



Alternative Investment Management Association

European Banking Authority
18th Floor
Tower 42
25 Old Broad Street
London EC2N 1HQ

Submitted via EBA website

30 September 2013

Dear Sirs,

AIMA's response to the EBA's Consultation Paper EBA/CP/2013/30

The Alternative Investment Management Association Limited¹ (AIMA) is grateful to the European Banking Authority (EBA) for the opportunity to comment on its consultation paper on Draft Regulatory Technical Standards (RTS) on own funds requirements for investment firms based on fixed overheads (FOR) under Article 97(4) of Regulation (EU) No 575/2013 (the Consultation Paper).

We welcome the harmonisation of the position relating to the calculation of FOR across Europe. We note that the draft RTS are to be adopted by way of a delegated regulation. It is therefore critical that an appropriate method of calculating FOR is adopted.

AIMA strongly supports the EBA's proposal to adopt the subtractive approach to calculate FOR. As the EBA acknowledges, this approach has the benefit of ensuring that changes to the accounting framework are automatically taken into account and cannot be arbitrated by changing the accounting categorisation. Also, this approach will be simple to apply for investment firms who report under national GAAP and do not use the International Financial Reporting Standards (IFRS) accounting framework.

We note that some Member States are currently using the additive approach, but we do not consider that this would be an appropriate method to adopt across Europe. As the EBA acknowledges, the existence of many different national accounting standards makes this approach impractical and has the potential to lead to different results depending on the accounting standards used, which is at cross purposes with a goal of harmonisation.

Although we agree with the subtractive approach, we do think that the list of deductible items in Article 36(1) could be improved by adding the following three additional items: (i) interest paid to counterparties; (ii) foreign exchange losses; and (iii) other variable expenditure. These items of variable expenditure should be removed from a calculation that is supposed to be based on the amount of fixed expenses.

AIMA also supports the idea that the FOR should focus on the items that comprise the amount of fixed overheads of the previous year based on the most recent audited annual financial statements.

¹ AIMA is the trade body for the hedge fund industry globally; our membership represents all constituencies within the sector – including hedge fund managers, fund of hedge funds managers, prime brokers, fund administrators, accountants and lawyers. Our membership comprises over 1,300 corporate bodies in over 50 countries.

The Alternative Investment Management Association Limited
167 Fleet Street, London, EC4A 2EA

Tel: +44 (0)20 7822 8380 Fax: +44 (0)20 7822 8381 E-mail: info@aima.org Internet: <http://www.aima.org>



We hope you find our comments useful and would be more than happy to answer any questions you have in relation to this submission.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "J. Król", is positioned above the typed name.

Jiří Król
Deputy Chief Executive Officer
Head of Government & Regulatory Affairs