFMs to list all the assets in which an AIF may invest.*

#### **Amendment 1063**

**Syed Kamall**

#### **Proposal for a directive**

#### **Article 20 – paragraph 1 – point a**

##### *Text proposed by the Commission*

(a) a description of the investment strategy and objectives of the AIF, **all the** assets which the AIF can invest in and of the techniques it may employ and of **all** associated risks, any applicable investment restrictions, the circumstances in which the AIF may use leverage, the types and sources of leverage permitted and the associated risks and of any restrictions **to** the use of leverage;

##### *Amendment*

(a) a description of the investment strategy and objectives of the AIF, the **types of** assets which the AIF can invest in and of the techniques it may employ and of **the** associated risks, any applicable investment restrictions, the circumstances in which the AIF may use leverage, the types and sources of leverage permitted and the associated risks and of any restrictions **in** the use of leverage;

Or. en

#### *Justification*

*It is impracticable to disclose “all” of the assets in which an AIF may invest.*

**Amendment 1064**  
**Burkhard Balz**

**Proposal for a directive**  
**Article 20 – paragraph 1 – point a**

*Text proposed by the Commission*

(a) a description of the investment strategy and objectives of the AIF, all the assets which the AIF can invest in and of the techniques it may employ and of all associated risks, any applicable investment restrictions, the circumstances in which the AIF may use leverage, the types and sources of leverage permitted and the associated risks and of any restrictions to the use of leverage;

*Amendment*

(a) a description of the investment strategy and objectives of the AIF, all the **types of** assets which the AIF can invest in and of the techniques it may employ and of all associated risks, any applicable investment restrictions, the circumstances in which the AIF may use leverage, the types and sources of leverage permitted and the associated risks and of any restrictions to the use of leverage;

Or. en

*Justification*

*The proposed amendments aim to better take account of the specificities of the different types of AIF.*

**Amendment 1065**  
**Ślawomir Witold Nitras, Danuta Jazłowiecka, Danuta Maria Hübner, Enikő Győri**

**Proposal for a directive**  
**Article 20 – paragraph 1 – point a**

*Text proposed by the Commission*

(a) a description of the investment strategy and objectives of the AIF, all the assets which the AIF can invest in and of the techniques it may employ and of all associated risks, any applicable investment restrictions, the circumstances in which the AIF may use leverage, the types and sources of leverage permitted and the associated risks and of any restrictions to the use of leverage;

*Amendment*

(a) a description of the investment strategy and objectives of the AIF, all the **types of** assets which the AIF can invest in and of the techniques it may employ and of all associated risks, any applicable investment restrictions, the circumstances in which the AIF may use leverage, the types and sources of leverage permitted and the associated risks and of any restrictions to the use of leverage;

*Justification*

*The proposed amendment aims to better take account of the specificities of the different types of AIF.*

**Amendment 1066**

**Sirpa Pietikäinen**

**Proposal for a directive**

**Article 20 – paragraph 1 – point a**

*Text proposed by the Commission*

(a) a description of the investment strategy and objectives of the AIF, all the assets which the AIF can invest in and of the techniques it may employ and of all associated risks, any applicable investment restrictions, the circumstances in which the AIF may use leverage, the types and sources of leverage permitted and the associated risks and of any restrictions to the use of leverage;

*Amendment*

(a) a description of the investment strategy and objectives of the AIF, all the **types of** assets which the AIF can invest in and of the techniques it may employ and of all associated risks, any applicable investment restrictions, the circumstances in which the AIF may use leverage, the types and sources of leverage permitted and the associated risks and of any restrictions to the use of leverage;

*Justification*

*Taking into account of the specialities of the different types of AIF.*

**Amendment 1067**

**Wolf Klinz**

**Proposal for a directive**

**Article 20 – paragraph 1 – point c**

*Text proposed by the Commission*

***(c) a description of the legal implications of the contractual relationship entered into for the purpose of investment,***

*Amendment*

***deleted***

*including information on jurisdiction, applicable law and on the existence, or not, of any legal instruments providing for the recognition and enforcement of judgments on the territory where the fund is domiciled;*

Or. en

*Justification*

*In line with changes proposed.*

**Amendment 1068**  
**Wolf Klinz**

**Proposal for a directive**  
**Article 20 – paragraph 1 – point d**

*Text proposed by the Commission*

(d) the identity of the AIF's ***depository, valuator***, auditor and any other service providers and a description of their duties and the investors' rights should any failure arise;

*Amendment*

(d) the identity of the AIF's auditor and any other service providers and a description of their duties and the investors' rights should any failure arise;

Or. en

*Justification*

*In line with other changes proposed.*

**Amendment 1069**  
**Jean-Pierre Audy**

**Proposal for a directive**  
**Article 20 – paragraph 1 – point d**

*Text proposed by the Commission*

(d) the identity of the AIF's depository, valuator, auditor and any other service

*Amendment*

(d) the identity of the AIF's depository, valuator, auditor, ***prime broker if***

providers and a description of their duties and the investors' rights should any failure arise;

**appropriate** and any other service providers and a description of their duties and the investors' rights should any failure arise;

Or. en

**Amendment 1070**  
**Burkhard Balz**

**Proposal for a directive**  
**Article 20 – paragraph 1 – point d**

*Text proposed by the Commission*

(d) the identity of the AIF's depositary, valuator, auditor and any other service providers and a description of their duties and the investors' rights should any failure arise;

*Amendment*

(d) the identity, **if applicable**, of the AIF's **current or proposed** depositary, valuator, auditor and any other **current or proposed critical or important** service providers and a description of their duties and the investors' rights should any failure arise;

Or. en

*Justification*

*The proposed amendments aim to better take account of the specificities of the different types of AIF.*

**Amendment 1071**  
**Syed Kamall**

**Proposal for a directive**  
**Article 20 – paragraph 1 – point d**

*Text proposed by the Commission*

(d) the identity of the AIF's depositary, valuator, auditor and any other service providers and a description of their duties and the investors' rights should any failure arise;

*Amendment*

(d) the identity, **if applicable**, of the AIF's **current or proposed** depositary, valuator, auditor and any other **current or proposed critical or important** service providers and a description of their duties and the investors' rights should any failure arise;

Or. en

*Justification*

*To better take account of the specificities of the different types of AIF.*

**Amendment 1072**

**Slawomir Witold Nitras, Danuta Jazłowiecka, Danuta Maria Hübner**

**Proposal for a directive**

**Article 20 – paragraph 1 – point d**

*Text proposed by the Commission*

(d) the identity of the AIF's depositary, valuator, auditor and any other service providers and a description of their duties and the investors' rights should any failure arise;

*Amendment*

(d) the identity, ***if applicable***, of the AIF's ***current or proposed*** depositary, valuator, auditor and any other ***current or proposed critical or important*** service providers and a description of their duties and the investors' rights should any failure arise;

Or. en

*Justification*

*The proposed amendments aim to better take account of the specificities of the different types of AIF.*

**Amendment 1073**

**Sirpa Pietikäinen**

**Proposal for a directive**

**Article 20 – paragraph 1 – point d**

*Text proposed by the Commission*

(d) the identity of the AIF's depositary, valuator, auditor and any other service providers and a description of their duties and the investors' rights should any failure arise;

*Amendment*

(d) the identity, ***if applicable***, of the AIF's ***current or proposed*** depositary, valuator, auditor and any other ***current or proposed critical or important*** service providers and a description of their duties and the investors' rights should any failure arise;

Or. en

*Justification*

*Taking into account of the specialities of the different types of AIF.*

**Amendment 1074**

**Sirpa Pietikäinen**

**Proposal for a directive**

**Article 20 – paragraph 1 – point e**

*Text proposed by the Commission*

(e) a description of any delegated management ***or depositary*** function and the identity of the third party to whom the function has been delegated;

*Amendment*

(e) a description of any ***critical or important*** delegated management function and the identity of the third party to whom the function has been delegated;

Or. en

*Justification*

*Taking into account of the specialities of the different types of AIF.*

**Amendment 1075**

**Ślawomir Witold Nitras, Danuta Jazłowiecka, Danuta Maria Hübner**

**Proposal for a directive**

**Article 20 – paragraph 1 – point e**

*Text proposed by the Commission*

(e) a description of any delegated management ***or depositary*** function and the identity of the third party to whom the function has been delegated;

*Amendment*

(e) a description of any ***critical or important*** delegated management function and the identity of the third party to whom the function has been delegated;

Or. en

*Justification*

*The proposed amendments aim to better take account of the specificities of the different types of AIF.*

**Amendment 1076**  
**Jean-Paul Gauzès**

**Proposal for a directive**  
**Article 20 – paragraph 1 – point e**

*Text proposed by the Commission*

(e) a description of any delegated management or depositary function **and** the identity of the third party to whom the function has been delegated;

*Amendment*

(e) a description of any delegated management or depositary function, the identity of the third party to whom the function has been delegated, ***including AIF's sub-custodians and prime brokers; a description of their duties and responsibilities and a description of residual risks that investors may be exposed to in exceptional circumstances related to unforeseeable events out of the control of the depositary and of the AIFM;***

Or. en

**Amendment 1077**  
**Wolf Klinz**

**Proposal for a directive**  
**Article 20 – paragraph 1 – point e**

*Text proposed by the Commission*

(e) a description of any delegated management or depositary function and the identity of the third party to whom the function has been delegated;

*Amendment*

(e) a description of any delegated management ***or valuation*** function or depositary ***task*** and the identity of the third party to whom the function ***or task*** has been delegated;

Or. en

*Justification*

In line with other changes proposed.



**Amendment 1078**  
**Syed Kamall**

**Proposal for a directive**  
**Article 20 – paragraph 1 – point e**

*Text proposed by the Commission*

(e) a description of any delegated management **or depositary** function and the identity of the third party to whom the function has been delegated;

*Amendment*

(e) a description of any **critical or important** delegated management function and the identity of the third party to whom the function has been delegated;

Or. en

**Amendment 1079**  
**Burkhard Balz**

**Proposal for a directive**  
**Article 20 – paragraph 1 – point e**

*Text proposed by the Commission*

(e) a description of any delegated management or depositary function and the identity of the third party to whom the function has been delegated;

*Amendment*

(e) a description of any **critical or important** delegated management or depositary function and the identity of the third party to whom the function has been delegated;

Or. en

*Justification*

*The proposed amendments aim to better take account of the specificities of the different types of AIF.*

**Amendment 1080**  
**Sirpa Pietikäinen**

**Proposal for a directive**  
**Article 20 – paragraph 1 – point g**

*Text proposed by the Commission*

(g) a description of the AIF's liquidity risk management, including the redemption rights both in normal and exceptional circumstances, existing redemption arrangements with investors, and how the AIFM ensures a fair treatment of investors;

*Amendment*

(g) ***where the AIF has exercisable redemption rights***, a description of the AIF's liquidity risk management, including the redemption rights both in normal and exceptional circumstances, existing redemption arrangements with investors, and how the AIFM ensures a fair treatment of investors;

Or. en

*Justification*

*Taking into account of the specialities of the different types of AIF.*

**Amendment 1081**  
**Śławomir Witold Nitras, Danuta Jazłowiecka, Danuta Maria Hübner**

**Proposal for a directive**  
**Article 20 – paragraph 1 – point g**

*Text proposed by the Commission*

(g) a description of the AIF's liquidity risk management, including the redemption rights both in normal and exceptional circumstances, existing redemption arrangements with investors, and how the AIFM ensures a fair treatment of investors;

*Amendment*

(g) ***where the AIF has exercisable redemption rights***, a description of the AIF's liquidity risk management, including the redemption rights both in normal and exceptional circumstances, existing redemption arrangements with investors, and how the AIFM ensures a fair treatment of investors;

Or. en

*Justification*

*The proposed amendments aim to better take account of the specificities of the different types*

of AIF.

**Amendment 1082**  
**Burkhard Balz**

**Proposal for a directive**  
**Article 20 – paragraph 1 – point g**

*Text proposed by the Commission*

(g) a description of the AIF's liquidity risk management, including the redemption rights both in normal and exceptional circumstances, existing redemption arrangements with investors, and how the AIFM ensures a fair treatment of investors;

*Amendment*

(g) ***where the AIF has exercisable redemption rights***, a description of the AIF's liquidity risk management, including the redemption rights both in normal and exceptional circumstances, existing redemption arrangements with investors, and how the AIFM ensures a fair treatment of investors;

Or. en

*Justification*

*The proposed amendments aim to better take account of the specificities of the different types of AIF.*

**Amendment 1083**  
**Syed Kamall**

**Proposal for a directive**  
**Article 20 – paragraph 1 – point g**

*Text proposed by the Commission*

(g) a description of the AIF's liquidity risk management, including the redemption rights both in normal and exceptional circumstances, existing redemption arrangements with investors, and how the AIFM ensures a fair treatment of investors;

*Amendment*

(g) ***where the AIF has exercisable redemption rights***, a description of the AIF's liquidity risk management, including the redemption rights both in normal and exceptional circumstances, existing redemption arrangements with investors, and how the AIFM ensures a fair treatment of investors;

Or. en

*Justification*

*To better take account of the specificities of the different types of AIF..*

**Amendment 1084**

**Slawomir Witold Nitras, Danuta Jazłowiecka, Danuta Maria Hübner, Enikő Győri**

**Proposal for a directive**

**Article 20 – paragraph 1 – point h**

*Text proposed by the Commission*

(h) a description of all fees, charges and expenses ***and of the maximum amounts thereof*** which are directly or indirectly borne by investors;

*Amendment*

(h) a description of all fees, charges and expenses which are directly or indirectly borne by investors;

Or. en

*Justification*

*The proposed amendments aim to better take account of the specificities of the different types of AIF.*

**Amendment 1085**

**Sirpa Pietikäinen**

**Proposal for a directive**

**Article 20 – paragraph 1 – point h**

*Text proposed by the Commission*

(h) a description of all fees, charges and expenses ***and of the maximum amounts thereof*** which are directly or indirectly borne by investors;

*Amendment*

(h) a description of all fees, charges and expenses which are directly or indirectly borne by investors;

Or. en

*Justification*

*Taking into account of the specialities of the different types of AIF.*

## Amendment 1086

Udo Bullmann, Robert Goebbels, Antolín Sánchez Presedo

### Proposal for a directive

#### Article 20 – paragraph 1 – point h

##### *Text proposed by the Commission*

(h) a description of all fees, charges and expenses and of the maximum amounts thereof which are directly or indirectly borne by investors;

##### *Amendment*

(h) a description of all fees, charges and expenses and of the maximum amounts thereof which are directly or indirectly borne by investors, ***together with, if applicable, a description of fees, charges and expenses paid in the last twelve months;***

Or. en

##### *Justification*

*The information provided to investors must be comprehensive, in view of the risks taken. In particular, information on the track record of the AIF, but also of the AIFM is a key element for the investment decision. This information is all too often partial or misleading. The information on fees actually paid and sources of funds is also necessary to a sound decision. Monthly information on the risk profile of the AIF will also help investors to manage their risk.*

## Amendment 1087

Carl Haglund

### Proposal for a directive

#### Article 20 – paragraph 1 – point h

##### *Text proposed by the Commission*

(h) a description of all fees, charges and expenses and of the maximum amounts thereof which are directly or indirectly borne by investors;

##### *Amendment*

(h) a description of all fees, charges and expenses and of the maximum amounts ***or rates*** thereof which are directly or indirectly borne by investors;

Or. en

### *Justification*

*Since it is common for AIFMs to charge performance fees based on appreciations of the value of an AIF's shares or units over a given period, it is impossible for these to state the maximum "amounts" of fees. In order to enable appropriate disclosure and in a manner that conforms to market practice this amendment needs to be made.*

#### **Amendment 1088** **Syed Kamall**

##### **Proposal for a directive** **Article 20 – paragraph 1 – point h**

###### *Text proposed by the Commission*

(h) a description of all fees, charges and expenses and of the maximum amounts thereof which are directly or indirectly borne by investors;

###### *Amendment*

(h) a description of all fees, charges and expenses and of the maximum amounts **or rates** thereof which are directly or indirectly borne by investors;

Or. en

### *Justification*

*Many AIFM charge performance fees or equivalent by reference to the appreciation over a given period in the value of an AIF's shares or units. It is impossible to state the maximum "amounts" thereof since this would require the AIFM to be able to look into the future. This amendment is therefore necessary to enable appropriate disclosure to be made, and in a manner which conforms to market practice.*

#### **Amendment 1089** **Gunnar Hökmark**

##### **Proposal for a directive** **Article 20 – paragraph 1 – point i**

###### *Text proposed by the Commission*

(i) ***whenever an investor obtains a preferential treatment or the right to obtain preferential treatment, the identity of the investor and a description of that preferential treatment;***

###### *Amendment*

(i) ***a description of any*** preferential treatment or right to obtain preferential treatment;

*Justification*

*It is not appropriate, for confidentiality considerations, to disclose the name of the specific client receiving preferential treatment.*

**Amendment 1090**

**Śławomir Witold Nitras, Danuta Jazłowiecka, Danuta Maria Hübner, Enikő Győri**

**Proposal for a directive**

**Article 20 – paragraph 1 – point i**

*Text proposed by the Commission*

(i) whenever an investor obtains a preferential treatment or the right to obtain preferential treatment, ***the identity of the investor and*** a description of that preferential treatment;

*Amendment*

(i) whenever an investor obtains a preferential treatment or the right to obtain preferential treatment, a description of that preferential treatment, ***and whether there is any connection between the AIFM and that investor;***

*Justification*

*The proposed amendments aim to better take account of the specificities of the different types of AIF.*

**Amendment 1091**

**Sirpa Pietikäinen**

**Proposal for a directive**

**Article 20 – paragraph 1 – point i**

*Text proposed by the Commission*

(i) whenever an investor obtains a preferential treatment or the right to obtain preferential treatment, ***the identity of the investor and*** a description of that preferential treatment;

*Amendment*

(i) whenever an investor obtains a preferential treatment or the right to obtain preferential treatment, a description of that preferential treatment, ***and whether there is any connection between the AIFM and that investor;***

*Justification*

*Taking into account of the specialities of the different types of AIF.*

**Amendment 1092**

**Burkhard Balz**

**Proposal for a directive**

**Article 20 – paragraph 1 – point i**

*Text proposed by the Commission*

(i) whenever an investor obtains a preferential treatment or the right to obtain preferential treatment, the identity of the investor and a description of that preferential treatment;

*Amendment*

(i) whenever an investor obtains a preferential treatment or the right to obtain preferential treatment, the identity of the investor and a description of that preferential treatment, ***and whether there is any connection between the AIFM and that investor;***

Or. en

*Justification*

*The proposed amendments aim to better take account of the specificities of the different types of AIF.*

**Amendment 1093**

**Wolf Klinz**

**Proposal for a directive**

**Article 20 – paragraph 1 – point i**

*Text proposed by the Commission*

(i) whenever an investor obtains a preferential treatment or the right to obtain preferential treatment, ***the identity of the investor and*** a description of that preferential treatment;

*Amendment*

(i) whenever an investor obtains a preferential treatment or the right to obtain preferential treatment, a description of that preferential treatment;



*Justification*

*Personal data should be protected, it is hence enough to inform other investors about any preferential treatment and the nature of such.*

**Amendment 1094**

**Syed Kamall**

**Proposal for a directive**

**Article 20 – paragraph 1 – point i**

*Text proposed by the Commission*

(i) whenever an investor obtains a preferential treatment or the right to obtain preferential treatment, ***the identity of the investor and*** a description of that preferential treatment;

*Amendment*

(i) whenever an investor obtains a preferential treatment or the right to obtain preferential treatment, a description of that preferential treatment;

*Justification*

*An obligation to disclose the identity of investors is likely to contravene the principles behind the EU Data Protection Directive, and Article 8 of the European Convention for the Protection of Human Rights, since it is may be seen as an excessively intrusive requirement. The required investor protection could be achieved without identifying individual investors.*

**Amendment 1095**

**Sirpa Pietikäinen**

**Proposal for a directive**

**Article 20 – paragraph 1 – point j**

*Text proposed by the Commission*

(j) the latest annual report.

*Amendment*

(j) the latest annual report, ***if there is such a report in relation to the AIF.***

*Justification*

*Taking into account of the specialities of the different types of AIF.*

**Amendment 1096**

**Syed Kamall**

**Proposal for a directive**

**Article 20 – paragraph 1 – point j**

*Text proposed by the Commission*

(j) the latest annual report.

*Amendment*

(j) the latest annual report ***if there is such a report in relation to the AIF.***

Or. en

*Justification*

*When a new fund is being raised it will not have an annual report.*

**Amendment 1097**

**Śławomir Witold Nitras, Danuta Jazłowiecka, Danuta Maria Hübner, Enikő Győri**

**Proposal for a directive**

**Article 20 – paragraph 1 – point j**

*Text proposed by the Commission*

(j) the latest annual report.

*Amendment*

(j) the latest annual report ***if there is such a report in relation to the AIF.***

Or. en

*Justification*

*The proposed amendments aim to better take account of the specificities of the different types of AIF.*

**Amendment 1098**  
**Burkhard Balz**

**Proposal for a directive**  
**Article 20 – paragraph 1 – point j**

*Text proposed by the Commission*

(j) the latest annual report.

*Amendment*

(j) the latest annual report ***if there is such a report in relation to the AIF.***

Or. en

*Justification*

*The proposed amendments aim to better take account of the specificities of the different types of AIF.*

**Amendment 1099**  
**Jürgen Klute**

**Proposal for a directive**  
**Article 20 – paragraph 1 – point ja (new)**

*Text proposed by the Commission*

*Amendment*

***(ja) the AIFM remuneration policy;***

Or. en

*Justification*

*Disclosure of AIF remuneration policy is indispensable to better transparency. See also Article 10 a (new), as amended.*

**Amendment 1100**

**Bernd Lange**

**Proposal for a directive**

**Article 20 – paragraph 1 – point ja (new)**

*Text proposed by the Commission*

*Amendment*

***(ja) the AIFM remuneration policy;***

Or. en

*Justification*

*Disclosure of AIF remuneration policy is indispensable to better transparency. See also Article 10 a (new), as amended.*

**Amendment 1101**

**Udo Bullmann, Robert Goebbels, Antolín Sánchez Presedo**

**Proposal for a directive**

**Article 20 – paragraph 1 – point j b (new)**

*Text proposed by the Commission*

*Amendment*

***(jb) a description of the past performance of the AIF from its inception to the most recent assessment;***

Or. en

*Justification*

*The information provided to investors must be comprehensive, in view of the risks taken. In particular, information on the track record of the AIF, but also of the AIFM is a key element for the investment decision. This information is all too often partial or misleading. The information on fees actually paid and sources of funds is also necessary to a sound decision. Monthly information on the risk profile of the AIF will also help investors to manage their risk.*

**Amendment 1102**  
**Othmar Karas**

**Proposal for a directive**  
**Article 20 – paragraph 1 – point j c (new)**

*Text proposed by the Commission*

*Amendment*

***(jc) information about the correlation of the applied investment approach vis-à-vis traditional investment strategies (such as stocks or bonds).***

Or. en

*Justification*

*The investor should be informed optimally about chances and risks, including the correlation of the strategy compared to other forms of investment.*

**Amendment 1103**  
**Jean-Pierre Audy**

**Proposal for a directive**  
**Article 20 – paragraph 1 – point j d (new)**

*Text proposed by the Commission*

*Amendment*

***(jd) any modification of the liability regime stated in Article 17(5) as a result of a contractual arrangement between the AIFM and the depositary.***

Or. en

## **Amendment 1104**

**Udo Bullmann, Robert Goebbels, Antolín Sánchez Presedo**

### **Proposal for a directive**

#### **Article 20 – paragraph 1 – point j e (new)**

*Text proposed by the Commission*

*Amendment*

***(je) information on the identities of the AIFM shareholders or members, whether direct or indirect and whether natural or legal persons, that have qualifying holdings and on the amounts of those holdings;***

Or. en

#### *Justification*

*The information provided to investors must be comprehensive, in view of the risks taken. In particular, information on the track record of the AIF, but also of the AIFM is a key element for the investment decision. This information is all too often partial or misleading. The information on fees actually paid and sources of funds is also necessary to a sound decision. Monthly information on the risk profile of the AIF will also help investors to manage their risk.*

## **Amendment 1105**

**Udo Bullmann, Robert Goebbels, Antolín Sánchez Presedo**

### **Proposal for a directive**

#### **Article 20 – paragraph 1 – point j f (new)**

*Text proposed by the Commission*

*Amendment*

***(jf) information on the track record of AIF managed by the AIFM, including performance data on on-going and wound up AIF, and, where the AIFM is a legal person, on the legal representatives, directors and key employees of the AIFM;***

Or. en

### *Justification*

*The information provided to investors must be comprehensive, in view of the risks taken. In particular, information on the track record of the AIF, but also of the AIFM is a key element for the investment decision. This information is all too often partial or misleading. The information on fees actually paid and sources of funds is also necessary to a sound decision. Monthly information on the risk profile of the AIF will also help investors to manage their risk.*

#### **Amendment 1106**

**Udo Bullmann, Robert Goebbels, Antolín Sánchez Presedo**

#### **Proposal for a directive**

#### **Article 20 – paragraph 1 – point j g (new)**

*Text proposed by the Commission*

*Amendment*

***(jg) a detailed description of the source, maturity and amount of funds raised by the AIF, including the share directly or indirectly contributed by the AIFM managing the AIF and its representatives, directors and employees;***

Or. en

### *Justification*

*The information provided to investors must be comprehensive, in view of the risks taken. In particular, information on the track record of the AIF, but also of the AIFM is a key element for the investment decision. This information is all too often partial or misleading. The information on fees actually paid and sources of funds is also necessary to a sound decision. Monthly information on the risk profile of the AIF will also help investors to manage their risk.*

#### **Amendment 1107**

**Burkhard Balz**

#### **Proposal for a directive**

#### **Article 20 – paragraph 2 – introductory part**

*Text proposed by the Commission*

*Amendment*

2. For each AIF an AIFM manages, it shall

2. For each AIF *that* an AIFM manages

periodically disclose to investors:

***and in respect of which redemption rights are exercisable***, it shall periodically disclose to investors:

Or. en

*Justification*

*The proposed amendments aim to better take account of the specificities of the different types of AIF.*

**Amendment 1108**  
**Sirpa Pietikäinen**

**Proposal for a directive**  
**Article 20 – paragraph 2 – introductory part**

*Text proposed by the Commission*

2. For each AIF an AIFM manages, it shall periodically disclose to investors:

*Amendment*

2. For each AIF *that* an AIFM manages ***and in respect of which redemption rights are exercisable***, it shall periodically disclose to investors:

Or. en

*Justification*

*Taking into account the specificities of the different types of AIF..*

**Amendment 1109**  
**Syed Kamall**

**Proposal for a directive**  
**Article 20 – paragraph 2 – introductory part**

*Text proposed by the Commission*

2. For each AIF an AIFM manages, it shall periodically disclose to investors:

*Amendment*

2. For each AIF *that* an AIFM manages ***and in respect of which redemption rights are exercisable***, it shall periodically disclose to investors:



*Justification*

*Where there are no redemption rights exercisable it should not be necessary to have special disclosures relating to illiquid assets or liquidity.*

**Amendment 1110**

**Corien Wortmann-Kool**

**Proposal for a directive**

**Article 20 – paragraph 2 – introductory part**

*Text proposed by the Commission*

2. For each AIF an AIFM manages, it shall periodically disclose to investors:

*Amendment*

2. For each AIF *that* an AIFM manages ***which permits redemptions at the option of investors, the AIFM*** shall periodically disclose to investors:

*Justification*

*Private equity funds of funds (and private equity funds) invest in illiquid investments and do not confer redemption rights on investors. Where investors do not have a right to redeem, it should not be necessary to have periodic disclosure in relation to illiquid assets or liquidity.*

**Amendment 1111**

**Othmar Karas**

**Proposal for a directive**

**Article 20 – paragraph 2 – introductory part**

*Text proposed by the Commission*

2. For each AIF an AIFM manages, it shall periodically disclose to investors:

*Amendment*

2. For each AIF *that* an AIFM manages, it shall periodically disclose to ***retail*** investors:

### *Justification*

*Professional investors are deemed as “professional” according to Annex II of MiFID. Furthermore, they have definite views about the information they need relating to their investments. There is clearly no need to stipulate information requirements adjusted to the needs of retail investors also for professional investors. In terms of public distribution, AIFM shall just have the obligation to “making available” the relevant information.*

#### **Amendment 1112**

**Jürgen Klute**

#### **Proposal for a directive**

#### **Article 20 – paragraph 2 – introductory part**

##### *Text proposed by the Commission*

2. For each AIF **an** AIFM manages, it shall periodically disclose to investors:

##### *Amendment*

2. **AIF and** AIFM, for each AIF *that* it manages, shall periodically disclose to investors, **beneficiaries, their representatives and their assigned analysts:**

Or. en

### *Justification*

*Pension funds bear particular responsibility for old age insurance. In cases where they may invest in AIF, special disclosure requirements of AIF are therefore essential. Primary investors, i.e. beneficiaries of old age insurance should be given all relevant information so as to control their fiduciary viz. their pension fund.*

#### **Amendment 1113**

**Bernd Lange**

#### **Proposal for a directive**

#### **Article 20 – paragraph 2 – introductory part**

##### *Text proposed by the Commission*

2. For each AIF **an** AIFM manages, it shall periodically disclose to investors:

##### *Amendment*

2. **AIF and** AIFM, for each AIF *that* it manages, shall periodically disclose to investors, **beneficiaries, their representatives and their assigned analysts:**

*Justification*

*Pension funds bear particular responsibility for old age insurance. In cases where they may invest in AIF, special disclosure requirements of AIF are therefore essential. Primary investors, i.e. beneficiaries of old age insurance should be given all relevant information so as to control their fiduciary viz. their pension fund.*

**Amendment 1114**

**Udo Bullmann, Robert Goebbels, Antolín Sánchez Presedo**

**Proposal for a directive**

**Article 20 – paragraph 2 – introductory part**

*Text proposed by the Commission*

2. For each AIF an AIFM manages, it shall ***periodically*** disclose to investors:

*Amendment*

2. For each AIF *that* an AIFM manages, it shall disclose to investors:

**Amendment 1115**

**Udo Bullmann, Robert Goebbels, Antolín Sánchez Presedo**

**Proposal for a directive**

**Article 20 – paragraph 2 – points a and b**

*Text proposed by the Commission*

(a) the percentage of the AIF's assets which are subject to special arrangements arising from their illiquid nature;

(b) any new arrangements for managing the liquidity of the AIF;

*Amendment*

(a) ***on a periodic basis***, the percentage of the AIF's assets which are subject to special arrangements arising from their illiquid nature;

(b) ***on a periodic basis***, any new arrangements for managing the liquidity of the AIF;

**Amendment 1116**

**Udo Bullmann, Robert Goebbels, Antolín Sánchez Presedo**

**Proposal for a directive**

**Article 20 – paragraph 2 – point c**

*Text proposed by the Commission*

(c) the current risk profile of the AIF and the risk management systems employed by the AIFM to manage these risks.

*Amendment*

**(c) on a periodic basis, but not less than every month, unless the information has not changed since the last disclosure, the current risk profile of the AIF, *including the level of leverage used*, and the risk management systems employed by the AIFM to manage these risks.**

Or. en

**Amendment 1117**

**Jean-Pierre Audy**

**Proposal for a directive**

**Article 20 – paragraph 2 – point c a (new)**

*Text proposed by the Commission*

*Amendment*

**(ca) significant changes in the custody arrangements;**

Or. en

**Amendment 1118**

**Jean-Pierre Audy**

**Proposal for a directive**

**Article 20 – paragraph 2 – point c b (new)**

*Text proposed by the Commission*

*Amendment*

**(cb) the percentage of the AIF's assets which are subject to re-use or transfer if appropriate.**

Or. en

**Amendment 1119**  
**Jürgen Klute**

**Proposal for a directive**  
**Article 20 – paragraph 2 – subparagraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***For AIF eligible for pension funds, AIFM shall publicly disclose the risks that are specific to this asset class.***

***The Commission shall define additional disclosure requirements in this respect.***

Or. en

*Justification*

*Pension funds bear particular responsibility for old age insurance. In cases where they may invest in AIF, special disclosure requirements of AIF are therefore essential. Primary investors, i.e. beneficiaries of old age insurance should be given all relevant information so as to control their fiduciary viz. their pension fund.*

**Amendment 1120**  
**Bernd Lange**

**Proposal for a directive**  
**Article 20 – paragraph 2 – subparagraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***For AIF eligible for pension funds, AIFM shall publicly disclose the risks that are specific to this asset class.***

***The Commission shall define additional disclosure requirements in this respect.***

Or. en

*Justification*

*Pension funds bear particular responsibility for old age insurance. In cases where they may*

*invest in AIF, special disclosure requirements of AIF are therefore essential. Primary investors, i.e. beneficiaries of old age insurance should be given all relevant information so as to control their fiduciary viz. their pension fund.*

#### **Amendment 1121**

**Sharon Bowles**

#### **Proposal for a directive**

#### **Article 20 – paragraph 3**

##### *Text proposed by the Commission*

3. The Commission ***shall adopt implementing*** measures further specifying the disclosure obligations of AIFM and the frequency of the disclosure referred to in paragraph 2. These ***measures*** shall be adapted to the type of AIFM to which they apply.

***Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 49(3).***

##### *Amendment*

3. The Commission ***may lay down, by means of delegated acts in accordance with Articles 49a, 49b and 49c,*** measures further specifying the disclosure obligations of AIFM and the frequency of the disclosure referred to in paragraph 2. These ***acts*** shall be adapted to the type of AIFM to which they apply.

Or. en

##### *Justification*

*This is appropriate wording under the new 'comitology' procedures if this article is retained.*

#### **Amendment 1122**

**Jürgen Klute**

#### **Proposal for a directive**

#### **Article 20 – paragraph 3 – subparagraph 1**

##### *Text proposed by the Commission*

3. The Commission shall adopt ***implementing measures*** further specifying the disclosure obligations of AIFM and the frequency of the disclosure referred to in

##### *Amendment*

3. The Commission shall adopt ***delegated acts*** further specifying the disclosure obligations of ***AIF and*** AIFM and the frequency of the disclosure referred to in

paragraph 2. These **measures** shall be adapted to the type of AIFM to which they apply.

paragraph 2. These **acts** shall be adapted to the type of **AIF and** AIFM to which they apply.

Or. en

*Justification*

*See justification under Title. AIF should also be subject to Articles 19 to 30 of the Directive..*

**Amendment 1123**

**Bernd Lange**

**Proposal for a directive**

**Article 20 – paragraph 3 – subparagraph 1**

*Text proposed by the Commission*

3. The Commission shall adopt **implementing measures** further specifying the disclosure obligations of AIFM and the frequency of the disclosure referred to in paragraph 2. These **measures** shall be adapted to the type of AIFM to which they apply.

*Amendment*

3. The Commission shall adopt **delegated acts** further specifying the disclosure obligations of **AIF and** AIFM and the frequency of the disclosure referred to in paragraph 2. These **acts** shall be adapted to the type of **AIF and** AIFM to which they apply.

Or. en

*Justification*

*See justification under Title. AIF should also be subject to Articles 19 to 30 of the Directive.*

**Amendment 1124**

**Corien Wortmann-Kool**

**Proposal for a directive**

**Article 20 – paragraph 3 – subparagraph 1**

*Text proposed by the Commission*

3. The Commission shall adopt **implementing measures** further specifying the disclosure obligations of AIFM and the

*Amendment*

3. The Commission shall adopt **delegated acts** further specifying the disclosure obligations of AIFM and the frequency of

frequency of the disclosure referred to in paragraph 2. These **measures** shall be adapted to the type of AIFM to which they apply.

the disclosure referred to in paragraph 2. These **acts** shall be adapted to the type of AIFM to which they apply **and be proportionate, taking account, inter alia, of the different size, resources, complexity, nature, investments, investment strategies and techniques, structures and investors of different types of AIFM.**

Or. en

#### *Justification*

*The amendment to better take account of the specificities of the different types of AIF.*

#### **Amendment 1125** **Burkhard Balz**

#### **Proposal for a directive** **Article 20 – paragraph 3 – subparagraph 1**

##### *Text proposed by the Commission*

3. The Commission shall adopt **implementing measures** further specifying the disclosure obligations of AIFM and the frequency of the disclosure referred to in paragraph 2. These **measures** shall be adapted to the type of AIFM to which they apply.

##### *Amendment*

3. The Commission shall adopt **delegated acts** further specifying the disclosure obligations of AIFM and the frequency of the disclosure referred to in paragraph 2. These **acts** shall be adapted to the type of AIFM to which they **apply and be proportionate, taking account, inter alia, of the different size, resources, complexity, nature, investments, investment strategies and techniques, structures and investors of different types of AIFM.**

Or. en

#### *Justification*

*The proposed amendments aim to better take account of the specificities of the different types of AIF.*



**Amendment 1126**  
**Sirpa Pietikäinen**

**Proposal for a directive**  
**Article 20 – paragraph 3 – subparagraph 1**

*Text proposed by the Commission*

3. The Commission shall adopt **implementing measures** further specifying the disclosure obligations of AIFM and the frequency of the disclosure referred to in paragraph 2. These **measures** shall be adapted to the type of AIFM to which they apply.

*Amendment*

3. The Commission shall adopt **delegated acts** further specifying the disclosure obligations of AIFM and the frequency of the disclosure referred to in paragraph 2. These **acts** shall be adapted to the type of AIFM to which they apply **and be proportionate, taking account, inter alia, of the different size, resources, complexity, nature, investments, investment strategies and techniques, structures and investors of different types of AIFM.**

Or. en

*Justification*

*Taking into account the specificities of the different types of AIF.*

**Amendment 1127**  
**Syed Kamall**

**Proposal for a directive**  
**Article 20 – paragraph 3 – subparagraph 1**

*Text proposed by the Commission*

3. The Commission shall adopt **implementing measures** further specifying the disclosure obligations of AIFM and the frequency of the disclosure referred to in paragraph 2. These **measures** shall be adapted to the type of AIFM to which they apply.

*Amendment*

3. The Commission shall adopt **delegated acts** further specifying the disclosure obligations of AIFM and the frequency of the disclosure referred to in paragraph 2. These **acts** shall be adapted to the type of AIFM to which they apply **and be proportionate, taking account, inter alia, of the different size, resources, complexity, nature, investments, investment strategies and techniques, structures and investors of different types**

*of AIFM.*

Or. en

*Justification*

*This allows the Directive to better take account of the specificities of the different types of AIF.*

**Amendment 1128**

**Śławomir Witold Nitras, Danuta Jazłowiecka, Danuta Maria Hübner**

**Proposal for a directive**

**Article 20 – paragraph 3 – subparagraph 1**

*Text proposed by the Commission*

3. The Commission shall adopt ***implementing measures*** further specifying the disclosure obligations of AIFM and the frequency of the disclosure referred to in paragraph 2. These ***measures*** shall be adapted to the type of AIFM to which they apply.

*Amendment*

3. The Commission shall adopt ***delegated acts*** further specifying the disclosure obligations of AIFM and the frequency of the disclosure referred to in paragraph 2. These ***acts*** shall be adapted to the type of AIFM to which they apply ***and be proportionate, taking account, inter alia, of the different size, resources, complexity, nature, investments, investment strategies and techniques, structures and investors of different types of AIFM.***

Or. en

*Justification*

*Level 2 implementing measures should be proportionate and not unduly penalize entities when there is no clear benefit attached to the compliance costs.*

**Amendment 1129**  
**Olle Schmidt**

**Proposal for a directive**  
**Article 20 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***3a. This article shall not apply to industrial holding companies having their shares traded on a EU regulated market insofar as they hold shares in their subsidiaries or associated companies for the purpose of carrying out an industrial business strategy and which are not established for the main purpose of generating returns for its investors by means of divestment within a planned timeframe.***

Or. en

*Justification*

*The provisions of articles 19-20 are irrelevant or inappropriate for this type of companies. Listed industrial holding companies are already covered by existing EU law regarding transparency and disclosure in the Prospectus and Transparency Directives as well as national regulations and listing rules. This ensures that adequate information is already provided by these companies. For a company whose shares are traded on a public market, it is impracticable to provide investors with the information required by article 20 before they invest in the company.*

**Amendment 1130**

**Bernd Lange**

**Proposal for a directive**  
**Article 21 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

*Amendment*

1. AIFM shall regularly report to the competent authorities of its home Member

***1. AIF and*** AIFM, ***for each of the AIF it manages,*** shall regularly report to the

State on the principal markets and instruments in which it trades *on behalf of the AIF it manages*.

competent authorities of its home Member State on the principal markets and instruments in which it trades.

Or. en

#### *Justification*

*Art 21(2)aa (new): In accordance with the provision in Art. 20(1)a, the competent authorities should be receive the same disclosure as investors. For other provisions, see justification under Title. AIF should also be subject to Articles 19 to 30 of the Directive.*

#### **Amendment 1131 Jürgen Klute**

##### **Proposal for a directive Article 21 – paragraph 1 – subparagraph 1**

###### *Text proposed by the Commission*

1. AIFM shall regularly report to the competent authorities of its home Member State on the principal markets and instruments in which it trades *on behalf of the AIF it manages*.

###### *Amendment*

1. ***AIF and AIFM, for each of the AIF it manages***, shall regularly report to the competent authorities of its home Member State on the principal markets and instruments in which it trades.

Or. en

#### **Amendment 1132 Bernd Lange**

##### **Proposal for a directive Article 21 – paragraph 1 – subparagraph 2**

###### *Text proposed by the Commission*

*It* shall provide aggregated information on the main instruments in which it is trading, markets of which it is a member or where it actively trades, and on the principal exposures and most important concentrations ***of each of the AIF it manages***.

###### *Amendment*

***AIF and AIFM, for each of the AIF it manages***, shall provide aggregated information on the main instruments in which it is trading, markets of which it is a member or where it actively trades, and on the principal exposures and most important concentrations.

*Justification*

*Art 21(2)aa (new): In accordance with the provision in Art. 20(1)a, the competent authorities should be receive the same disclosure as investors. For other provisions, see justification under Title. AIF should also be subject to Articles 19 to 30 of the Directive.*

**Amendment 1133**

**Jürgen Klute**

**Proposal for a directive**

**Article 21 – paragraph 1 – subparagraph 2**

*Text proposed by the Commission*

*It shall provide aggregated information on the main instruments in which it is trading, markets of which it is a member or where it actively trades, and on the principal exposures and most important concentrations **of each of the AIF it manages**.*

*Amendment*

***AIF and AIFM, for each of the AIF it manages***, shall provide aggregated information on the main instruments in which it is trading, markets of which it is a member or where it actively trades, and on the principal exposures and most important concentrations.

Or. en

**Amendment 1134**

**Udo Bullmann, Robert Goebbels**

**Proposal for a directive**

**Article 21 – paragraph 1 – subparagraph 2**

*Text proposed by the Commission*

It shall provide **aggregated** information on the main instruments in which it is trading, markets of which it is a member or where it actively trades, and on the principal exposures and most important concentrations of each of the AIF it manages.

*Amendment*

It shall provide information on the main instruments in which it is trading, markets of which it is a member or where it actively trades, and on the principal exposures and most important concentrations of each of the AIF it manages.

Or. en

**Amendment 1135**  
**Syed Kamall**

**Proposal for a directive**  
**Article 21 – paragraph 1 – subparagraph 2**

*Text proposed by the Commission*

It shall provide aggregated information on the main instruments in which it is trading, markets of which it is a member or where it actively trades, and on the principal exposures and most important concentrations of each of the AIF it manages.

*Amendment*

It shall provide aggregated information on the main instruments in which it is trading, markets of which it is a member or where it actively trades, and on the principal **trading** exposures and most important **resulting** concentrations of each of the AIF it manages.

Or. en

*Justification*

*Private Equity AIFM do not engage in trading in securities but in long term investment in a small number of illiquid investments, normally, with a holding period of 3-7 years.*

**Amendment 1136**  
**Burkhard Balz**

**Proposal for a directive**  
**Article 21 – paragraph 1 – subparagraph 2**

*Text proposed by the Commission*

It shall provide aggregated information on the main instruments in which it is trading, markets of which it is a member or where it actively trades, and on the principal exposures and most important concentrations of each of the AIF it manages.

*Amendment*

It shall provide aggregated information on the main instruments in which it is trading, markets of which it is a member or where it actively trades, and on the principal **trading** exposures and most important **resulting** concentrations of each of the AIF it manages.

Or. en

*Justification*

*An AIFM should provide to the competent authority the annual report for each fund which it manages and a list of funds managed every quarter. The other requirements of Article 21 are only appropriate (in case of 21.1) for funds which regularly trade on public markets and (in*

*case of 21.2) those which have redemption rights. It is not appropriate to apply them to funds which invest only in unquoted securities or closed-ended funds..*

#### **Amendment 1137**

**Olle Schmidt**

#### **Proposal for a directive**

#### **Article 21 – paragraph 1 – subparagraph 2**

##### *Text proposed by the Commission*

It shall provide aggregated information on the main instruments in which it is trading, markets of which it is a member or where it actively trades, and on the principal exposures and most important concentrations of each of the AIF it manages.

##### *Amendment*

It shall provide aggregated information on the main instruments in which it is trading, markets of which it is a member or where it actively trades, and on the principal **trading** exposures and most important **resulting** concentrations of each of the AIF it manages.

Or. en

##### *Justification*

*Private Equity AIFMs do not engage in trading in securities but in long term investment in a small number of illiquid investments, normally, with a holding period of 3-7 years, so these provisions should not be applicable to PE. To apply irrelevant reporting requirements will only cause unnecessary costs for AIFMs and competent authorities.*

#### **Amendment 1138**

**Slawomir Witold Nitras, Danuta Jazłowiecka, Danuta Maria Hübner**

#### **Proposal for a directive**

#### **Article 21 – paragraph 1 – subparagraph 2**

##### *Text proposed by the Commission*

It shall provide aggregated information on the main instruments in which it is trading, markets of which it is a member or where it actively trades, and on the principal exposures and most important concentrations of each of the AIF it manages.

##### *Amendment*

It shall provide aggregated information on the main instruments in which it is trading, markets of which it is a member or where it actively trades, and on the principal **trading** exposures and most important **resulting** concentrations of each of the AIF it manages.

Or. en

**Amendment 1139**

**Śławomir Witold Nitras, Danuta Jazłowiecka, Danuta Maria Hübner**

**Proposal for a directive**

**Article 21 – paragraph 2 – introductory part**

*Text proposed by the Commission*

2. For each AIF an AIFM manages, **it** shall periodically report the following to the competent authorities of its home Member State:

*Amendment*

2. For each AIF an AIFM manages **and in respect of which redemption rights are exercisable, the AIFM** shall periodically report the following to the competent authorities of its home Member State:

Or. en

*Justification*

*The proposed amendments aim to better take account of the specificities of the different types of AIF.*

**Amendment 1140**

**Burkhard Balz**

**Proposal for a directive**

**Article 21 – paragraph 2 – introductory part**

*Text proposed by the Commission*

2. For each AIF an AIFM manages, **it** shall periodically report the following to the competent authorities of its home Member State:

*Amendment*

2. For each AIF an AIFM manages **and in respect of which redemption rights are exercisable, the AIFM** shall periodically report the following to the competent authorities of its home Member State:

Or. en

*Justification*

*An AIFM should provide to the competent authority the annual report for each fund which it manages and a list of funds managed every quarter. The other requirements of Article 21 are only appropriate (in case of 21.1) for funds which regularly trade on public markets and (in case of 21.2) those which have redemption rights. It is not appropriate to apply them to funds*



*which invest only in unquoted securities or closed-ended funds..*

**Amendment 1141**  
**Olle Schmidt**

**Proposal for a directive**  
**Article 21 – paragraph 2 – introductory part**

*Text proposed by the Commission*

2. For each AIF an AIFM manages, ***it*** shall periodically report the following to the competent authorities of its home Member State:

*Amendment*

2. For each AIF an AIFM manages ***and in respect of which redemption rights are exercisable, the AIFM*** shall periodically report the following to the competent authorities of its home Member State:

Or. en

*Justification*

*This provision is not relevant for Private Equity AIFs since they are illiquid vehicles investing in an illiquid asset class of a specified category rather than having changes to their profile or liquidity needs of kind which require periodic disclosure. To apply this provision to PE AIFMs, which do not have redemption rights, would only cause unnecessary expenses for AIFMs and competent authorities. It is thus necessary to amend this provision to only apply where relevant.*

**Amendment 1142**  
**Sirpa Pietikäinen**

**Proposal for a directive**  
**Article 21 – paragraph 2 – introductory part**

*Text proposed by the Commission*

2. For each AIF an AIFM manages, ***it*** shall periodically report the following to the competent authorities of its home Member State:

*Amendment*

2. For each AIF an AIFM manages ***and in respect of which redemption rights are exercisable, the AIFM*** shall periodically report the following to the competent authorities of its home Member State:

Or. en

**Amendment 1143**  
**Corien Wortmann-Kool**

**Proposal for a directive**  
**Article 21 – paragraph 2 – introductory part**

*Text proposed by the Commission*

2. For each AIF an AIFM manages, it shall periodically report the following to the competent authorities of its home Member State:

*Amendment*

**2. *An AIFM shall only be required to report the information referred to in points (a), (b) and (c) in relation to AIF which permit redemptions at the option of investors.*** For each AIF an AIFM manages, it shall periodically report the following to the competent authorities of its home Member State:

Or. en

*Justification*

*Where investors do not have a right to redeem, it should not be necessary to have periodic reporting in relation to illiquid assets or liquidity.*

**Amendment 1144**  
**Jürgen Klute**

**Proposal for a directive**  
**Article 21 – paragraph 2 – introductory part**

*Text proposed by the Commission*

2. For each AIF *an AIFM* manages, *it* shall periodically report the following to the competent authorities of its home Member State:

*Amendment*

**2. *AIF and AIFM***, for each *of the* AIF *it* manages, shall periodically report the following to the competent authorities of its home Member State:

Or. en

**Amendment 1145**  
**Bernd Lange**

**Proposal for a directive**  
**Article 21 – paragraph 2 – introductory part**

*Text proposed by the Commission*

2. For each AIF **an AIFM** manages, **it** shall periodically report the following to the competent authorities of its home Member State:

*Amendment*

2. **AIF and AIFM**, for each **of the** AIF **it** manages, shall periodically report the following to the competent authorities of its home Member State:

Or. en

*Justification*

*Art 21(2)aa (new): In accordance with the provision in Art. 20(1)a, the competent authorities should be receive the same disclosure as investors. For other provisions, see justification under Title. AIF should also be subject to Articles 19 to 30 of the Directive.*

**Amendment 1146**  
**Peter Skinner**

**Proposal for a directive**  
**Article 21 – paragraph 2 – introductory part**

*Text proposed by the Commission*

2. For each AIF an AIFM manages, it shall **periodically report** the following to the competent authorities of its home Member State:

*Amendment*

2. For each AIF an AIFM manages, it shall **provide on request** the following to the competent authorities of its home Member State:

Or. en

*Justification*

*It is appropriate to provide supervisors with the power to collect systemically relevant information from AIFM to enable the identification and assessment of emerging systemic risks. It is not however necessary to require that all AIFM subject to the Directive periodically report information to their supervisors. Such a requirement would impose disproportionate costs on those AIFM which are not of systemic importance/relevance and would require supervisors to collect vast quantities of data and information which could overwhelm them and risk shifting their focus away from systemically important/relevant*

*AIFM.*

**Amendment 1147**  
**Pervenche Berès**

**Proposal for a directive**  
**Article 21 – paragraph 2 – introductory part**

*Text proposed by the Commission*

2. For each AIF an AIFM manages, it shall periodically report the following to the competent authorities of its home Member State:

*Amendment*

2. For each AIF an AIFM manages, it shall periodically report the following to **ESMA** **and to** the competent authorities of its home Member State:

Or. en

*Justification*

*ESMA should act as the final supervisor of AIFMs and should therefore be addressed all reports and relevant informations.*

**Amendment 1148**  
**Jürgen Klute**

**Proposal for a directive**  
**Article 21 – paragraph 2 – point a a (new)**

*Text proposed by the Commission*

*Amendment*

***(aa) a description of the investment strategy and objectives of the AIF, all the assets which the AIF can invest in and of the techniques it may employ and of all associated risks, any applicable investment restrictions, the circumstances in which the AIF may use leverage, the types and sources of leverage permitted and the associated risks and of any restrictions to the use of leverage;***

Or. en

**Amendment 1149**

**Bernd Lange**

**Proposal for a directive**

**Article 21 – paragraph 2 – point a (new)**

*Text proposed by the Commission*

*Amendment*

*(aa) a description of the investment strategy and objectives of the AIF, all the assets which the AIF can invest in and of the techniques it may employ and of all associated risks, any applicable investment restrictions, the circumstances in which the AIF may use leverage, the types and sources of leverage permitted and the associated risks and of any restrictions to the use of leverage;*

Or. en

*Justification*

*Art 21(2)aa (new): In accordance with the provision in Art. 20(1)a, the competent authorities should be receive the same disclosure as investors. For other provisions, see justification under Title. AIF should also be subject to Articles 19 to 30 of the Directive.*

**Amendment 1150**

**Jürgen Klute**

**Proposal for a directive**

**Article 21 – paragraph 2 – point c**

*Text proposed by the Commission*

*Amendment*

(c) the actual risk profile of the AIF and the risk management tools ***employed by the AIFM*** to manage these risks;

(c) the actual risk profile of the AIF and the risk management tools to manage these risks;

Or. en

**Amendment 1151**

**Bernd Lange**

**Proposal for a directive**

**Article 21 – paragraph 2 – point c**

*Text proposed by the Commission*

(c) the actual risk profile of the AIF and the risk management tools ***employed by the AIFM*** to manage these risks;

*Amendment*

(c) the actual risk profile of the AIF and the risk management tools to manage these risks;

Or. en

*Justification*

*Art 21(2)aa (new): In accordance with the provision in Art. 20(1)a, the competent authorities should be receive the same disclosure as investors. For other provisions, see justification under Title. AIF should also be subject to Articles 19 to 30 of the Directive.*

**Amendment 1152**

**Udo Bullmann, Robert Goebbels**

**Proposal for a directive**

**Article 21 – paragraph 2 – point c**

*Text proposed by the Commission*

(c) the actual risk profile of the AIF and the risk management tools employed by the AIFM to manage these risks;

*Amendment*

(c) the actual risk profile of the AIF, ***including the level of leverage used***, and the risk management tools employed by the AIFM to manage these risks;

Or. en

*Justification*

*Competent authorities must have a full picture of AIF and AIFM.*

**Amendment 1153**

**Wolf Klinz**

**Proposal for a directive**

**Article 21 – paragraph 2 – point d a (new)**

*Text proposed by the Commission*

*Amendment*

*(da) the overall level of leverage employed by each AIF it manages, a break-down between leverage arising from borrowing of cash or securities and leverage embedded in financial derivatives and the extent to which their assets have been reused under leveraging arrangements, including the five largest sources of borrowed cash or securities and the leverage received for each AIF it manages;*

Or. en

**Amendment 1154**

**Wolf Klinz, Carl Haglund**

**Proposal for a directive**

**Article 21 – paragraph 2 – point e**

*Text proposed by the Commission*

*Amendment*

*(e) where relevant, the use of short selling during the reporting period.*      *deleted*

Or. en

*Justification*

*This should be dealt with by a horizontal measure.*

**Amendment 1155**

**Udo Bullmann, Robert Goebbels**

**Proposal for a directive**

**Article 21 – paragraph 2 – point e a (new)**

*Text proposed by the Commission*

*Amendment*

***(ea) the structure of fees and the amounts paid to the AIFM;***

Or. en

*Justification*

*Competent authorities must have a full picture of AIF and AIFM. The fee structure is important as a determinant of risk.*

**Amendment 1156**

**Udo Bullmann, Robert Goebbels**

**Proposal for a directive**

**Article 21 – paragraph 2 – point e b (new)**

*Text proposed by the Commission*

*Amendment*

***(eb) the list of investors;***

Or. en

*Justification*

*Competent authorities must have a full picture of AIF and AIFM. The list of investors will help assess which type of investors is exposed to a systemic risk.*



**Amendment 1157**

**Udo Bullmann, Robert Goebbels**

**Proposal for a directive**

**Article 21 – paragraph 2 – point e c (new)**

*Text proposed by the Commission*

*Amendment*

***(ec) performance data of the AIF,  
including valuation of assets.***

Or. en

*Justification*

*Competent authorities must have a full picture of AIF and AIFM.*

**Amendment 1158**

**Udo Bullmann, Robert Goebbels**

**Proposal for a directive**

**Article 21 – paragraph 2 – subparagraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***In exceptional circumstances and where  
required in order to ensure the stability  
and integrity of the financial system, or to  
promote long term sustainable growth, the  
competent authorities of the home  
Member State and the Commission may  
impose additional reporting requirements.***

Or. en

**Amendment 1159**  
**Wolf Klinz**

**Proposal for a directive**  
**Article 21 – paragraph 2 – subparagraph 1 b (new)**

*Text proposed by the Commission*

*Amendment*

***The competent authorities of the home Member State shall forward the aggregated information referred to in point (da) of the first paragraph to the ESRB and the ESMA in a common reporting format.***

Or. en

**Amendment 1160**  
**Jürgen Klute**

**Proposal for a directive**  
**Article 21 – paragraph 3 – introductory part**

*Text proposed by the Commission*

*Amendment*

**3. *For each of the*** AIF it manages ***the AIFM*** shall submit the following documents to the competent authorities of ***its*** home Member State:

**3. *AIF and AIFM, for each of the*** AIF it manages, shall submit the following documents to the competent authorities of ***their*** home Member State:

Or. en

*Justification*

*Art 21(2)aa (new): In accordance with the provision in Art. 20(1)a, the competent authorities should be receive the same disclosure as investors. For other provisions, see justification under Title. AIF should also be subject to Articles 19 to 30 of the Directive.*

**Amendment 1161**  
**Bernd Lange**

**Proposal for a directive**  
**Article 21 – paragraph 3 – introductory part**

*Text proposed by the Commission*

*Amendment*

3. **For each of the** AIF it manages **the AIFM** shall submit the following documents to the competent authorities of **its** home Member State:

3. **AIF and AIFM, for each of the** AIF it manages, shall submit the following documents to the competent authorities of **their** home Member State:

Or. en

*Justification*

*Art 21(2)aa (new): In accordance with the provision in Art. 20(1)a, the competent authorities should be receive the same disclosure as investors. For other provisions, see justification under Title. AIF should also be subject to Articles 19 to 30 of the Directive.*

**Amendment 1162**  
**Pervenche Berès**

**Proposal for a directive**  
**Article 21 – paragraph 3 – introductory part**

*Text proposed by the Commission*

*Amendment*

3. For each of the AIF it manages the AIFM shall submit the following documents to the competent authorities of its home Member State:

3. For each of the AIF it manages the AIFM shall submit the following documents to **the ESMA and to** the competent authorities of its home Member State:

Or. en

*Justification*

*ESMA should act as the final supervisor of AIFMs and should therefore be adresssed all reports and relevant informations.*

**Amendment 1163**  
**Jürgen Klute**

**Proposal for a directive**  
**Article 21 – paragraph 3 – point a**

*Text proposed by the Commission*

*Amendment*

(a) an annual report ***of each AIF managed by the AIFM*** for each financial year, within four months from the end of the periods to which it relates;

(a) an annual report for each financial year, within four months from the end of the periods to which it relates;

Or. en

*Justification*

*Art 21(2)aa (new): In accordance with the provision in Art. 20(1)a, the competent authorities should be receive the same disclosure as investors. For other provisions, see justification under Title. AIF should also be subject to Articles 19 to 30 of the Directive.*

**Amendment 1164**  
**Bernd Lange**

**Proposal for a directive**  
**Article 21 – paragraph 3 – point a**

*Text proposed by the Commission*

*Amendment*

(a) an annual report ***of each AIF managed by the AIFM*** for each financial year, within four months from the end of the periods to which it relates;

(a) an annual report for each financial year, within four months from the end of the periods to which it relates;

Or. en

*Justification*

*Art 21(2)aa (new): In accordance with the provision in Art. 20(1)a, the competent authorities should be receive the same disclosure as investors. For other provisions, see justification under Title. AIF should also be subject to Articles 19 to 30 of the Directive.*

## Amendment 1165

Syed Kamall

### Proposal for a directive

#### Article 21 – paragraph 3 – point a

*Text proposed by the Commission*

(a) an annual report of each AIF managed by the AIFM for each financial year, within four months from the end of the periods to which it relates;

*Amendment*

(a) an annual report of each AIF managed by the AIFM for each financial year, within four months from the end of the periods to which it relates ***or, in circumstances where information is required from third parties (such as the audit of any underlying investments of the AIF), no later than six months from the end of the financial year;***

Or. en

*Justification*

*The audit of Private Equity Funds may require the audit of portfolio companies to be completed first and any mandatory period under this Directive needs to allow time for this to be done, taking account of the period that such portfolio companies have to produce their own accounts. Therefore, a mandatory four month period for the AIF would not be appropriate.*

## Amendment 1166

Ślawomir Witold Nitras, Danuta Jazłowiecka, Danuta Maria Hübner, Enikő Győri

### Proposal for a directive

#### Article 21 – paragraph 3 – point a

*Text proposed by the Commission*

(a) an annual report of each AIF managed by the AIFM for each financial year, within four months from the end of the periods to which it relates;

*Amendment*

(a) an annual report of each AIF managed by the AIFM for each financial year, within four months from the end of the periods to which it relates ***or, in circumstances where information is required from third parties (such as the audit of any underlying investments of the AIF), no later than six months from the end of the financial year;***

*Justification*

*The audit of Private Equity Funds may require the audit of portfolio companies to be completed first and any mandatory period under this Directive needs to allow time for this to be done, taking account of the period that such portfolio companies have to produce their own accounts. Therefore, a mandatory four month period for the AIF would not be appropriate.*

**Amendment 1167**  
**Sirpa Pietikäinen**

**Proposal for a directive**  
**Article 21 – paragraph 3 – point a**

*Text proposed by the Commission*

(a) an annual report of each AIF managed by the AIFM for each financial year, within four months from the end of the periods to which it relates;

*Amendment*

(a) an annual report of each AIF managed by the AIFM for each financial year, within four months from the end of the periods to which it relates ***or, in circumstances where information is required from third parties (such as the audit of any underlying investments of the AIF), no later than six months from the end of the financial year;***

**Amendment 1168**  
**Burkhard Balz**

**Proposal for a directive**  
**Article 21 – paragraph 3 – point a**

*Text proposed by the Commission*

(a) an annual report of each AIF managed by the AIFM for each financial year, within four months from the end of the periods to which it relates;

*Amendment*

(a) an annual report of each AIF managed by the AIFM for each financial year, within four months from the end of the periods to which it relates ***or, in circumstances where information is required from third parties (such as the***

*audit of any underlying investments of the AIF), no later than six months from the end of the financial year;*

Or. en

*Justification*

*An AIFM should provide to the competent authority the annual report for each fund which it manages and a list of funds managed every quarter. The other requirements of Article 21 are only appropriate (in case of 21.1) for funds which regularly trade on public markets and (in case of 21.2) those which have redemption rights. It is not appropriate to apply them to funds which invest only in unquoted securities or closed-ended funds..*

**Amendment 1169**

**Diogo Feio**

**Proposal for a directive**

**Article 21 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***3a. An AIFM managing one or more AIF employing leverage on a systemically significant basis shall make available to the competent authorities of its home Member State information about the overall level of leverage employed by each AIF it manages, a breakdown between leverage arising from borrowing of cash or securities and leverage embedded in financial derivatives and, where known, the extent to which AIF's assets have been re-used under leveraging arrangements.***

***That information shall include the identity of the five largest sources of borrowed cash or securities for each of the AIF managed by the AIFM, and the amounts of leverage received from each of those entities for each of the AIF managed by the AIFM.***

Or. en

*Justification*

*In line with the Swedish presidency compromise proposal. The reporting requirements to authorities (Article 22+23+24) are now included in Article 21: This amendment substantiates and adds to the reporting obligations to competent authorities.*

**Amendment 1170**

**Syed Kamall**

**Proposal for a directive**

**Article 21 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***3a. An AIFM managing one or more AIF employing leverage on a systemically significant basis shall make available to the competent authorities of its home Member State information about the overall level of leverage employed by each AIF it manages, a break-down between leverage arising from borrowing of cash or securities and leverage embedded in financial derivatives and, where known, the extent to which AIF's assets have been re-used under leveraging arrangements.***

***That information shall include the identity of the five largest sources of borrowed cash or securities for each of the AIF managed by the AIFM, and the amounts of leverage received from each of those entities for each of the AIF managed by the AIFM.***

Or. en

*Justification*

*Disclosure of systemically significant leverage.*



**Amendment 1171**  
**Udo Bullmann, Robert Goebbels**

**Proposal for a directive**  
**Article 21 – paragraph 3 b (new)**

*Text proposed by the Commission*

*Amendment*

***3b. Each competent authority shall periodically disclose aggregate figures to the public on information received pursuant to paragraphs 1 and 2.***

Or. en

*Justification*

*Publication of aggregate information will help investors and the public at large to assess the true performances of AIF, an issue which up to now has remained mostly opaque due to a well-established practice of the industry to disclose selective information only.*

**Amendment 1172**  
**Sirpa Pietikäinen**

**Proposal for a directive**  
**Article 21 – paragraph 3 c (new)**

*Text proposed by the Commission*

*Amendment*

***3c. Nothing in this Directive shall prevent an AIFM from notifying its competent authority that certain information provided by it pursuant to this Directive is a trade secret or confidential information, without prejudice to the possibility for the competent authority to share information with other competent authorities pursuant to this Directive.***

Or. en

*Justification*

*As well as protecting personal data, trade secrets and confidential information should be protected from disclosure to persons other than competent authorities, so that companies in*

*which AIFM invest are not prejudiced.*

**Amendment 1173**  
**Syed Kamall**

**Proposal for a directive**  
**Article 21 – paragraph 3 d (new)**

*Text proposed by the Commission*

*Amendment*

***3d. Member States shall ensure that the competent authorities of the home Member State of an AIFM have access to information on the use of short selling on account of AIF managed by the AIFM for the purposes of identifying the extent to which the use of short selling contributes to the build-up of systemic risk in the financial system or risks of disorderly markets. The competent authorities of the home Member States shall also ensure that such information, aggregated in respect of all AIFM that they supervise, is made available to other competent authorities, the ESMA and the ESRB through the procedures set out in Article 46 on supervisory co-operation.***

Or. en

*Justification*

*Disclosure of systemically significant short-selling.*

**Amendment 1174**  
**Syed Kamall**

**Proposal for a directive**  
**Article 21 – paragraph 4 – subparagraph 1**

*Text proposed by the Commission*

*Amendment*

4. The Commission shall adopt ***implementing measures*** further specifying

4. The Commission shall adopt ***delegated acts in accordance with Articles 49a, 49b***

the reporting obligations referred to in paragraphs 1, 2 and 3 and their frequency.

*and 49c* further specifying the reporting obligations referred to in paragraphs 1, 2 and 3 and their frequency. ***Such acts shall be appropriate and proportionate and adapted to the type of AIFM and AIF to which they apply, taking account, inter alia, of the different size, resources, complexity, nature, investments, investment strategies and techniques, structures and investors of different types of AIFM.***

Or. en

### *Justification*

*While an AIFM should provide to the competent authority the annual report for each fund which it manages (within six months of the year end - see above), and a list of funds managed every quarter, the other requirements of Article 21 are only appropriate (in the case of 21.1) for funds which regularly trade on public markets and (in the case of 21.2) those which have redemption rights. It is not appropriate to apply them to funds which invest only in unquoted securities or closed-ended funds.*

*In addition, the Directive should better take account of the specificities of the different types of AIF.*

## **Amendment 1175** **Burkhard Balz**

### **Proposal for a directive** **Article 21 – paragraph 4 – subparagraph 1**

#### *Text proposed by the Commission*

4. The Commission shall adopt ***implementing measures*** further specifying the reporting obligations referred to in paragraphs 1, 2 and 3 and their frequency.

#### *Amendment*

4. The Commission shall adopt ***delegated acts in accordance with Articles 49a, 49b and 49c*** further specifying the reporting obligations referred to in paragraphs 1, 2 and 3 and their frequency. ***Such acts shall be appropriate and proportionate and adapted to the type of AIFM and AIF to which they apply, taking account, inter alia, of the different size, resources, complexity, nature, investments, investment strategies and techniques, structures and investors of different types***

*of AIFM.*

Or. en

*Justification*

*An AIFM should provide to the competent authority the annual report for each fund which it manages and a list of funds managed every quarter. The other requirements of Article 21 are only appropriate (in case of 21.1) for funds which regularly trade on public markets and (in case of 21.2) those which have redemption rights. It is not appropriate to apply them to funds which invest only in unquoted securities or closed-ended funds..*

**Amendment 1176**

**Śławomir Witold Nitras, Danuta Jazłowiecka, Danuta Maria Hübner**

**Proposal for a directive**

**Article 21 – paragraph 4 – subparagraph 1**

*Text proposed by the Commission*

4. The Commission shall adopt ***implementing measures*** further specifying the reporting obligations referred to in paragraphs 1, 2 and 3 and their frequency.

*Amendment*

4. The Commission shall adopt ***delegated acts in accordance with Articles 49a, 49b and 49c*** further specifying the reporting obligations referred to in paragraphs 1, 2 and 3 and their frequency. ***Such acts shall be appropriate and proportionate and adapted to the type of AIFM and AIF to which they apply, taking account, inter alia, of the different size, resources, complexity, nature, investments, investment strategies and techniques, structures and investors of different types of AIFM.***

Or. en

*Justification*

*Level 2 implementing measures should be proportionate and not unduly penalize entities when there is no clear benefit attached to the compliance costs.*

**Amendment 1177**  
**Sirpa Pietikäinen**

**Proposal for a directive**  
**Article 21 – paragraph 4 – subparagraph 1**

*Text proposed by the Commission*

4. The Commission shall adopt **implementing measures** further specifying the reporting obligations referred to in paragraphs 1, 2 and 3 and their frequency.

*Amendment*

4. The Commission shall adopt **delegated acts in accordance with Articles 49a, 49b and 49c** further specifying the reporting obligations referred to in paragraphs 1, 2 and 3 and their frequency. **Such acts shall be appropriate and proportionate and adapted to the type of AIFM and AIF to which they apply, taking account, inter alia, of the different size, resources, complexity, nature, investments, investment strategies and techniques, structures and investors of different types of AIFM.**

Or. en

**Amendment 1178**  
**Udo Bullmann, Robert Goebbels**

**Proposal for a directive**  
**Article 21 – paragraph 4 – subparagraph 1**

*Text proposed by the Commission*

4. The Commission shall adopt **implementing measures** further specifying the reporting obligations referred to in paragraphs 1, 2 and 3 and their frequency.

*Amendment*

4. The Commission shall adopt **delegated acts in accordance with Articles 49a, 49b and 49c** further specifying the reporting obligations referred to in paragraphs 1, 2 and 3, **which may be adapted and complemented in view of evolving financial techniques**, and their frequency.

Or. en

*Justification*

*The Commission shall have the right to adapt its disclosure requirements to evolving*

*financial techniques – otherwise, the whole purpose of the disclosure requirements may be defeated by “innovative” techniques.*

**Amendment 1179**

**Udo Bullmann, Robert Goebbels**

**Proposal for a directive**

**Article 21 – paragraph 4 – subparagraph 2**

*Text proposed by the Commission*

Those **measures**, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the **regulatory** procedure **with scrutiny** referred to in Article 49(3).

*Amendment*

***The Commission shall also adopt delegated acts regarding the type of information made public pursuant to paragraph 3a.*** Those **acts**, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with **Articles 49a, 49b and 49c.**

Or. en

*Justification*

*The Commission shall have the right to adapt its disclosure requirements to evolving financial techniques – otherwise, the whole purpose of the disclosure requirements may be defeated by “innovative” techniques.*

**Amendment 1180**

**Sharon Bowles**

**Proposal for a directive**

**Article 21 – paragraph 4**

*Text proposed by the Commission*

4. The Commission **shall adopt implementing** measures further specifying the reporting obligations referred to in paragraphs 1, 2 and 3 and their frequency.

***Those measures, designed to amend non-essential elements of this Directive by***

*Amendment*

4. The Commission **may lay down, by means of delegated acts in accordance with Articles 49a, 49b and 49c,** measures further specifying the reporting obligations referred to in paragraphs 1, 2 and 3 and their frequency.

***supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 49(3).***

Or. en

*Justification*

*This is appropriate wording under the new 'comitology' procedures if this article is retained.*

**Amendment 1181**

**Olle Schmidt**

**Proposal for a directive**

**Article 21 – paragraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

***4a. Article 21 shall not apply to industrial holding companies having their shares traded on a EU regulated market insofar as they hold shares in their subsidiaries or associated companies for the purpose of carrying out an industrial business strategy and which are not established for the main purpose of generating returns for its investors by means of divestment within a planned timeframe.***

Or. en

*Justification*

*This article requires reporting to authorities of information only relevant for hedge funds (short-selling, liquidity management etc). This reporting would imply an unnecessary additional reporting burden for listed industrial holding companies.*

**Amendment 1182**  
**Olle Schmidt**

**Proposal for a directive**  
**Article 21 – paragraph 4 b (new)**

*Text proposed by the Commission*

*Amendment*

***4b. Article 21 shall not apply to closed-ended funds with no redemption rights.***

Or. en

*Justification*

*This article requires reporting to authorities of information only relevant for hedge funds (short-selling, liquidity management etc). This reporting would imply an unnecessary additional reporting burden for closed ended funds.*

**Amendment 1183**  
**Syed Kamall**

**Proposal for a directive**  
**Article 21 a (new)**

*Text proposed by the Commission*

*Amendment*

***Article 21a***

***Confidentiality***

***Nothing in this Directive shall prevent an AIFM from notifying its competent authority that certain information provided by it pursuant to this Directive is a trade secret or confidential information, without prejudice to the possibility for the competent authority to share information with other competent authorities pursuant to this Directive.***

Or. en

*Justification*

*While an AIFM should provide to the competent authority the annual report for each fund*



*which it manages (within six months of the year end - see above), and a list of funds managed every quarter, the other requirements of Article 21 are only appropriate (in the case of 21.1) for funds which regularly trade on public markets and (in the case of 21.2) those which have redemption rights. It is not appropriate to apply them to funds which invest only in unquoted securities or closed-ended funds.*

*Furthermore, as well as protecting personal data, trade secrets and confidential information should be protected from disclosure to persons other than competent authorities, so that companies in which AIFM invest are not prejudiced.*