

**EFAMA PAPER TO EIOPA
ON THE CONSULTATION PAPER ON THE PROPOSAL FOR GUIDELINES ON
OUTSOURCING TO CLOUD SERVICE PROVIDERS**

18 September 2019

EFAMA, the voice of the European investment management industry, welcomes the opportunity to provide its feedback to the EIOPA consultation for the proposal of Guidelines on outsourcing to cloud service providers.

EFAMA represents through its 28 member associations, 62 corporate members and 25 associate members more than EUR 25 trillion in assets under management of which EUR 15.6 trillion managed by 60,174 investment funds at end 2017. Close to 32,000 of these funds were UCITS (Undertakings for Collective Investments in Transferable Securities) funds, with the remaining 28,300 funds composed of AIFs (Alternative Investment Funds). Asset management companies in Europe provide services to collective investment undertakings and are covered by their sector-specific regulation, i.e. UCITS Directive¹ and AIFMD².

At the same time, a number of asset management companies are part of an insurance group, in which case the parent company is called to ensure the consistent implementation of the requirements deriving from its own sectoral legislation (Solvency II) at the group-wide level. This means that at the group-level Solvency II applies, however it is the sectoral legislation that applies on solo-level, i.e. the level of the asset management company.

In this respect, EFAMA wishes to stress the need for a clear guidance in relation to the application of the draft Guidelines for insurance groups. We consider it important to clarify that the EIOPA Guidelines on outsourcing to cloud service providers are first and foremost targeting the internal governance processes of an insurance or reinsurance undertaking. In terms of a consolidated approach the parent institution shall ensure consistency at the group-level, but the provisions applying at solo level for asset managers belonging to an insurance group remain the ones foreseen in the UCITS Directive and AIFMD. Any different approach would lead to regulatory inconsistencies such as requesting asset management companies-subidiaries in insurance groups to apply two different sets of rules as regards their outsourcing arrangements or to disregard their existing sector-specific regulatory framework, which they are not entitled to do.

¹ Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS)

² Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010

Moreover, the EIOPA Guidelines do not reflect the specificities of the asset management business model and their sector specific-requirements. In case there may be a need to further develop a common understanding of similar outsourced activities across the spectrum of financial entities and based on the ESA's Joint Advice on the need for legislative improvements relating to ICT risk management requirements in the EU financial sector³, it would be on ESMA to make the necessary clarifications and precisions for securities markets legislation.

In this context, we call EIOPA to ensure that the application of these Guidelines is not foreseen at solo level for asset management companies that are part of an insurance group. This should be indicated in paragraph 2 of the Guidelines referring to the scope both for insurance undertakings and mutatis mutandis for groups.

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https://www.esma.europa.eu/sites/default/files/library/jc_2019_26_joint_esas_advice_on_ict_legislative_improvements.pdf