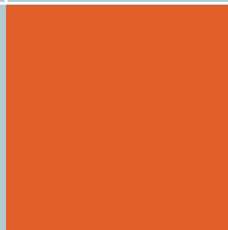
ANNUAL REPORT



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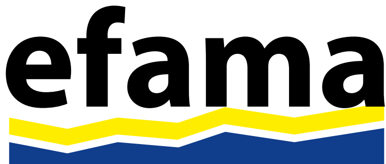

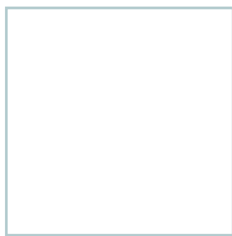

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President's Statement

Confident in growth, with the investor at heart

One year has passed since I was elected President of EFAMA and I am privileged to report that our association is as vital and significant as ever. The crisis confronting us on all fronts – be they regulatory, financial, social or political – offers a wealth of opportunities for an association promoting, protecting and developing the European fund and asset management industry, which is managing assets amounting to 102% of the European GDP. Seizing those opportunities, however, will require us to work together with ever more confidence in the vital role this industry plays throughout Europe and in our ability to work together to drive the changes that so characterise the world around us.

It is my conviction that our impact will be greatest – and most positive – if we never lose sight of who we really represent: the investor. Very rapidly, the fund and asset management industry has become a sector as relevant as any, with its own mission and its own importance.

2011 was challenging for most of us, and this is reflected in our industry figures: investment fund assets in Europe decreased by 2.7 to EUR 7.9 trillion. However, given the extraordinarily difficult conditions which the financial sector was faced with in the whole of Europe, this is actually an encouraging performance, with net assets under management at the end of 2011 still 29% higher than at end 2008. What truly requires our full attention is the negative trend affecting savings: investors have become much more risk-averse; the debt crisis and the onset of austerity measures throughout Europe have lessened people's appetite for long-term investment. These results just prove once again that the welfare of the investor must be at the core of everything we do.

This focus on the investor is not new to EFAMA. Understanding and promoting the true mission of our industry and the benefits it bestows is a task largely facilitated by the achievements of my distinguished predecessor, Jean-Baptiste de Franssu. His commitment to ensuring that our industry is both balanced and proactive in setting its priorities brought structure and strength to EFAMA and laid much of the groundwork for the strategy we are now pursuing.

When I took the helm of EFAMA last year I proposed to the EFAMA Board five priorities that put the investor at heart for this association, to ensure that its influence and its impact remain vital and pertinent.

The first priority, i.e. promoting long-term savings, is a need that has not been adequately met in Europe. The current crisis has demonstrated that state-sponsored retirement schemes are no longer sufficient, and one of our main goals is to promote the creation of a harmonised European retirement plan. Our recent EFAMA Pension Day, held on 24 April 2012, focused on the key issues showcased in the European Commission's White Paper on Pensions.

Secondly, EFAMA must continue to encourage investor information and education, working with other institutions and associations to pursue this far-reaching and complex objective. Our recently reactivated Investor Education Working Group took significant steps in outlining an agenda for a major event we will be sponsoring during the second half of this year: understanding investors' financial education needs, examining what fund associations and asset managers are doing to educate retail investors and looking at methods to provide financial education, including channels and terminology.

Next, EFAMA, in its unique position of broad-based strength through national associations and corporate memberships combined, will continue to support beneficial regulatory measures. We have been more active than ever in advising authorities on how to strike the right balance between protection, innovation and cost efficiency. It is also our role to make sure that investors do not suffer from excessive compliance rules or discrepancies in regulation and taxation between similar financial products. The markets – and the regulations that govern them – are increasingly complex, offering a range of solutions to investors that can be difficult to compare because of a lack of transparency. We will continue to fight for clearer and more consistent regulations.

It goes without saying that another priority is our desire to expand the UCITS brand both in Europe and around the world. This twenty-five-year success in financial product innovation needs to be protected and supported. And we will work hard to foster the development of another potential European success story in fund management through AIFMD, which opens new opportunities for professional investors worldwide.

Finally, this association can only function if the professionals that comprise it acquire an even greater level of recognition, within and beyond the industry, and an even stronger sense of unity as we work together for the future. EFAMA must constantly work to demonstrate that we are uniquely knowledgeable about the interests of the industry and that we are able to contribute to the European Union's economic and social goals as well. This requires the means to match our ambitions.

Over the past year, we have taken significant steps in this direction and that is thanks to the incredibly hard work put in by so many professionals. During this first year as President I have been impressed by the quality and quantity of the contributions made by our members and by the committees and working groups they support. I am deeply grateful to them for the endless hours they have devoted to EFAMA. Last but not least, I would like to thank my fellow colleagues on the Board of Directors as well as Peter De Proft, the Director General, for their invaluable support and encouragement. Our work is neither flashy nor fast-paced. It is on the contrary thorough and robust. I am delighted that we have achieved consensus on EFAMA governance, management and financing. It is no secret that without an agreement on resources – both human and financial – we cannot continue carrying out the mandate we have been given. This is particularly important as our industry is becoming, quite literally, a consumer business, with greater expectations than ever.

As I look ahead, I see the role of EFAMA taking on even greater significance and making even more of an impact, as we keep a steady eye on what matters: the investor. Now it is up to us to use our talents to greater effect and take true pride in what we do, educating, informing, innovating and, at the end of the day, facilitating investment. Our message goes far beyond our industry as we help overcome the crisis, adapt to inevitable changes and build investor confidence.

Claude Kremer
President
June 2012

Director General's Statement

Plays of the ancient Greek theatre – commonly known as Greek tragedies – included a chorus that offered a variety of background and summary information to help the audience follow the performance. The Greek chorus comments on themes and shows how an ideal audience might react to the drama. In many of these plays the chorus expressed to the audience what the protagonists could not say, such as their hidden fears or secrets.[1]

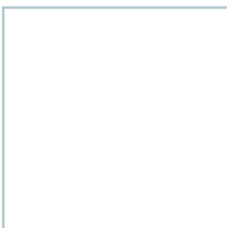
The European investor definitely needs a chorus to express his or her fears and anxieties about the future of the Euro, the EU, its financial and social systems. As the overall net sales of UCITS and non-UCITS show in 2011, barely reaching € 8 bn compared to € 326 bn in 2010, these fears, nourished by the depressing spectacle of the unfolding sovereign debt crisis have paralysed the development of the European investment market in the second half of the year. In order to restore investor confidence, retail and institutional alike, we are eagerly awaiting the appearance of Euripides' major contribution to the Greek tragedy, the "*deus ex machina*".

At the same time the investment management industry has to face an avalanche of regulation that is difficult – if not impossible - to implement all at once.

The decision areas as far as our industry is concerned are unclear: are they at a global level, i.e. G20 / IOSCO, regional, EU institutions, or at national level? And are we certain that common G20 decisions also see common and consistent implementation around the globe in order to avoid regulatory arbitrage? Many decisions affecting the investment management industry find their origin in the mapping of systemic risk: the "Shadow Banking" theme came out of the blue for our industry in April 2011 with the FSB - Financial Stability Board's note on ETFs and has not disappeared since.

Many questions remain unanswered for asset fund managers, be it investor information and protection, distribution challenges, new rulemaking in Europe or the collaboration with third countries. CEOs of asset management firms are facing an extremely complicated task in defining the strategic options, the optimal business model and goals for the next three years.

1 Wikipedia : dramatic function of the Greek chorus.



More than ever EFAMA, in this challenging environment, must listen and learn from its Members; the number of Corporate Members has increased to 59 at the end of May and to date 20 Associate Members have joined EFAMA's ranks.

Leadership is all about organising a group of individuals to achieve a common goal. The particular challenge of leading a European association is that it represents such a diverse group of interests and people. Both leadership and good governance are therefore very important elements in the smooth running of a European association. In 2011 EFAMA's constitution and role have been adapted in order to improve governance for all its Members and smoothing its functioning in the face of all the challenges.

Once again, at the risk of sounding boring like Catiline, who constantly repeated : "*Carthago delenda est*", EFAMA wants to stress and is convinced that the asset management industry needs to be perceived as speaking with "one voice" in order to be considered as a valuable partner for legislators, regulators and other market stakeholders. The art of compromise is key to success, not only at European level, but also in everyday life.

At the beginning of July 2011 EFAMA's Secretariat moved its new offices to the rue Montoyer 47 which are proving to be very pleasant, functional and perfectly appointed for accommodating high level meetings, such as welcoming Commissioner Barnier.

In closing, my warm thanks go to all our Members for their unfailing support and trust and to all my colleagues at the Secretariat for their continuous efforts in this challenging and stressful environment.

Peter De Proft
Director General
June 2012

Activity Report 2011

INVESTMENT MANAGEMENT REGULATION

1. Reform of the European Financial Supervision

2010 marked an important milestone in the development of financial supervision in Europe with the adoption, on 22 September 2010, of regulations establishing three new European Supervisory Authorities (ESMA, EIOPA and EBA) as well as the European Systemic Risk Board (ESRB).

These authorities officially started their operations on 1 January 2011, each with an ambitious work programme largely driven by the EU regulatory agenda aiming at strengthening investor protection and ensuring the stability and effective functioning of capital markets to the benefit of the real economy.

From the outset, EFAMA fully embraced the creation of these new authorities, equipped with considerable new powers, and strived to establish with each of them, and in particular with ESMA, constructive relationships.

In this context, it is certainly worth mentioning the appointment in April 2011 of the Director General of EFAMA, Peter De Proft, to the Securities and Markets Stakeholders Group (SMSG) established within ESMA for a 2.5 years term. This will undoubtedly largely contribute to the adequate representation of the investment management industry as a key component of the buy-side on financial markets. Peter De Proft was elected Vice-Chair by ESMA's SMSG at its second meeting in October 2011.

2. UCITS Review

In December 2010, the European Commission published a *Consultation Paper on the UCITS Depositary Function and on the UCITS Manager's Remuneration*[1]. Following a first round of consultations on the UCITS depositary regime organised by the Commission in 2009 in the wake of the Madoff and Lehmann cases, this Consultation Paper presented in detail the policy options envisaged by the Commission to achieve more harmonisation in the definition of the depositary functions and to ensure a level playing field in terms of UCITS investors' protection measures within the European Union.

This Consultation Paper also presented the plans of the Commission concerning the inclusion of provisions on sound remuneration principles for UCITS managers into the UCITS Directive, in view of achieving consistency with requirements for AIF managers, banks and investment firms as included in the AIFMD and in CRD IV.

1 http://ec.europa.eu/internal_market/consultations/docs/2010/ucits/consultation_paper_en.pdf

In its detailed reply[2] to this Consultation Paper, EFAMA expressed its full support for the Commission's efforts towards further improvements of the existing UCITS depositary regime. A sound and safe depositary regime is indeed one of the key components of the high level of investor protection enjoyed by UCITS investors and a major contributor to the worldwide success of the UCITS brand. When considering changes to existing standards of liability for depositaries, EFAMA stressed, however, the importance of bearing in mind that investment in financial markets (either directly or through investment funds) involves a number of risks for investors which are not limited to market risks only. These risks should obviously be reduced, managed and mitigated as much as possible but cannot be completely avoided. As a basic principle of investing, risk is inherently linked to returns and trying to regulate all the risks away – if at all possible – has a profoundly negative impact on investors' return due to associated costs. EFAMA also emphasised the utmost importance of achieving consistency with the AIFMD framework on depositaries and also to take into account the significant impact that other legislations (such as the Securities Law Directive) may have in the context of the clarification of the depositary functions.

Concerning the Remuneration principles for UCITS managers, while sharing the Commission's view that they should, as far as possible, be consistent with those proposed for AIF managers as well as for banks and investment firms, EFAMA outlined in its reply the business model of the asset management industry which has as main particularity that UCITS managers are not taking risks affecting their own assets. Consequently, EFAMA urged the Commission to ensure that the provisions on remuneration to be included in the UCITS Directive take these differences sufficiently into account.

A feedback statement from the Commission, summarising the answers received to this Consultation Paper was published in July 2011[3]. However, the publication of the UCITS V legislative proposal by the Commission, initially scheduled for July 2011 was postponed to a later date and had not yet been published as at 31 December 2011. One of the reasons for this delay was the decision of the Commission to include a new section in the UCITS Directive aiming at reinforcing and harmonising sanctioning regimes in the financial services sector. Building on a recommendation of the Larosière report following which: "*Supervision cannot be effective with weak, highly variant sanctioning regimes. It is essential that within the EU and elsewhere all supervisors are able to deploy sanctioning regimes that are sufficiently convergent, strict, resulting in deterrence*"[4]. This forms part of a horizontal, cross-sectoral initiative. A similar section will also be included in other directives under review, such as the CRD, MiFID or the Market Abuse Directive.

3. Exchange-Traded Funds Under Close Scrutiny

Created in the early nineties, Exchange-Traded Funds (ETFs) have enjoyed during the last decade, and particularly over the past five years, an increased popularity with investors (because of their perceived benefits in terms of flexibility and cost-efficiency) making them one of the "success stories" in the asset management industry.

However, the rapid growth in the ETF markets, underpinned by strong innovation, started to attract the attention of a number of international and EU financial supervisory bodies (such as the Financial Stability Board, IOSCO and the European Securities and Markets Authority) that decided to put these products

2 http://www.efama.org/index.php?option=com_docman&task=cat_view&gid=472&dir=DESC&order=date&Itemid=-99&limit=5&limitstart=5

3 http://ec.europa.eu/internal_market/consultations/docs/2010/ucits/summary_of_responses_en.pdf

4 http://ec.europa.eu/internal_market/finances/docs/de_larosiere_report_en.pdf

under scrutiny with a view to identifying their potential vulnerabilities and the systemic risks they might create, as well as the actions that may be needed to address them.

On 12 April 2011, the Financial Stability Board (FSB) issued a note on *Potential financial stability issues arising from recent trends in Exchange-Traded Funds (ETFs)*[5]. The main concerns raised in this note related essentially to the complexity and lack of transparency of a number of ETFs and the financial stability issues which could be created or amplified by the use of leverage, counterparty risks (in particular in the context of collateralised structured operations) and liquidity disruptions.

In its reply[6] to the FSB Note, EFAMA highlighted in particular the following elements:

- Most European ETFs are UCITS and are, therefore, already subject to one of the most respected and widely recognised frameworks for public investment funds. This robust framework already contains detailed rules, notably in terms of leverage constraints, liquidity management and collateral requirements;
- The area of concern identified in the FSB Note are not unique to ETFs;
- A significant number of exchange-traded investment products are not ETFs – appropriate distinctions must be drawn and understanding among investors and the public must be improved.

Early 2011, ESMA and IOSCO also started to conduct internal work on ETF related issues (such as leverage, use of total return swaps, securities lending, disclosure, transparency, conflicts of interest) both in terms of investor protection and potential systemic risks, with a view to preparing public consultations on these issues, to be conducted later in 2011 or early 2012.

In order to bring these discussions into perspective and to objectivate the debate, EFAMA took the initiative to publish, in May 2011, a submission to ESMA on issues related to Exchange-Traded Funds[7] providing technical details regarding different existing ETF structures and addressing some of the concerns raised by various regulators. In the same spirit, EFAMA also organised, on 5 July 2011, a technical Workshop on ETFs for the European Commission.

On 22 July 2011, ESMA published a Discussion Paper[8] seeking for stakeholders' views on a number of policy orientations on UCITS Exchange-Traded Funds and Structured UCITS. This Discussion Paper did not focus exclusively on ETFs but also covered Structured UCITS, i.e. the "complex UCITS issue".

The detailed reply to the Discussion Paper prepared during the summer by the EFAMA ETF Working Group[9] underlined once again the fact that UCITS ETFs are nothing more and nothing less than UCITS listed on a Regulated Market and already benefit from the very high level of investor protection provided by the UCITS framework. Given that the listing by itself does not change their risk profile, EFAMA stressed that it did not see the need for ETF-specific regulation, except with regard to listing rules. In its answer, EFAMA also

5 http://www.financialstabilityboard.org/publications/r_110412b.pdf

6 http://www.efama.org/index.php?option=com_docman&task=cat_view&gid=472&dir=DESC&order=date&Itemid=-99&limit=5&limitstart=0

7 http://www.efama.org/index.php?option=com_docman&task=cat_view&gid=472&dir=DESC&order=date&Itemid=-99&limit=5&limitstart=0

8 http://www.financialstabilityboard.org/publications/r_110412b.pdf

9 http://www.efama.org/index.php?option=com_docman&task=cat_view&gid=472&dir=DESC&order=date&Itemid=-99&limit=5&limitstart=0

strongly encouraged ESMA to take a horizontal approach to fund and non-fund products alike, in the spirit of MiFID and the PRIPS initiative.

Further, EFAMA also expressed its support for the proposal made by ESMA following which ETFs should use an identifier (such as "ETF") in their names, fund rules, prospectus and marketing materials as it would help investors distinguish exchange-traded funds from non-fund structures ("ETPs"), one of the major sources of investor confusion. In this context, EFAMA insisted however on the need to come to a correct definition of "ETF", as otherwise the label "ETF" might be misused and many other funds with listings or admission to trading might be incorrectly caught by ETF-specific provisions.

In 2012, it is likely that exchange-traded funds will remain high on the regulators agenda, not only with the expected publication of additional consultation papers by ESMA and IOSCO but also because of the possible implications for ETFs of the growing concerns of regulators and supervisors about so-called "shadow banking" entities.

4. AIFM Directive

In June 2011, more than two years after the publication of the first proposal, the Alternative Investment Fund Managers Directive (AIFMD) was finally formally adopted and published in the Official Journal of the European Union[10]. It entered into force on 21 July 2011, triggering the 2-year deadline until 22 July 2013 for its transposition by Member States into national law. The industry also has a 2-year period before the requirements are applied as of 22 July 2013 to new AIFMs and AIFs and an additional year until 22 July 2014 before application to existing AIFMs.

During the entire year 2011, important work on the over 100 required implementing measures for the AIFMD was carried out by ESMA and the European Commission. The Commission and ESMA aim to adopt Level 2 and Level 3 measures as early as possible to allow Member States and the industry sufficient time with the implementation of these measures and required reorganisation. EFAMA followed this work very closely and provided detailed input throughout the process.

As early as December 2010, after political agreement had been reached regarding the AIFMD, the European Commission had issued a *Provisional Request on Level 2 measures concerning the AIFMD*[11] to the Committee of European Securities Regulators (CESR). CESR immediately issued a *Call for Evidence – Implementing Measures on the AIFMD*[12] consulting interested stakeholders until mid-January 2011. CESR also indicated that it would not limit its work to the Level 2 measures but immediately consider Level 3 measures concerning the AIFMD. A detailed response to the Call for Evidence – Implementing Measures on the AIFMD was prepared by the EFAMA Working Group AIFMD and submitted in January 2011 within the very short deadline.

In spring 2011, experts from the EFAMA AIFMD Working Group were appointed to participate in different open hearings and several workshops organised by ESMA on the envisaged Level 2 and Level 3 measures around scope, general operating conditions, depositary as well as transparency and disclosures. ESMA's

10 http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:174:0001:0073:EN:PDF

11 http://ec.europa.eu/internal_market/investment/docs/alternative_investments/level2/mandate_en.pdf

12 http://www.esma.europa.eu/index.php?page=consultation_details&id=176

work on the different topics resulted in 2 extensive consultation papers published in July and August 2011: the *Consultation Paper on ESMA's draft technical advice to the European Commission on possible implementing measures of the Alternative Investment Fund managers Directive*[13] and the *Consultation Paper on possible implementing measures of the Alternative Investment Fund managers Directive in relation to supervision and third countries*[14]. Despite the very short deadlines and the extensive consultation, EFAMA was able to submit detailed comments to both consultation papers and to participate in the related open hearings organised by ESMA. EFAMA's replies were prepared mainly by the AIFMD Working Group which consulted with and drew on the expertise of other EFAMA Working Groups, such as the Accounting, Risk Management and Depositary Working Groups.

In November 2011, ESMA provided the European Commission with its *Final Report Technical Advice to the European Commission on possible implementing measures of the Alternative Investment Fund Managers Directive*[15]. This final report documents a tremendous amount of very high quality work from ESMA which is even more impressive given the limited time and personnel resources. Most of the advice in the report is very well balanced and reflects the detailed consultation with the industry. The overall result was highly appreciated and EFAMA members' remaining concerns were in the fields of transparency, inducements and additional own funds.

Based on this final report by ESMA, the Commission has begun its work on the implementing measures which are, following the Single Rule Book approach, likely to take the form of a Regulation. The Commission has voiced its intention to adopt this Regulation in the first half of 2012 aiming at a swift entry into force, if neither the European Parliament nor Council reject the Regulation within the 3-month period provided for in the AIFMD. With this timing, the Commission seeks to leave as long as possible to Member States and the industry between this entry into force of the Regulation and an application as of July 2013 at the same time as the AIFMD.

For 2012, ESMA has already indicated continuing its work on leverage, standards of cooperation arrangements to be concluded between supervisory authorities, classification and types of AIF, and guidelines regarding remuneration. For the industry, the cooperation arrangements and their timely conclusion are of the highest importance. The cooperation arrangements need to be concluded at the latest by July 2013 to allow the industry to continue the delegation and sub-delegation of portfolio management and risk management to third countries and the private placement from a third country into Europe. Furthermore, cooperation arrangements will also be required as of 2015 for the passport for third country funds and managers.

5. Investor Compensation Schemes Directive Review

In July 2010, ten years after its entry into force, the European Commission published a legislative proposal[16] amending the Investor-Compensation Scheme Directive (ICSD) for adoption by the Council and the European Parliament, as part of a broader package also containing amendments to the Deposit Guarantee Schemes Directive and a White Paper on Insurance Guarantee Schemes.

13 http://www.esma.europa.eu/index.php?page=home_details&id=580

14 http://www.esma.europa.eu/popup2.php?id=7702

15 http://www.esma.europa.eu/system/files/2011_379.pdf

16 http://ec.europa.eu/internal_market/securities/docs/isd/dir-97-9/proposal-modification_en.pdf

In a detailed Position Paper published in October 2010[17], EFAMA had already voiced its major concerns regarding the proposed extension of the benefit of the investor-compensation schemes to UCITS unit-holders in case of default of a depositary or sub-custodian. In this paper, EFAMA highlighted the potentially extremely damaging consequences that such a proposal would entail for UCITS and their investors[18] and therefore strongly called upon European policy-makers to reject or to suspend the extension of the ICSD to UCITS unit-holders, at least until the outcome of the discussions regarding the review of the UCITS depositary regime would be known.

Early 2011, the legislative process of examination of the Commission's proposal entered a crucial phase in European Parliament with the publication, on 25 January 2011, of the draft report of MEP Olle Schmidt[19], to the Economic and Monetary Affairs (ECON) Committee. In line with the recommendations of EFAMA, and among other amendments, this draft report suggested to remove from the Commission's text the proposed extension of the scope of the ICSD to UCITS. With a view to reaching a political compromise in Parliament, MEP Olle Schmidt decided however to include in his draft report a 'review clause' whereby the Commission would be mandated to re-examine the need to include UCITS investors in the scope of the Directive after completion of the review of the UCITS depositary regime (which was then expected to be adopted by end 2012).

The draft report in ECON Committee was soon followed by a 'Compromise Proposal' of the Hungarian Presidency[20] which clearly indicated that, in Council also, Member States were far from being convinced of the soundness of the Commission's proposal to extend the benefits of investor-compensation schemes to UCITS unit-holders.

Despite the reservations expressed in Council and by some MEPs, it soon became clear however that not only the Commission itself but also some political groups in European Parliament remained convinced of the need to include UCITS and their investors in the scope of the Directive.

After further political discussions in Parliament, and substantial additional lobbying efforts from EFAMA (including a presentation by EFAMA's Deputy Director General at a Workshop organised in Parliament on 8 February 2011), a report was finally adopted by the ECON Committee on 13 April 2011[21] which – as far as UCITS were concerned – broadly confirmed the orientations of the draft report presented by MEP Olle Schmidt in January.

Soon after the adoption of the report of the ECON Committee, informal trialogue negotiations started between the European Parliament, Council and Commission with a view to reaching a political agreement in the first reading.

Unfortunately, despite all the efforts of the negotiators, European Parliament and Council failed to reach a compromise (for a number of reasons which were not directly related to UCITS but rather to the mechanisms that should be put in place to secure an appropriate level of funding for the national schemes). As a result,

17 http://www.efama.org/index.php?option=com_docman&task=cat_view&gid=375&dir=DESC&order=date&Itemid=-99&limit=5&limitstart=0

18 For further details, please refer to EFAMA Annual Report 2010:
http://www.efama.org/index.php?option=com_docman&task=cat_view&gid=86&Itemid=-99.

19 http://www.europarl.europa.eu/sides/getDoc.do?type=COMPARL&mode=XML&language=EN&reference=PE456.877

20 http://register.consilium.europa.eu/pdf/en/11/st05/st05633.en11.pdf.

21 http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&mode=XML&reference=A7-2011-167&language=EN

the recommendations of the ECON Committee were finally adopted by a large majority in Plenary Session of the European Parliament in Strasbourg on 5 July 2011 (in first reading)[22].

The adoption of a position by the European Parliament in first reading triggered the beginning of a new phase in the legislative procedure known as 'second reading'. The initiative rests now with Council which needs to adopt a 'common position' on the text approved in European Parliament[23].

After the summer break, the Polish Presidency of the European Union published two additional 'Compromise Proposals' (respectively dated 21 September and 20 October 2011) but the momentum was clearly lost and, by the end of 2011, Council had not yet adopted its 'Common Position'.

In 2012, EFAMA will obviously continue to monitor closely the evolution of the legislative procedure with the aim to convince policy-makers that the extension of the scope of the ICSD to UCITS and their unit-holders is not the appropriate way forward.

6. Risk Management

Work on risk management started in 2009 in the aftermath of the financial crisis, when EFAMA reviewed existing Risk Management regulation and surveyed its members twice regarding industry standards and best practices, to determine whether gaps existed or improvements were needed in 2010. EFAMA's Risk Management Working Group remained very active especially during the first half of 2011.

After the two consultations EFAMA answered and the Position Paper it issued in 2010, EFAMA closely monitored any legislative development that could have an impact on risk assessment or mitigation, similarly as it had done for the final *Guidelines for certain types of structured UCITS* that were published by ESMA in April 2011[24].

The main topics raised were:

1. UCITS IV (implementation steps and for which impacts are now known, i.e. increased responsibility for fund Boards, conducting officers, senior management; requirement for permanent compliance, internal audit and risk management functions; risk coverage extended to all material risks, particularly liquidity risk and operational risks; enhanced disclosure in prospectus and annual report of risk metrics and leverage level).
2. Level 1 of AIFMD (impacting risk management function and systems; liquidity management; leverage definition and disclosure; investment manager liability for safety of assets; choice of depositary and subcustodians or assets).
3. Derivatives Regulation (EMIR).

EFAMA highlighted throughout 2011 that:

- risk management is not a box-ticking exercise or the search for the best metric/formula;

22 http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P7-TA-2011-313

23 Please refer to Article 294 TFEU for further details on the ordinary legislative procedure.

24 http://www.esma.europa.eu/index.php?page=document_details&id=7542&from_id=28

- risk management must be embedded in the investment manager's culture and operations;
- emphasis must be on operational risks, particularly on liquidity and collateral management;
- new challenges will come from central clearing for derivatives.

Within those specific points of attention, special focus is placed on the proper assessment and management of the risks in UCITS. Regulations need to be specific to the risks associated with UCITS and not derived from bank regulation.

During the same period, the industry reported many cases of regulators applying a stricter interpretation of rules and a lesser number of regulators introducing new rules. This reaction to market events is understood by the industry, but the interpretation of rules should not change because of such events. The principles of risk management do not change unless regulators introduce new rules.

EFAMA worked on illustrating that the industry requires clear regulatory principles for risk management that are consistently interpreted across jurisdictions, particularly with the implementation of UCITS IV rules (which provide powers in relation to this area to both the home State regulator of the UCITS management company and the home State regulator of the UCITS being managed) and the preparation of UCITS V.

Taking the approach of principles, rather than rules-based regulation, allows funds and management companies to determine the most appropriate risk management approach to be used. This will vary for specific fund types as well as instruments, and will allow the funds and/or management companies to build cost efficient risk models and to respond quickly to the launch of new funds or the introduction of new instruments into the funds. The same principles should be applied as much as possible to all types of funds.

7. Packaged Retail Investment Products (PRIPs)

In January 2011 EFAMA replied to the European Commission *Consultation on legislative steps for the packaged retail investment products initiative*. The purpose of this Consultation was to gather feedback on concrete possible steps for delivering the PRIPs initiative.

EFAMA strongly encouraged the Commission to involve all stakeholders in the discussion on the implementing measures of the PRIPs initiative, and believed that the Commission should draw lessons from the implementation of the UCITS KID before setting out requirements for PRIPs KIIDs.

The main issue for EFAMA in the Consultation related to the scope as the Commission proposed to exclude pensions. EFAMA strongly disagreed, arguing that all pensions should be excluded from PRIPs. It could see no reason why products with the same features as PRIPs should not provide the same level of disclosure and investor protection to retail investors.

The Commission justified an exemption from PRIPs with the wider work envisaged in the EU Green Paper on Pensions. However, the Green Paper's suggestions for regulatory action at EU level are clearly restricted to occupational pensions and aim in particular at improving transparency of investments in DC schemes.

The proposed wording of the pension exclusion would apply to all pension products which enjoy any kind of benefit under national law by virtue of their use for retirement planning. Traditionally, such benefits

pertain to product taxation and are mostly granted to insurance products. Tax advantages are powerful arguments and are regularly used by distributors when selling financial products, often to sell retirement products even for pure saving purposes. Tax advantages should not be a reason for less investor protection or disclosure, and specific information on tax treatment could be foreseen (in the KIID, if necessary).

A distinction needs to be made among different types of pensions. State-run pension schemes should be exempted from the PRIPs initiative, whereas personal pension products (individual, voluntary pensions) should be included under PRIPs as they have all the characteristics of a PRIP (and the general definition of PRIPs could be used).

As far as occupational pensions were concerned, a large majority of EFAMA members believed that some of them should be included in PRIPs due to their characteristics. Specifically, pension products with the following characteristics should be included in the PRIPs initiative:

- an individual contract with the retail investor;
- choice of investments by the retail investor.

The Commission's Proposal on PRIPs is expected for the end of June 2012.

8. Markets in Financial Instruments Directive/Regulation (MiFID/MiFIR)

2011 was a very important year for the review of the Markets in Financial Instruments Directive. EFAMA replied to the Commission's Consultation on MiFID/MiFIR in February 2011. A Directive and a Regulation Proposal were published in October 2011.

A large part of the Commission's Consultation covered investor protection and EFAMA strongly disagreed with the European Commission on several issues. In particular, EFAMA's main concerns were the following:

- UCITS should not be separated into complex and non-complex financial instruments and the Commission was encouraged to maintain UCITS as a single brand. The UCITS brand could be damaged in the eyes of non-EU regulators if some of them were no longer considered non-complex, as they may be perceived as unsuitable for retail investors. EFAMA also expressed concern that European investors' confidence in UCITS might be affected as well.

- Ban on inducements in the case of portfolio management: EFAMA does not consider that inducements in case of portfolio management should be banned. It must be noted that inducements kept by portfolio managers reduce the fees charged to investors. Should they be banned, fees would have to be increased as a result.

- Ban of inducements in the case of advice provided on an "independent" basis: EFAMA believes that a ban on the acceptance of monetary inducements for advice "provided on an independent basis" will lead to a reduction in competition among distribution channels, and a reduction in the number of products offered by distributors. Measures aiming at banning inducements are likely to reduce access to advice for retail investors, to a loss of many jobs in the industry and to damage the progress of "open architecture" in the European Union.

Besides investor protection, a large part of the debate around MiFID and MiFIR is related to capital markets issues. Considering the dedicated and technical questions raised, EFAMA set up a Working Group on Financial Markets Mechanisms in the autumn of 2011.

This Working Group, chaired by and made up of industry practitioners, has as its main strategic aim to promote price liquidity and transparency, as they are essential conditions for efficient management.

The Working Group is instrumental in EFAMA's capability and understanding of capital market issues across all financial asset classes, so that EFAMA will be better able to promote investors' interests.

The detailed objectives of the Working Group are to develop a view on key capital market issues that may, directly or indirectly, impact the efficiency of the asset management industry or their clients, in order to ensure EFAMA has a better understanding of, and is better able to defend or promote, specific buy-side positions.

The main concerns shared by EFAMA members are:

- an inappropriate definition of algorithmic trading (as opposed to High-Frequency Trading);
- a reduced or inappropriate access to trading venues that would increase liquidity fragmentation;
- reporting constraints, both prior to or after execution of a transaction, that would lead to impossibilities of trading or a drastic cost increase for end-investors;
- data consolidation would be insufficient and data reporting would be inappropriate or inefficient.

On third country provisions, EFAMA had particular concerns as the Commission's proposal sets out only two systems (for eligible counterparties and for retail investors) for services rendered by third country firms which both are unsuitable for professional investors, such as asset managers. EFAMA strongly advocates that a third regime, for professional investors, aligned with the AIFMD should be included into the proposal. Furthermore, there should be a clarification in the Directive that European clients may receive services from non-European entities at the exclusive initiative of the European client without the need to comply with the requirements of MiFIR and MiFID.

9. Derivatives Regulation – EMIR

EMIR regulates both the obligation to use central clearing (notably, non-financial counterparties such as corporations hedging their business risks are excluded), as well as the clearing infrastructure, laying down the basic organisational rules for CCPs and trade repositories, as well as their authorisation and supervision.

For financial counterparties (investment managers included), EMIR provides for an obligation to centrally clear derivatives which are deemed eligible, and which a CCP has applied to clear. Non-standardised OTC contracts will remain bilateral, but must be collateralised.

EFAMA supported from the outset the Commission's efforts to create European CCPs to clear at least some OTC Derivatives contracts as – if implemented properly – they can reduce counterparty risk, but insisted that the interests of the buy-side should be better taken into account in the setting up of the clearing infrastructure. The Commission's proposal unfortunately ignored many of the concerns raised by EFAMA and the buy-side in general, also in the reply to the Commission's Consultation.

EFAMA's main concerns relate to:

- Unfair distribution of costs of central clearing: derivatives legislation needs to create a central clearing framework that deals proportionately with the risk presented by end investors. Client default risk is ignored by CCPs in their margin calculations. As proposed, EMIR will merely move risk from banks to long term investors.
- Types of assets that can be used to post collateral at CCPs: the largest part of the cost arises from the need to provide cash to post margin. Currently CCPs do not accept a sufficiently broad range of assets as margin. Having to sell higher return assets to procure cash will reduce performance for funds and discretionary portfolios. ESMA should look into the possibility to use other assets, with appropriate haircuts.
- Segregation of assets: appropriate levels of client asset segregation and asset security are essential to mitigate counterparty risk. Segregation options should go beyond an omnibus account for all client assets, and must include the option of segregation to individual client level (or even to fund or portfolio level for investment managers). Full segregation may not be left to the choice of CCPs. The CCP must provide the option for indirect participants to choose full segregation (not just segregation in a client omnibus account), if desired to individual mandate or fund level. A requirement to segregate the assets of individual funds or mandates may be imposed by regulation in some jurisdictions or contractually by some institutional clients of the investment manager.
- FX contracts: EFAMA agrees that in determining the eligibility for clearing, the nature of the different derivatives classes should be taken into account, and in particular that the predominant risk for some derivatives classes is settlement risk, not counterparty risk. This is especially true with respect to foreign exchange derivatives, which pose fewer risks and are largely short-term in nature.
- Back-loading: retroactivity of central clearing requirements (back-loading) should be excluded, both for legal reasons (contracts would need to be renegotiated), and for economic reasons (some contracts may no longer be economically feasible). Retroactivity of information provision to trade repositories, as proposed in MEP Langen's report, is acceptable.
- CCP governance: clients should have representation in the CCP's corporate governance. Currently EMIR foresees only representation for clearing members, plus "independent" members of the Board", but clients would not be considered as "independent". However, it is crucial that not only clearing members should be heard at Board and not exclusively at Risk Committee level, but also that the voice of the clients, the indirect users of the CCP, be heard too.

ESMA is expected to issue three consultations on the Regulation during the first quarter of 2012 to assess possible answers to those questions.

EFAMA is stressing as often as possible that EMIR will hugely increase costs to end-investors, who will be bearing the brunt of the cost impact. In other words, the costs will reduce the returns of all EU savers and pensioners. It will also make some hedging strategies too costly, so it might have the unwanted effect of increasing risk (instead of reducing it).

10. Dodd-Frank & Volcker Rule

The provisions of the U.S. Dodd-Frank Act known as the "Volcker Rule" are some of the most worrisome for members of EFAMA. On 11 and 12 October 2011, all but one of the U.S. financial regulatory agencies

with responsibilities relating to the Volcker Rule approved a proposed interagency rulemaking to implement the Volcker Rule's restrictions. A public comment period was opened until 13 January 2012 and later extended to 14 February 2012.

EFAMA recognises the challenges the U.S. authorities face in implementing the Volcker Rule and the need to prevent banking entities in the United States from seeking to circumvent the requirements of the Volcker Rule by choosing to conduct otherwise prohibited activities outside of the U.S. EFAMA believes, however, that in their current form, the proposed rules represent an inappropriate extraterritorial application of U.S. jurisdiction and significantly exacerbate the negative impact that the Volcker Rule will have on the European asset management industry without measurably furthering the purpose or intent of the Volcker Rule. The wide scope of the rule could have significant impacts on the operations of many European asset managers including naming of funds, providing seed capital to funds, fund investments by personnel of the management company etc. Some of the requirements are exact opposites of European rules in, for example, the AIFMD. All in all, the Volcker rule could lead to serious restructuring needs for European asset managers.

EFAMA's greatest concern with the proposed rules is the potentially disparate treatment of U.S. mutual funds on the one hand, and UCITS and other regulated investment funds available to European investors on the other. U.S. mutual funds are not considered to be 'covered funds' under the proposed rules, while their regulated European counterparts appear to be treated as such. No policy reason or justification for this unequal treatment of very similar investment products is offered in the proposed rules.

The EFAMA Dodd-Frank/ Volcker Working Group provided member input to Dechert LLP to draft EFAMA's response to the U.S. authorities' consultation. The key issue is the definition of a 'covered fund' which should in, EFAMA's view, exclude non-U.S. regulated funds to the same extent as their U.S. counterparts.

11. Credit Rating Agencies

In January 2011 EFAMA commented MEP Wolf Klinz's (Rapporteur) *Draft Report on Credit Rating Agencies concerning future perspectives*. The Report was an own-initiative of the European Parliament.

On over-reliance of credit ratings, EFAMA argued that investment firms should not blindly rely only on credit ratings for their investment. They should always make their own credit risk assessment and it should be appropriate to the type and size of the firms.

EFAMA believes that the contractual liability provisions currently applied by CRAs in the European market are insufficiently harmonised. A single liability standard across Europe for the correctness of solicited and unsolicited ratings could help to insure a uniform application of CRA quality standards across its different analytical centres or to prevent moving CRA legal seats to low liability locations. The EU standard of care should not be materially different from the U.S. in order to prevent distortions of CRA competition. The standard needs to cover both solicited and unsolicited ratings as investors base their investment decisions on both kinds of ratings.

In April 2011 EFAMA replied to ESMA's *Consultation Paper on the application of the endorsement regime under Art. 4(3) of the Credit Rating Regulation 1060/2009*.

EFAMA's position was that the endorsement process was created as a deliberately flexible mechanism to allow the continued use of all ratings issued by the largest credit rating agencies, subject to these CRAs, assuming responsibility for the application of requirements applicable within the EU, irrespective of the

country of issuance of the rating or of the analyst's location. A CRA seeking endorsement for ratings issued by lead analysts working with the non-EU part of such CRA should only need to verify and demonstrate to ESMA that the conduct of the non-EU CRA parts is subject to (voluntary) rules that are as stringent as the EU law requirements. It does not apply directly to the foreign CRA underlying regulatory environment. It is EFAMA's view that the regulation of the country of incorporation of the non-EU part of the endorsing CRA only needs to follow the EU regulatory requirements to the extent that they are expressly provided for in Art. 4 (3) a-h.

Regarding ESMA's cost benefit analysis, EFAMA considers that the cost of the above-mentioned endorsement regime will be much lower than the strict endorsement test proposed by ESMA. ESMA's analysis assumes that other nations like the U.S. will quickly adapt their CRA regulation in full to the EU legal standard or that foreign rating agencies will relocate analysts to the EU, but it is questionable whether this will happen.

A *Proposal for a Regulation on Credit Rating Agencies amending Regulation 1060/2009* was published on 15 November 2011.

12. ESMA and Money Market Funds

CESR published guidelines on a common definition of European MMFs on 19 May 2010[25]. This definition was broadly in line with the recommendation presented by EFAMA and the Institutional Money Market Funds Association (IMMFA) in July 2009. The guidelines entered into force on 1 July 2011 and apply to all UCITS and non-UCITS money market funds. However, money market funds that existed before 1 July 2011 were allowed a 6-month transitional period to comply fully with the guidelines.

In December 2010, EFAMA and IMMFA sent a joint letter to CESR to ask for official feedback on some interpretation issues with respect to the guidelines. ESMA reacted by publishing a Q&A in August 2011.[26]

In light of the strong proposals made by the European Commission to limit the risks of over-reliance of managers of UCITS and AIFs on credit ratings and remove undue references to credit ratings in existing guidelines and recommendations which ESMA, EBA and EIOPA issued, EFAMA and IMMFA sent a letter to ESMA in December 2011 to explain that the use of credit rating agencies in the area of MMF should be reconsidered as the significance of ratings of credit rating agencies in CESR's guidelines on MMF was overstated. In carrying out its due diligence, the management company should be able to overwrite the credit rating of an instrument if it can conclude that the instrument is of high quality, taking into account a range of factors such as the liquidity profile and the nature of the asset class represented by the instrument. EFAMA and IMMFA also recommended that the guidelines should be amended to ensure that the downrating of an instrument by a credit rating agency does not trigger a mechanistic corrective action by the management company.

25 Ref. CESR/10-049

26 Ref. ESMA/2011/273

II. TAXATION

2011 was a busy year for EFAMA's tax work streams, in particular as regards the U.S. Foreign Account Tax Compliance Act (FATCA) and the European Commission's proposal for a Financial Transaction Tax (FTT).

1. FATCA

The U.S. tax legislation FATCA was enacted in March 2010 with the aim to combat tax evasion by U.S. person holding investments in accounts at financial institutions (e.g., banks and investment vehicles) outside the U.S.

FATCA's statutory provisions were intentionally broad and gave considerable discretion to the U.S. Department of Treasury and the Internal Revenue Service to further detail its scope in the implementing regulations. Further to the preliminary guidance (Notice 2010-60) published in 2010 by the U.S. authorities, two additional Notices (2011-34 and 2011-53) were published in 2011 with the aim to provide additional guidance on how FATCA's provisions would operate.

The basic premise of FATCA is to require certain foreign (i.e. non-U.S.) financial institutions ("FFIs") to identify and disclose their U.S. account holders, or else suffer penal 30% withholding tax on all U.S. source income and, more importantly, gross disposal proceeds. The 30% withholding tax will also apply to payments attributable to such U.S. source income and gains ("pass-thru payments").

FATCA's provisions should generally be effective from 2013 (1 July 2013 being the first major milestone for compliance).

During 2011 EFAMA continued its dialogue with the U.S. authorities regarding the huge impact of FATCA on the European fund industry and the difficulties of compliance with FATCA arising from the typically intermediated business model of EFAMA's membership. In this regard, EFAMA in 2011 made a number of detailed submissions with the aim to find out constructive ways to reduce the disproportionate impact of FATCA, making it workable for European funds. EFAMA's submissions included proposals for carve-out for low risk funds and deemed compliant status for certain publicly-traded and widely-held funds as well as funds restricted to non-U.S. investors or where fund units and payments are held through FATCA-compliant FFIs. However, the U.S. authorities failed to issue by 31 December 2011 (as anticipated in the Notice 2011-53) the awaited FATCA proposed regulations and therefore a significant degree of uncertainty as to how the FATCA rules would apply remained. Final regulations (as well as final versions of the FFI Agreement and reporting forms for use by withholding agents and FATCA-compliant FFIs) should be published in the summer of 2012.

2. Financial Transaction Tax (FTT)

On 29 June 2011, the European Commission announced in the context of the multi-annual financial framework that it would propose to set up a financial transaction tax as an own resource for the EU budget.

Accordingly, on 28 September 2011 the European Commission put forward a proposal for a Financial Transaction Tax (FTT) with the aim to ensure that the financial sector makes a fair contribution to the economy and to society as a whole as a reparation for the financial crisis and for having benefited from

government support as well as for being potentially "under-taxed" as a result of the VAT exemption for financial services. The proposed FTT is also intended to enhance the efficiency and stability of financial markets, to reduce volatility and the harmful effects of excessive risk-taking.

Based on the European Commission's proposal, commencing from 2014 financial institutions (including asset managers, pension funds and investment schemes) established in an EU Member State, and carrying out financial transactions (e.g. purchase and sales of transferable securities, derivatives transactions) both on regulated markets and over-the-counter, would be subject to tax at a rate either of 0.1% (on the consideration paid or received in case of purchase of transferable securities) or of 0.01% (on the underlying notional amount in case of derivative transactions).

EFAMA on 30 November 2011 made a detailed submission to the European Commission with the primary aim to highlight the very significant cost impact which the proposed FTT would have on the long-term savings of EU citizens. More in detail, EFAMA's 2011 submission underlined that:

- The incidence of the proposed FTT would, in practice, be borne by end consumers of financial services (including individual savers and those participating in pension plans), reducing savings and retirement income for pensioners and savers.
- The proposed FTT would cause multiple taxation on investment funds, since it would apply both at fund level (on transaction in their portfolio) and at investors level (on transactions in fund units/shares).
- Distribution of fund shares/units would give rise to multiple transactions down the distribution chain, all of which would be subject to the proposed FTT.
- The proposed FTT would run the risk for relocation of the fund industry outside the EU.

3. VAT Review of the Financial Sector

The initiative launched by the European Commission in May 2006 aimed at modernising and harmonising the existing VAT Directive with regard to its application to the financial services sector is ongoing.

During 2011 EFAMA continued to provide input to compromise texts for the revised VAT legislation. Particularly, on 18 April and 19 September 2011 EFAMA made detailed submissions to the representatives of the Hungarian and Polish EU Council Presidencies respectively, providing a number of comments on several topics (e.g. on the definitions of management investment funds and pension funds, on the VAT treatment of investment advice activities, ...). Then, on 24 October 2011, EFAMA (jointly with the European Banking Federation and the European Insurance and Reinsurance Federation) submitted a high level comment letter with the aim of detailing outstanding issues for the insurance and financial sector more generally.

4. Future of VAT

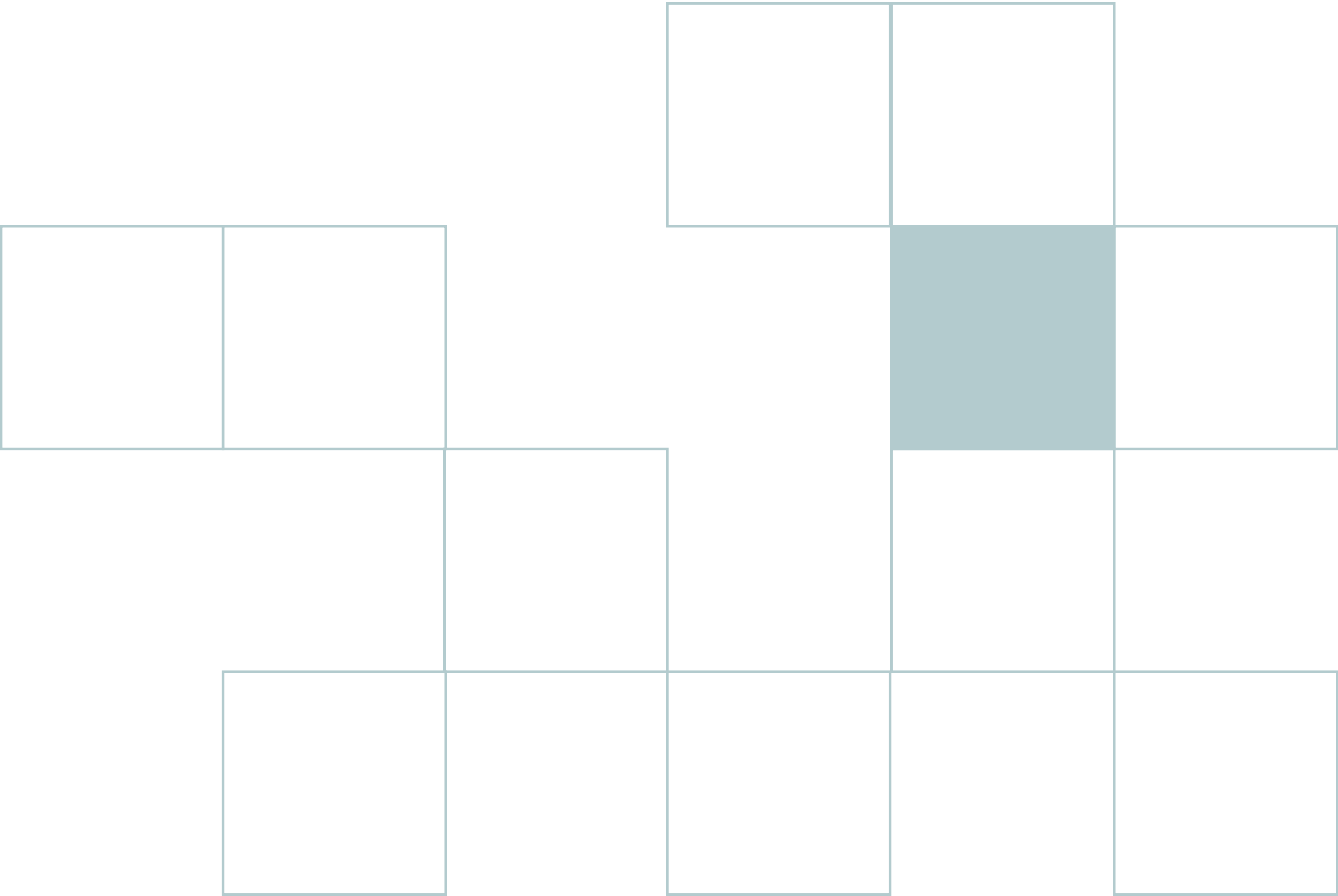
In December 2010, the European Commission adopted a Green Paper *On the future of VAT – Towards a simpler, more robust and efficient VAT system*. The Green paper was followed by a six-month public consultation on how the EU VAT system can be strengthened and improved to the benefit of all stakeholders. EFAMA contributed to this consultation and on 25 May 2011 submitted detailed comments with the aim,

inter alia, to invite the European Commission to base its VAT strategy on the economic and political reality across the EU, reducing legal uncertainties, improving harmonisation and considering the VAT exemption for the fund industry in connection with the costs to be borne by long-term savers and pensioners.

The European Parliament welcomed the Green Paper and confirmed the need to reform the VAT system. Then, on 6 December 2011, the European Commission adopted a Communication on the future of VAT. This sets out the fundamental characteristics that must underlie the new VAT regime. It lists the priority actions for the coming years needed to create a simpler, more efficient and more robust VAT system in the EU tailored to the single market.

5. Taxation of Savings Income

On 26 May 2011, EFAMA submitted comments in the context of the second Saving Directive review, providing the European Commission with updated data on UCITS / non-UCITS ratios and investment patterns. On that occasion, EFAMA also submitted comments on the amending proposal adopted by the European Commission, reasserting the crucial need for a level playing field between investment funds and competing insurance product.



III. PENSIONS

In the pension's area, 2011 was an important year marked by the call for advice sent by the European Commission to the European Insurance and Occupational (EIOPA) on the review of Directive on the activities and supervision of institutions for occupational retirement provision (IORP Directive). EIOPA consulted in July-August 2011 on the scope, cross-border activity, prudential regulation and several governance aspects of the call for advice. This was followed by a second round of consultation on the entire advice in October-December 2011.

In its response to the questions set out in EIOPA's consultation papers, EFAMA highlighted the following key points:

- One of the essential goals of the IORP review should be that cross-border activities of IORPs reach a meaningful level to ensure that the benefits of the Single Market outweigh the costs for the sponsoring undertakings. To tackle this problem, EIOPA should address the fundamental question as to why there are less than 100 cross-border IORPs, whilst there are around 140,000 IORPs in Europe. To achieve this, the legal, regulatory and administrative requirements for the cross-border activities and conditions of operations of IORPs should be simplified.
- There is strong evidence that applying Solvency II rules to pension funds would increase the administrative burden and financial costs for IORPs and employers, discourage employers to set up DC schemes, accelerate the process of DB schemes closure in Europe, and reduce benefits for pension savers. This would be an undesirable consequence, and one to be avoided, especially at a time when the authorities' goal should be to put more emphasis on the engagement of EU citizens towards pensions in general.
- There is no strong reason to distinguish between defined-contribution (DC) schemes and other types of pension schemes in the area of operational risk. Furthermore, in cases where an IORP outsources functions, the need for capital requirements against operational risk should take into account the capital requirements already imposed, for instance, on external asset managers through UCITS IV, MiFID or AIMFD. If operational risk is already covered, there is no need for additional capital requirement.
- It is not possible to support the proposed new prudential solvency framework and governance requirements for IORPs without knowing what the likely quantitative impact of the new regime would be. In order to provide a fair assessment of the proposed new rules, a methodology will have to be developed to take into account the negative impact of higher up-front financing costs for IORPs, additional reporting requirements, defined-benefit (DB) scheme closures, reduced benefits payable on retirement, pro-cyclical effects of valuation rules, forced de-risking of pension fund asset allocation, systemic risk, and lower contribution of IORPs to the financing of companies and therefore to the growth of the European economy.
- The review of the Directive should be an opportunity to strengthen the application of the prudent person principle across Europe. EFAMA strongly believes that an investment framework that allows efficient portfolio diversification across all assets classes and collective investment vehicles, including UCITS, real estate funds, private equity funds and other alternative investment funds, is in the very best interest of pension savers.

- The introduction of a KIID-like document for pension schemes is a sensible idea. Such a document would be useful for both DC and DB schemes to allow members compare the relative quality of their schemes with other schemes and long-term savings products.

IV. Statistics and Economic Research

EFAMA continued to develop and expand on the provision of key information and reliable statistics through its range of regular releases reporting on the European asset and investment fund industry in 2011. This work is carried out in close collaboration with EFAMA's member associations, which are the official statistics providers of EFAMA. EFAMA is also responsible for providing the International Investment Funds Association (IIFA) with statistics about the European fund market.

1. EFAMA's Annual Fact Book – Trends in European Investment Funds

The 9th edition of the annual Fact Book was published in September 2011 and contains in-depth commentary on the developments in the industry during 2010 and over the past 5 years (2006-2010). It also contains a section focusing on the outlook for the industry over the short and medium term. As well as giving more information on the net sales and net assets of countries, it also provides information on the ownership of investment funds across European countries, round-trip/cross-border funds and absolute return strategy funds.

The Fact Book is broken down into three parts. The first part focuses on recent developments in the European fund industry. Part 2 is a compilation of Country Reports, which contain economic and financial information, trends in the investment fund market and also give an update on the regulatory, taxation and corporate governance issues affecting each country in Europe. Part 3 is the data section which contains statistical tables on net assets and the number of investment funds in each country over the past 10 years (2001-2010) as well as providing tables on the worldwide investment fund industry.

An electronic version of the Fact Book as well as hard copies are available for purchase on EFAMA's website: www.efama.org.

2. EFAMA's Fourth Annual Asset Management Report

In May 2011, EFAMA published the fourth edition of its Annual Asset Management Report. This free-of-charge report, available on EFAMA's website, provides an overview of the professionally managed assets in Europe, taking into account the overall size, general structure, asset allocation and client base of the industry at end 2009. It also includes a first estimation of the professionally managed assets under management (AuM) at end 2010.

The Asset Management Report focuses on assets professionally managed in Europe, as opposed to assets domiciled in Europe. The report represents an effort to provide a snapshot of the European asset management industry across both the retail and institutional landscape, and with a distinction between investment funds and discretionary mandates assets. Among other things, the 2011 report highlighted the following figures:

- Assets under Management (AuM) in Europe recovered in 2009 to reach EUR 12.4 trillion at year end, compared to EUR 10.9 trillion at end 2008.
- Total AuM is divided almost equally between investment funds and discretionary mandates. Typically, asset managers receive mandates from institutional investors and high-net-worth individuals, whereas investment funds serve the retail and institutional markets.
- Institutional investors represent the largest client category of the European asset management industry, accounting for 68% of total AuM in Europe. Insurance companies and pension funds accounted for 45% and 25% of total AuM for institutional clients, respectively.
- The top three countries – the UK, France and Germany – together accounted for 65% of total AuM in Europe at end 2009. The large pool of savings available in the most populated countries in Europe has facilitated the development of local asset management industries, which have benefited from the European integration and globalisation processes.
- More than 3,100 asset management companies employing about 80,000 were registered in Europe at end 2010. Taking into account related services along the asset management value chain, the level of direct and indirect employment would increase to a significantly higher figure.

3. EFAMA's Other Statistical Publications

EFAMA Monthly Fact Sheet

The monthly EFAMA Investment Fund Industry Fact Sheet provides an overview of the net sales and net assets of investment funds domiciled in Europe at month end. It focuses on aggregated figures for net assets and net sales, but also provides monthly net sales data over the previous 12 months for UCITS funds (including a breakdown between categories) and Special Funds. Twenty-four countries provide data for inclusion in the monthly statistics, with Malta providing data for the first time from November 2011.

EFAMA Quarterly Statistical Release

The "EFAMA Trends in the European Investment Fund Industry Quarterly Release" focuses on net assets and net sales of investment funds domiciled in Europe, whilst also presenting a commentary on the trends in the industry during the quarter. This release provides a country breakdown of the net assets and net sales of UCITS during the quarter. Aggregated data on non-UCITS funds, as well as the number of UCITS and non-UCITS funds are also presented in this release.

EFAMA Quarterly International Statistical Release

The "EFAMA Worldwide Investment Fund Assets and Flows Quarterly Release" focuses on net assets and net sales of worldwide investment funds, whilst also presenting a commentary on the trends in the industry during the quarter. The report contains data on the largest domiciles of investment funds around the globe and the position of Europe in the worldwide context. The supplementary tables accompanying the international statistics release contains net assets data for countries supplying data from around the world.

These releases are all available on EFAMA's website www.efama.org free of charge.

4. Key Developments in 2011

Progress was made in a number of areas of statistics and economics research in 2011. In addition to organising its own statistics committee, which is made up of statistical experts from EFAMA's member associations, EFAMA also participates in the IIFA (International Investment Funds Association) International Statistics Committee, of which Bernard Delbecque, Director of Statistics and Economic Research at EFAMA, was appointed co-Chairman in 2011. These committees are used as a means to explore further the potential of investment fund statistics on both a European and international level.

The most important developments in the area of statistics are summarised below:

- Malta began to provide statistical data to EFAMA from November 2011. Malta will now be included in the EFAMA monthly, quarterly and annual reports.
- On 1 July 2011 new guidelines on the definition of money market funds were introduced by ESMA. The introduction of these new guidelines led to a reclassification of some money market funds as bond funds.
- The EFAMA Statistics Committee agreed to start the process of arranging the collection of data on guaranteed/protected funds as well as exchange traded funds (ETFs). It was also agreed that further research would be conducted on how the inclusion of master-feeder funds will affect the universe of EFAMA data.

V. Technical Industry Standards

Increasing efficiency of the industry remained an important priority on EFAMA's agenda in 2011, with special focus on three areas:

- Fund Processing Standardisation
- The European Fund Classification
- Target2-Securities

1. Fund Processing Standardisation

To continue informing the European Commission, the European Parliament and other interested stakeholders about the European fund industry's progress toward greater standardisation and automation, EFAMA published in 2011 two reports on standardisation and automation rates of fund orders. These reports, which were prepared with SWIFT, analysed the progress achieved in the two main cross-border fund distribution centres, Luxembourg and Ireland, in the course of 2010 as well as during the first six months of 2011.

2. The European Fund Classification (EFC)

The EFC Forum (EFCF) established a pan-European methodology for classifying cross-border funds on the basis of well-defined criteria and regular monitoring of the fund's holdings by a neutral classification administrator to ensure that funds do not drift from their stated objectives. The aim is not to replace existing national classifications but to offer an additional tool to allow simple comparison of like-for-like funds offered by like-for-like funds available for sale in multiple jurisdictions. The classification administrator is currently monitoring 3,300 funds (13,100 share classes) managed by 125 fund groups, including many of the largest European fund management groups.

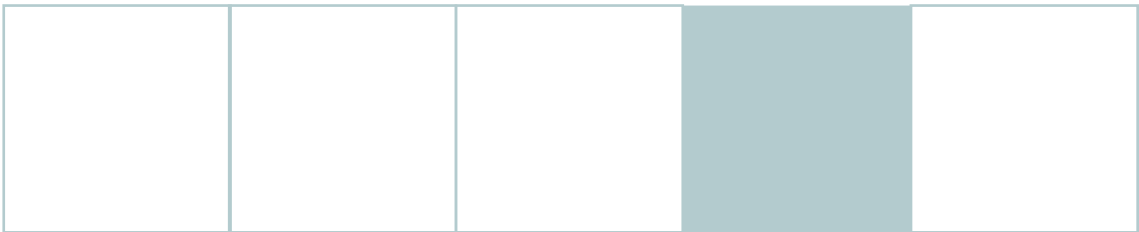
In 2011, the EFCF developed EFC Categories for all type of funds, i.e. equity, bond, multi-asset, money market, absolute return innovative strategies and other funds. These categories will allow group funds in well-defined categories with each one carrying a different name. They will provide the European fund industry with a tool to support the UCITS brand with a single standard of fund classification designed to give distributors and their clients the confidence that the fund they select is true to their label.

3. Target2-Securities

Target2-Securities (T2S) is the future settlement platform for all securities that are traded in Europe, which is expected to go live in 2015. T2S will also be operated by the Eurosystem on a non-profit basis. The main objective of this project is to reduce the costs of cross-border securities settlement within the euro area and participating non-euro countries, as well as to increase competition and choice amongst providers of post-trading services.

To assess the potential impact of T2S on the investment management industry, EFAMA set up a Working Group including stakeholders involved in the fund value chain (i.e. fund managers, transfer agents, CSDs and ICSDs) and EFAMA member associations. In parallel, EFAMA engaged in discussions with the T2S team on the occasion of three workshops organised by the European Central Bank, two in 2010 and one in 2011.

These workshops highlighted the need to pursue parallel discussions with the CSD community, given the central role CSDs will play in connecting fund managers, transfer agents and distributors or their custodians within T2S. In order to initiate this dialogue, EFAMA organised a meeting between representatives of the European fund industry and the European Central Securities Depositories Association (ECSDA) to exchange views on the implications of T2S, identify the main issues requiring further work, and agree on an action plan to ensure a smooth and efficient cooperation between the investment fund industry and the CSDs in their interaction with T2S. It was agreed that the EFAMA T2S Working Group would draft a document summarising the minimum requirements for the fund industry in order to be able to benefit from T2S from day one.



VI. Preserving the Integrity of the Industry

1. Corporate Governance

Still under the influence of the financial crises and certain shortcomings in corporate governance frameworks raised in the *de Larosière Report*[27], and by the recent G-20 discussions, corporate governance remained one of the key files for the European Commission throughout 2011.

The European Commission addressed corporate governance issues from different angles. On the one hand, the European Commission continued to place a strong emphasis on the corporate governance structures of financial institutions and companies in general and already included first reforms into ongoing regulatory revisions. These included rules on conflicts of interest management, on sound risk management principles and on remuneration structures. On the other hand, the European Commission considered that the recent crisis was at least partially worsened by inactive short-term minded shareholders. The European Commission sought ways in which to enhance the presence of engaged and responsible long-term shareholders. Its efforts in this area are reflected in the *Green Paper on Corporate Governance in financial institutions and remuneration policies*[28], the *Green Paper: The EU Corporate Governance Framework*[29] as well as the *Communication on A renewed EU strategy 2011-14 for Corporate Social Responsibility*[30].

European Commission Green Paper on Corporate Governance in Financial Institutions and Remuneration Policies

In June 2010, the Commission published a *Green Paper on Corporate Governance in financial institutions and remuneration policies*[31] followed by a *Feedback Statement*[32] in December 2010. In this work stream, the European Commission addressed weaknesses regarding the role and functioning of Boards of Directors, weak risk management and control mechanisms, identification and management of conflicts of interest within financial institutions, ineffective implementation of existing corporate governance principles, inadequate remuneration structures, questions around the role of shareholders and problems with the role of supervisory authorities and auditors. The European Commission considers that the regulatory framework regarding corporate governance in financial institutions should be improved and effective supervision enhanced. Already in 2010, the EFAMA Working Group on Corporate Governance was closely monitoring the developments flowing from this Green Paper and prepared an extensive Position Paper which was submitted to the Commission.

The European Parliament on 24 March 2011 issued a *Report on corporate governance in financial institutions*[33] which included a motion for a Parliament resolution by Rapporteur Ashley Fox. The report acknowledged that "the area of corporate governance is constantly evolving; believes that a proportionate approach combining both targeted principle-based regulations and flexible, comply or explain codes of

27 http://ec.europa.eu/internal_market/finances/docs/de_larosiere_report_en.pdf

28 http://ec.europa.eu/internal_market/company/docs/modern/com2010_284_en.pdf

29 http://ec.europa.eu/internal_market/company/docs/modern/com2011-164_en.pdf

30 http://ec.europa.eu/enterprise/newsroom/cf/_getdocument.cfm?doc_id=7010

31 http://ec.europa.eu/internal_market/company/docs/modern/com2010_284_en.pdf

32 http://ec.europa.eu/internal_market/consultations/docs/2010/governance/feedback_statement_en.pdf

33 http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A7-2011-0074+0+DOC+PDF+V0//EN

best practice on an equal footing is appropriate; stresses that it must be complemented by regular external evaluation and appropriate regulatory oversight"[34]. The report focused on the topics of risk, Boards of Directors (including suitability of individuals for controlled functions), remuneration, supervisors, auditors and institutions, and shareholder engagement. On the latter point, the report called for "legislation requiring all those authorised to manage investments on behalf of third parties in the EU to state publicly whether or not they apply and disclose against a stewardship code; if so, which one and why, and if not why not".[35]

The European Commission was initially planning to issue legislative proposals in the third quarter of 2011. These proposals have now been postponed and are not expected before the second half of 2012. It can only be hoped that EFAMA's main concerns be taken into consideration and that any future legislative proposal should not to be tailored to a "one-size-fits all" approach for all financial institutions. Instead, any regulation should take into account the business model of the financial institutions covered. It is crucial that legislation applicable to asset managers should reflect the fundamental differences between the business model of the asset management industry and the banking and investment banking sector.

EFAMA Code for External Governance

In its *Feedback Statement Summary of Responses to Commission Green Paper on Corporate Governance in Financial Institutions*[36] published in December 2010 the European Commission called for a European wide code of best practice in the field of shareholder engagement for institutional investors:

"The majority of respondents... think that institutional investors should adhere to a code of best practice, whether to national, European or international code, at least on a "comply or explain" basis. A number of respondents consider the UK Stewardship Code as being a model for investor codes of best practice. Some respondents are of the opinion that there is a need either for a European code of best practice or for a common standard at European level with mutual recognition of national stewardship codes."[37]

A timely response from the industry to this call came through the *EFAMA Code for External Governance*[38], approved by EFAMA's Board of Directors in its final version in April 2011. The EFAMA Code for External Governance updates the original *EFAMA Discussion Paper on "A Code of Conduct for the European Investment Management Industry"* of 2006[39].

The EFAMA Code for External Governance provides six high level principles and best practice recommendations regarding engagement between institutional investors and companies in which they invest significantly. The EFAMA Code for External Governance is addressed to Investment Management Companies (IMC). Its six high level principles make the following provisions: IMC should have a documented policy available to the public on whether, and if so how, they exercise their ownership responsibilities; IMC

34 Ibid, page 4

35 Ibid, page 9

36 http://ec.europa.eu/internal_market/consultations/docs/2010/governance/feedback_statement_en.pdf

37 Feedback statement Summary of Responses to Commission Green Paper on Corporate Governance in Financial Institutions: feedback to question 5.2.

38 Please also refer to EFAMA Annual Report 2009, p. 43 ff "Shareholder activism"; the Principles in the EFAMA Code for External Governance have built upon and go beyond the concept of "Shareholder activism" as they promote a broader engagement between institutional investors and the investee companies

39 http://www.efama.org/index.php?option=com_docman&task=doc_details&gid=150&Itemid=-99

should monitor their investee companies; IMC should establish clear guidelines on when and how they will intervene with investee companies to protect and enhance value; IMC should consider cooperating with other investors, where appropriate, having due regard to applicable rules on acting in concert; IMC should exercise their voting rights in a considered way; IMC should report on their exercise of ownership rights and voting activities and have a policy on external governance disclosure.

The EFAMA Code for External Governance shall provide a European-wide standard which is neither designed to supersede applicable law and regulations nor to replace national self-regulation. It should instead allow mutual recognition of national codes which at least reflect its principles. EFAMA members should, if applicable, publicly confirm adherence to the EFAMA Code for External Governance or to their relevant national code.

During the years 2011 and 2012 most EFAMA member associations are reviewing and if necessary modifying their existing national codes to reflect at least the principles in the EFAMA Code for External Governance. The EFAMA Working Group on Corporate Governance has also promoted the EFAMA Code for External Governance with interested stakeholders, such as the FRC, the PRI Secretariat, Eurosif and European Issuers and will continue this effort throughout 2012.

European Commission Green Paper: the EU Corporate Governance Framework

In April 2011, the European Commission launched a general debate on a number of Corporate Governance issues in listed EU companies through its *Green Paper: The EU Corporate Governance Framework*[40].

With its scope not limited to financial institutions, this Green Paper raised a wider and more thorough debate than the *Green Paper on Corporate Governance in Financial Institutions* published in 2010. Topics discussed in the 2011 Green Paper included Board of Directors (in particular composition regarding professional experience, international background and gender diversity), shareholders (theory of lack of appropriate shareholder interest in holding management accountable and issues related to short-termism), conflicts of interest (in particular in group structures), proxy advisors, shareholder identification, minority shareholder protection and employee share ownership and the Comply or Explain Framework (monitoring and implementing corporate governance codes). Introductory questions discussed whether a different and proportionate regime should be established for listed SMEs and whether the Corporate Governance measures should also apply to unlisted companies.

EFAMA was interested in the Corporate Governance questions raised in this Green Paper from two perspectives: firstly, most asset managers and funds are set up as companies and as such will be affected directly by any rulemaking on corporate governance. Secondly, managing assets for investors, EFAMA members are major investors in other financial institutions which form part of the portfolio holdings. Any corporate governance measures impacting these companies or their shareholders are therefore equally of interest to EFAMA.

The EFAMA Corporate Governance Working Group prepared a detailed response to the questions and discussion points raised in the Green Paper. EFAMA was very concerned about the critical assumptions made by the European Commission regarding asset managers. In the Green Paper, the Commission

40 http://ec.europa.eu/internal_market/company/docs/modern/com2011-164_en.pdf

brought forward the theory that the agency relationship between institutional investors and asset managers contributes to short-termism and causes mispricing, herd behaviour, increased volatility and lack of ownership of listed companies. This very negative opinion is based on a report by Paul Woolley[41] mentioned in the Green Paper. The report by Paul Woolley however discusses investment banking only and does not address asset management. EFAMA criticised the application of the theories in the report to asset management which is based on a very different business model than investment banking.

Regarding the question of shareholder engagement, the Commission voiced doubts regarding existing self-regulation which often is based on the comply or explain approach. EFAMA advocated against European-wide rulemaking regarding shareholder engagement. EFAMA promotes in this field self-regulation and has issued and promotes its *EFAMA Code for External Governance*. Furthermore, EFAMA continues to build up important experience regarding shareholder engagement through participation in the FRC Stewardship Code Steering Committee.

By the end of 2011, the European Parliament's Legal Affairs Committee was working on a report by Rapporteur Sebastian Valentin Bodu, *A corporate governance framework for European companies*. This report can be expected for the first quarter of 2012 and is very likely to address the questions of shareholder engagement and the "comply or explain".

In November 2011, the European Commission published its *Feedback Statement Summary of Responses to the Commission Green Paper 'The EU Corporate Governance Framework'*[42]. Legislative measures can be expected at the earliest for the second half of 2012. EFAMA aspires that the main concerns of its members, in particular regarding the uncritical application of theories concerning investment banking to asset management, will be taken into account.

2. Responsible Investment

In order to react to a growing interest of the industry as well as the European Commission in Socially Responsible Investment (SRI) and in Environmental, Social and Governance Issues (ESG), EFAMA's Board of Directors appointed a Responsible Investment Working Group[43] in autumn 2010.

The Responsible Investment Working Group progressed swiftly, holding frequent meetings and telephone conferences throughout 2011. As a first step, it focused its work mainly on preparing the *EFAMA Report on Responsible Investment* as well as on industry guidance regarding transparency. Soon however, it was also solicited to comment on different legislative proposals by the European Commission, such as the proposals regarding the Social Entrepreneurship Funds and Venture Capital Funds and the Commission Communication on *A renewed EU strategy 2011-14 for Corporate Social Responsibility.* In 2011, the Responsible Investment Working Group also exchanged views with the European Commission and Eurosif[44], and assisted the PRI Secretariat[45] in its work on the new Reporting Framework.

41 Paul Woolley, 'Why are financial markets so inefficient and exploitative — and a suggested remedy', in The Future of Finance: The LSE Report, 2010

42 http://ec.europa.eu/internal_market/company/docs/modern/20111115-feedback-statement_en.pdf

43 EFAMA members prefer the term "Responsible Investment" or "RI" to the more commonly used SRI. RI indicates that the responsibility of investment managers goes beyond being socially responsible to encompass environmental responsibility as well as governance.

44 See www.eurosif.org

45 http://www.unpri.org/

EFAMA Report on Responsible Investment

As its first priority when taking up activity, the Working Group on Responsible Investment prepared the *EFAMA Report on Responsible Investment* which was approved by the EFAMA Board of Directors in April 2011.

The *EFAMA Report on Responsible Investment* aims to describe recent developments in RI, to establish EFAMA's position in relation to RI and finally suggest next actions going forward. In its appendices, this paper provides for selected European countries an overview of RI Selection Methods, information regarding the historical development of RI as well as a description of the legal frameworks and various private sector initiatives in relation to RI. The EFAMA Report on Responsible Investment first outlines that there is no universally accepted definition of RI. RI is an investment process or concept encompassing a wide variety of approaches. Since investors have different preferences in the field of RI, it is difficult to define universal RI standards other than transparency in reporting on RI, regarding investment processes and selection methods and regarding the composition of investors' investment portfolios. The EFAMA Report on Responsible Investment then stresses the importance of transparency. When an investment management company promotes RI products, it should commit to an adequate amount of transparency regarding its processes so that investors are able to evaluate and compare how the product meets the RI requirements. Increased transparency of client reporting, communication of investment approaches and selection methods would help investors distinguish between different RI offerings and allow them to make more informed decisions. This would be facilitated by European industry guidance on transparency, the creation of which EFAMA is strongly committed to contribute towards.

European industry guidance regarding transparency

Following the adoption of the EFAMA Report on Responsible Investment, the EFAMA Board of Directors mandated the Responsible Investment Working Group to prepare a European industry guidance regarding transparency in reporting on RI to investors. The work shall address transparency both in the pre- and post-investment phases. Only those investment products that are promoted as RI products shall be required to provide such transparency. In the pre-investment phase, the Key Investor Information Document (KIID) and other issuing documents such as the prospectus for a fund should indicate that the investment policy follows certain RI standards. The same approach should also be applied to all Packaged Retail Investment Products (PRIPs) where relevant. By the end of December 2011, work had progressed well and it can be expected that this industry guidance on transparency will be submitted to the EFAMA Board of Directors in early 2012.

European Commission Communication on a renewed EU strategy 2011-14 for Corporate Social Responsibility

In October 2011, the European Commission put forward a new policy with eight proposed action points regarding Corporate Social Responsibility by publishing its *Communication on a renewed EU strategy 2011-14 for Corporate Social Responsibility*[46]. Chapter 4.4.3. of the Communication referred explicitly to European asset managers and asset owners and invited them to sign up to the UN Principles for Responsible Investment. The relevant box regarding action point 7 softened the language by mentioning that the Commission intended to consider a requirement on all investment funds and financial institutions to inform

46 http://ec.europa.eu/enterprise/policies/sustainable-business/files/csr/new-csr/act_en.pdf

all their clients about any ethical or responsible investment criteria they apply or any standards or codes to which they adhere. At a recent meeting, Commission representatives indicated that the invitation to sign up to the UN Principles for Responsible Investment should be read in conjunction with the text box. For the time being, they did not seem to consider that signing up to the UN Principles for Responsible Investment was the only possible option.

The EFAMA Working Groups Responsible Investment and Corporate Governance reacted to this Chapter of the Communication providing critical comments. They considered that asset managers should not be under the obligation of signing up to a specific set of principles. Instead, they should be free to manage the assets of their clients in accordance with clients' instructions which might or might not include respecting specific sets of principles.

3. European Social Entrepreneurship Funds and European Venture Capital Funds

First references to the European Social Entrepreneurship Funds and the European Venture Capital Funds were made by the European Commission in April 2011 in its publication of the *Communication Twelve levers to boost growth and strengthen confidence "Working together to create new growth"*[47].

The Commission soon published two public consultations regarding the setting up of legal frameworks to create, next to the existing UCITS and AIF, two new brands of European investment funds, the European Social Entrepreneurship Funds and the European Venture Capital Funds.

The first consultation was published in June 2011 in a *Consultation Paper Staff working paper a new European regime for Venture Capital*[48]. In its response to this Consultation EFAMA welcomed the creation of the new fund regime to provide financing to innovative SMEs. It requested however a broadening of scope to include any SME financing. Further, the justification offered for a creation of this new fund regime with lighter regulatory burden was the reduced need for protection of professional investors who would be the target investors for these products. EFAMA questioned whether the same would not logically also apply to all AIFs marketed to professional investors under the AIFMD.

In July 2011, the European Commission published a second consultation Staff Working Paper *The Social Business Initiative: Promoting Social Investment Funds*[49]. EFAMA provided a cautious response to this consultation. The lack of financial return on this new type of fund was clearly seen by EFAMA members as a major obstacle to a success of these products. In these difficult financial times, asset managers are under pressure by investors to provide sufficient financial returns to allow investors to build up their retirement savings or finance their families' futures.

By October 2011, the European Commission followed up on these consultations with a *Communication on the Social Business Initiative*[50] and a *Staff Working Document on the Social Business Initiative*[51] before

47 http://ec.europa.eu/internal_market/smact/docs/20110413-communication_en.pdf

48 http://ec.europa.eu/internal_market/consultations/docs/2011/venture_capital/consultation_paper_en.pdf

49 http://ec.europa.eu/internal_market/consultations/2011/social_investment_funds_en.htm

50 http://ec.europa.eu/internal_market/social_business/docs/COM2011_682_en.pdf

51 http://ec.europa.eu/internal_market/social_business/docs/working_document2011_en.pdf

publishing in December 2011 two proposed regulations for "European Venture Capital Funds"[52] and "European Social Entrepreneurship Funds"[53].

While EFAMA welcomes both proposals as a means of providing much needed financial support to European SMEs, strong doubts remain whether the proposals provide for sufficiently sound fund and manager governance and reasonable investor protection. In particular, the total lack of requirement of a depositary, even for the parts of the assets which may be invested freely (i.e. non-qualifying portfolio undertakings), including into financial instruments, seems inconsistent with the general approach taken by the Commission in the post-Madoff era. Furthermore, many questions remain around the interaction between these proposals and the AIFMD.

By the end of 2011, all political actors indicated a strong will to adopt these proposals in a fast track procedure ideally during the first half of 2012.

4. IFRS

EFAMA's Board of Directors at its meeting on 6 April 2011 mandated the EFAMA Working Group IFRS to update the 2009 *Discussion Paper on an EFAMA Position on the dealing with IFRS*. Through regular meetings and conference calls, the Working Group on IFRS progressed with its update and by December 2011 was in the process of finalising the revised version of the paper which is now entitled *International Financial Reporting Standards: application to investment funds - an EFAMA position paper.* The revised paper will be submitted to the EFAMA Board of Directors in the first half of 2012.

By the end of 2011, the IFRS Working Group also prepared a response to the updated IFRS exposure draft which was approved by the EFAMA Board of Directors to be sent to the International Accounting Standards Board (IASB) in January 2012. The letter welcomed the IASB's proposal to recognise the unique nature of investment entities but stated that "in defining the proposed disclosure requirements the Board has missed the opportunity to enhance financial instruments risk disclosures" and recommended that the Board "should develop some additional specific disclosure requirements that reflect the specialised nature of investment entities".

52 http://ec.europa.eu/internal_market/investment/venture_capital_en.htm

53 http://ec.europa.eu/internal_market/investment/social_investment_funds_en.htm

VII. EFAMA AND ITS MEMBERS

EFAMA's profile has changed significantly over the past six years. Today, EFAMA speaks with a single voice for the whole of the European investment management industry, both at European and global level. This unified industry representation is based on a set of rules representing a fair balance of rights and decision-making aptitude, updated in 2011, between corporations and associations as well as between large and small associations.

Two aspects have been key over the past six years, i.e. the independency of national associations and the full integration of corporate members in EFAMA's working procedures and decision-making process. A third dimension was added in 2010 with the creation of associate membership as a new category of members, which was further successfully developed in 2011.

1. Independency of National Associations is Key

Some national associations function under the umbrella of wider financial trade associations, creating potential conflicts of interest. The discussion initiated more than six years ago by EFAMA on the need for the creation of a level playing field for all saving products, which is still ongoing, demonstrates the importance of the independency of EFAMA's member associations. Without this independence EFAMA would not have been in a position to drive the discussion forward against other very strong competing interests. The PRIPs file will be very illustrative in this context and the outcome is still uncertain.

This is why EFAMA in 2009 amended its Rules of Procedure to make clear that:

- National Member Associations should be sufficiently independent to provide EFAMA with opinions reflecting the interest of the national investment management industry, and also when conflicting with the interests of other areas of the national financial industry;
- National Association Members should have decision-making bodies mandated to conduct independent budgetary and policy decisions representing the interests of the national investment management industry.

Only on such a basis is EFAMA strong enough to defend efficiently the interests of the European investment management industry.

2. Corporate Members: a Vital and Growing Part of EFAMA

Corporate members have become increasingly involved in the work of EFAMA since it first admitted direct corporate membership back in 2005. Today EFAMA's Working Groups benefit greatly from a significant participation of corporate members. The contribution of their practical knowledge is an asset and helps to take the pulse of the industry. From the association's point of view, one of its main goals has been reached: without the often highly technical input of its corporate members, EFAMA would not be in a position to deal as efficiently with the tremendous and increasing number of complex files the industry has to tackle.

Also, the close cooperation between EFAMA members broadens the industry's understanding of pan-European and global issues, as well as intricate European regulatory procedures. In the past six years, EFAMA

corporate members have gained a better understanding of the key role they play in the opinion-building exercise within EFAMA through:

- Active participation in all working groups and consultations;
- Three meetings a year held specifically for corporate members;
- Six weekly conference calls and permanent updates;
- Important representation in EFAMA's institutional bodies, i.e. AGM, Board of Directors and Management Committee, and chairing of Working Groups.

Further integration of the corporate members in the work of EFAMA was achieved in 2011 with important amendments to the Constitution and Rules of Procedure. EFAMA is proud to announce that in these budgetary difficult times, the number of corporate members increased from fifty-five at the end of April 2011 to fifty-nine in mid-May 2012.

3. Associate Membership: the new kid on the block has become part of the family

In September 2010, an Extraordinary General Meeting of members extended EFAMA membership to a new category referred to as "Associate Members".

Associate members are companies, firms, associations and other organisations which do not qualify to become full members of EFAMA but are acting as service providers or major stakeholders of the fund industry and/or the asset management industry and have developed specific expertise in that field which may be helpful to achieve the objectives of EFAMA. Associate membership is open, among others, to national and international consulting, audit and law firms, IT and technology support providers, research firms, fund service providers, fund administrators, depositaries and global custodians, clearing and settlement institutions.

Again, EFAMA is proud to announce that in these challenging times, the number of associate members increased from seventeen associate members at the end of April 2011 to twenty by mid-May 2012.

Benefits of membership: participation in EFAMA Working Groups

The benefits of becoming an associate member of EFAMA are numerous. Associate members may attend EFAMA's general meetings (without voting rights). Furthermore, they are invited to the EFAMA Investment Management Forum. This is an annual two-day event organised in Brussels, where industry leaders, policy-makers and other stakeholders come together to exchange views and network in a high-level framework. Associate members are able to attend this event at a special rate and may apply to become speakers.

Associate members are also invited to other seminars organised by EFAMA on a variety of topics. The important recent new development is EFAMA's Board of Directors' decision that as of May 2012, associate members would be kindly invited to participate in EFAMA Working Groups.

Associate members receive EFAMA's regular statistics and similar information and reports, working papers relating to the work and findings of the EFAMA Working Groups as well as any other document of general interest provided to EFAMA members and posted on EFAMA's public website. Associate members also have access to specific sections of the members' restricted area on EFAMA's website.

Associate Members Meeting

EFAMA organised an annual Associate Members' Meeting on 1 February 2011 in Brussels with the Board of EFAMA. The purpose of this first meeting was to thank the new associate members for their interest in and support for EFAMA's activities, to explain EFAMA's strategic agenda for 2011 and to exchange views with the new members about their involvement in EFAMA's work.

One of the results of this constructive discussion was the decision to organise an annual Associate Member Meeting which will evaluate the previous year's interaction between EFAMA and its associate members. The 2012 annual meeting, which was held on 28 February, will be covered extensively in next year's report; it is important to mention though that this meeting resulted in the Board's approval of opening up EFAMA Working Group participation to associate members.

4. The EFAMA Investment Management Forum 2011

The 17th EFAMA Investment Management Forum took place on 29-30 December 2011 in Brussels and brought together close to 250 investment managers, supervisors and consultants from approximately 30 countries. The conference theme came under the general title *"Challenges of the New Regulatory and Supervisory Environment for the European Investment Management Industry: is new regulation meeting expectations in extreme market conditions"*. Day 1 of the conference focused on the consequences of the new regulatory architecture for asset managers and funds. Special attention was paid to investor protection, investor confidence and the need for long-term savings and pension. Also, corporate governance and the asset managers' responsibilities as investors had their dedicated panel. The Chair of ESMA, the new European regulator, gave an overview of ESMA's challenging agenda and the Commission's regulatory agenda was presented in detail too, as was the possible impact of the financial market crises. Day 2 focused on the global dimension and new long-term saving trends in the USA, Asia, South America and Africa. The far-reaching consequences of FATCA on European fund business were obviously at the centre of attention. In the afternoon of Day 2 a special workshop led by Dechert LLP presented the U.S. regulatory developments and their impact on European asset management organisations.

5. From CIO Forum to Financial Market Mechanisms Working Group

The CIO Forum was set up in 2009 to assist EFAMA in particular regarding several initiatives aiming to contribute towards transparent and effective markets. The CIO Forum was most often consulted regarding the PCS initiative (please see Annual Report 2010, p. 47).

As stated earlier in this report (point 8, MiFID/MiFIR) a large part of the debate around MiFID and MiFIR is related to capital market issues. Considering the dedicated and technical questions raised, EFAMA set up a Working Group on Financial Market Mechanisms in the autumn of 2011. The Working Group is instrumental in EFAMA's capability and understanding of capital market issues across all financial asset classes and is

chaired by and made up of industry practitioners. This Working Group incorporates in a more detailed and broader fashion all the topics previously covered by the CIO Forum.

6. Meeting with Commissioner Barnier

European Commissioner Michel Barnier (Internal Market and Services) attended a meeting as keynote speaker with EFAMA's member CEOs and Board of Directors on 11 April 2011. The working lunch and following round table sessions, conducted under the Chatham House Rule, gave an insight into the Commissioner's views about the changing regulation, distribution, long-term savings and pensions.

VIII. EFAMA ON THE GLOBAL SCENE

1. Annual Joint Meeting with the ICI's International Committee

The joint meeting of EFAMA members and the ICI's International Committee takes place in Washington, D.C. once a year, directly before the ICI's General Membership Meeting in May. The aim is to intensify contacts between the European and the U.S. investment fund industries and to identify issues of mutual interest.

Over the past decade the meeting has developed from a forum serving to exchange views to an efficient instrument for analysing regulatory trends and sharing experiences.

The 2011 meeting was co-chaired by Liliane Corzo, Chair of the ICI's International Committee, and EFAMA's Director General, Peter De Proft, and the agenda included a number of key issues, e.g.:

- Regulatory agenda and priorities for funds and asset management;
- Major initiatives in 2011;
- FATCA: implications for non-U.S. funds and managers;
- Money market funds;
- Financial regulatory and supervisory reform;
- Capital Market Reforms.

2. The 25th International Investment Funds Conference in Stockholm

The International Investment Funds Association (IIFA)[54] gathers thirty-five investment fund associations from across the world. Its 2011 Annual Meeting was hosted by the Swedish Investment Fund Association and took place in Stockholm, Sweden, in mid-September 2011.

54 For more information see: www.iifa.ca

Chaired by Peter De Proft, the conference focused on the fund industry in the various jurisdictions represented in the IIFA with special attention to Ethics, Responsible Investment, Corporate Governance, the investor's role and of course, the challenges for the fund industry. As always, the dialogue with the IOSCO speaker, Patrice Bergé-Vincent, Chairman of IOSCO's Standing Committee 5, was very constructive and to the point.

Peter De Proft's Chair and Susan Olson's (ICI, USA) Vice-Chair mandates came to an end. The IIFA General Meeting which took place during the conference unanimously elected Eduardo Penido (Brazil) as IIFA Chairman and Sung Uk Yank (Korea) as Vice-Chairman. This clearly shows the growing importance of the Latin American and Asian markets in the world fund industry.

Participants felt that the globalisation of the financial markets and the G20's reaction to the financial crisis had strongly increased the pace of convergence of the problems the individual IIFA members were having to face. Again it was felt that IIFA could act as a forum for analysis and exchange of views, leading to a more common approach towards international supervisors such as IOSCO, going beyond the original, narrow role as a sole conference organiser.

3. The Cumberland Lodge Conference

The Cumberland Lodge (previously Wilton Park), Financial Markets Conference, co-sponsored for now six years by EFAMA, is developing towards an important international cross-sector event for EFAMA. This event offers EFAMA members a unique possibility for discussing international financial market issues beyond asset management and meeting high-ranking people from other financial sectors, in particular banking, pension and exchanges not only from Europe but also from the U.S. and Asia.

The 2011 Conference held from 3-4 November was chaired by David Wright, former Deputy Director General at the European Commission, and was aimed to examine both the impact of financial market re-regulation and the business outlook for building savings and investment.

As usual, discussions, held under the Chatham House Rule, were very lively and extremely fruitful, offering much insight into the political thinking of the various financial market participants and European and international bodies and regulators.

4. The EFAMA-ICI Industry Roundtable

With a view of intensifying relations with the ICI and raising the understanding of issues of mutual interest, EFAMA's Director General and the ICI's President and CEO, Paul Schott Stevens, agreed to complement the EFAMA-ICI joint May meeting by a meeting at the end of the year in Brussels. The third meeting of that nature was held on 2 December 2011.

A very high level panel of speakers of the European Commission discussed several important topics:

- Financial stability issues and funds;
- Market Structure;
- Derivatives and Funds;
- International Tax Considerations for Fund Investing.

5. The IOSCO Agenda

IOSCO has an increasingly important role to facilitate cooperation and coordination of securities regulators' work in the aftermath of the financial crisis. EFAMA has continued to contribute to IOSCO's work.

In 2011 EFAMA continued to give input to the work of IOSCO by attending the IOSCO Stakeholder Group meeting in March 2011 in Madrid and by responding to several IOSCO consultations and questionnaires. Among others EFAMA replied to IOSCO Standing Committee 3 questionnaire on Suitability stressing that in the EU there is already a definition of suitability in MiFID and IOSCO should therefore clearly define how it interprets suitability, preferably in line with existing definitions.

EFAMA also commented on CPSS-IOSCO's *Consultative Report on Principles for Financial Market Infrastructures (FMIs)* noting that it is essential that the standards for FMIs take into account the interests of the final investors/holders of the securities, who may not be direct users of the infrastructures or direct participants due to the use of intermediaries. Equal protection of all stakeholders is crucial because of the monopolistic or oligopolistic nature of the infrastructures, and to increasing regulation mandating their use in more areas, for example through the obligation to centrally clear derivative contracts (introduced by the EMIR Regulation in the European Union and by Dodd-Frank in the U.S.). Protection of final investors/indirect users is above all necessary because of the commercial nature of most FMIs.

EFAMA replied to IOSCO's *Consultation Report on Regulatory Issues Raised by the Impact of Technological Changes on Market Integrity and Efficiency* agreeing that technology's increasingly important role in financial markets and its impact on market integrity and efficiency should be taken into account by financial regulation. However, technology is an important tool for investment managers to fulfil their fiduciary duties towards their clients, and its benefits should be recognised. Furthermore, it is important that regulation on technological changes be targeted at the correct level, including rules for markets and market operators and not only aimed at market participants.

EFAMA also replied to the IOSCO *Consultation on Principles on Suspensions of Redemptions in Collective Investment Schemes* stressing that the liquidity management policy and process is usually incorporated in the overall risk management policy and process which identifies all relevant risks (including liquidity risk) and hence IOSCO should not require liquidity management as separate arrangement.

As IOSCO's influence and importance is constantly growing and many topics will be increasingly discussed and prepared on an international level, EFAMA's Board of Directors and Annual General Meeting in Lucerne decided to have EFAMA apply for Affiliate Membership of IOSCO. On 9 February 2012 EFAMA was granted the status of Affiliate Member by IOSCO's Board.

IX. EFAMA and European Organisations

1. EFAMA and the European Securities Markets Authority (ESMA)

ESMA started its operations on 1 January 2011 with an ambitious work programme, largely driven by the EU regulatory agenda. In April 2011 the Director General of EFAMA, Peter De Proft, was appointed to the Securities and Markets Stakeholders Group (SMSG) established within ESMA for a 2.5 year term. Peter De Proft was elected Vice-Chair by ESMA's SMSG at its second meeting in October 2011 for the remaining term.

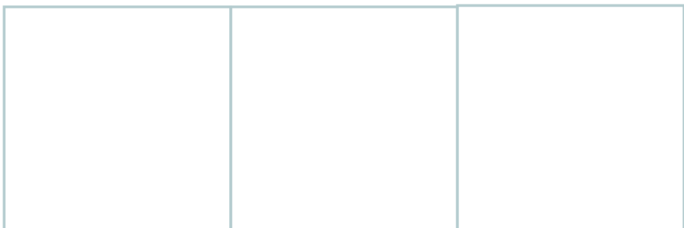
2. European Parliament Financial Services Forum (EPFSF)

In 2010 EFAMA became a member of the European Parliament Financial Services Forum (EFPSF), a not-for-profit organisation, supported by a wide range of MEPs from most political groups.

Over the last seven years, the EPFSF industry membership has increased, so that it now represents the diversity of Europe's financial services industry. It has gone from 26 members in 2004 to 52 in 2011, thus reinforcing the Forum's stability and credibility.

As it is important for the Forum to have different points of views expressed during discussions within the Steering Committee and at EPFSF events, it reinforced its actions to raise the Green MEPs interest in the Forum. The Steering Committee now includes 14 MEPs from the EPP Group, 4 from the ECR Group, 9 liberal Democrats (ALDE), 8 Socialists (S&D) and 1 from the Green/EFA Group.

In the course of 2011 EFAMA was, and indeed is, an active participant in drafting the briefing documents and providing speakers to EPFSF events. More specifically, speakers were provided for the following "lunch events":



- 9 February: "Measures taken by the industry as a response to the financial crisis";
- 13 April: "Retail Investment";
- 7 December: "Review of the Markets in Financial Instruments Directive: MiFID".

Each of these discussions was attended by approximately 50 to 60 people. In addition to MEPs and financial industry members, other regular participants were representatives from the European Commission, the ECON Secretariat, end-user/consumer groups, as well as Parliamentary assistants.

In order to guarantee a discussion as open and balanced as possible where participants can express different point of views, representatives from consumer/end-user groups are now systematically invited to attend the Forum's events.

3. PCS Initiative

The year 2011 saw further progress for the PCS initiative which had been started by EFR (European Financial Services Round Table) in autumn 2009 with the aim of revitalising the securitisation market. The final goal of the PCS Initiative remains the establishment of a new market segment called Prime Collateralised Securities (PCS). It is planned that PCS compliant issues will receive the PCS label by an independent PCS secretariat if they certify to reply to pre-defined criteria built around 4 main principles of quality, transparency, simplicity/standardisation and liquidity. By 2011, the initiative was led jointly by EFR and AFME who were finalising discussions on the structure of the PCS secretariat and on the 4 main principles for the PCS. EFAMA together with EBF, ECB and EIB followed the process very closely as observers. The incorporation of a PCS Secretariat and the issuance and placement of PCS under the label are now foreseen for the second half of 2012. The success of the PCS will depend on the ability of the participants to agree on and implement sufficient PCS criteria.

4. Other European Trade Organisations

Given the nature of its activities and topics covered, EFAMA has developed over the years active and open relationships with the other trade organisations from the financial industry such as EBF, CEA, EAPB, EFRP, ESBG, FESE, EVCA, Business Europe, AFME, etc. Views and documents are shared and discussed on a regular basis and the Director General, Deputy Director General and staff have so-called "open lines".

At the same time, EFAMA is convinced that the asset management industry needs to be perceived as speaking with "one voice" in order to be considered as a valuable partner for legislators, regulators and other market stakeholders. For this reason, EFAMA tries to present a "common position" with other buy-side associations such as IMMFA, FEAM, AIMA and AMIC, by signing joint letters, participating in common meetings and trying to reach constructive compromise positions.

European Investment Fund Developments in 2011

1. Introduction

Increased confidence in the global economic outlook at the beginning of 2011 was short-lived as the onset of the Arab Spring, increasing commodity prices and the earthquake in Japan set the ball rolling in what would become a challenging year for the European investment fund industry. The intensification of the euro area sovereign debt crisis in the second half of the year, along with the downgrading of U.S. debt caused turmoil on financial markets denting investors' confidence in the process. This said, investors avoided a mass sell-off as was seen in 2008. Despite the numerous unexpected events during the year, net assets at end 2011 remained over 11% higher than at end 2009 and 28% higher than at end 2008, thus reaffirming the strength and resilience of the industry in the face of difficult times, ensuring its long-term sustainability.

The evolution of the industry over the past year is the result of the following factors:

- Uncertainty regarding the global economic outlook during 2011 led to a strong resurgence in risk aversion affecting investors demand for long-term funds. The escalation of the euro area sovereign debt crisis and the implication of austerity measures introduced across Europe caused an air of caution amongst investors.
- Intense competition for deposits from the banking sector, as banks rebuilt their balance sheets, continued to have a negative effect on investors demand for money market funds.
- Non-UCITS funds, particularly special funds (funds reserved to institutional investors), enjoyed strong demand during the year as insurance companies, pension funds and other institutional investors continued to use these vehicles to invest the recurrent contributions collected from their members.
- Strong UCITS brand recognition, coupled with a wide range of fund choice contributed to the continued growth of cross-border fund business in Europe.

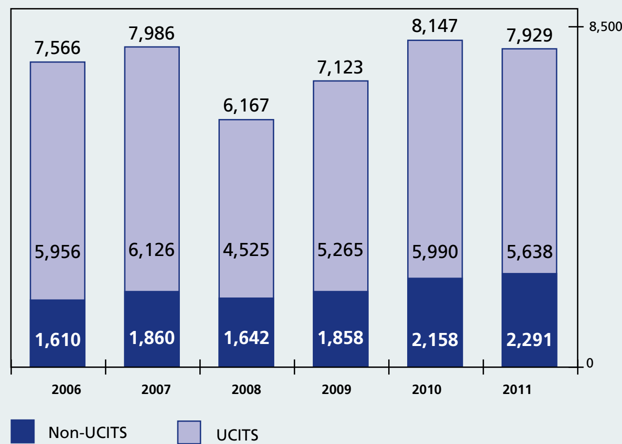
Overall, total net sales of UCITS and non-UCITS reached €8bn in 2011, compared to €326bn in 2010. This result came on the back of strong net sales of non-UCITS amounting to €97bn, coupled with net outflows from UCITS amounting to €89bn. Long-term UCITS (UCITS excluding money market funds) experienced a sharp decline in demand during the year to register net outflows of €54bn, against net inflows of €299bn recorded in 2010. Net outflows from money market funds also continued in 2011, albeit at a lower rate than in 2010 (€35bn in 2011, compared to €133bn in 2010).

During the year total European investment fund assets fell by 2.7% to stand at €7,929bn, representing 57% of GDP[1] at end 2011, compared to 60% at end 2010. This indicator highlights the important role played by investment fund managers in the European economy: they act as managers of long-term savings, investors in the European financial markets, shareholders in European companies, providers of short-term funding for many European corporations and an important source of employment.

[1] Aggregated GDP of all EFAMA reporting countries.

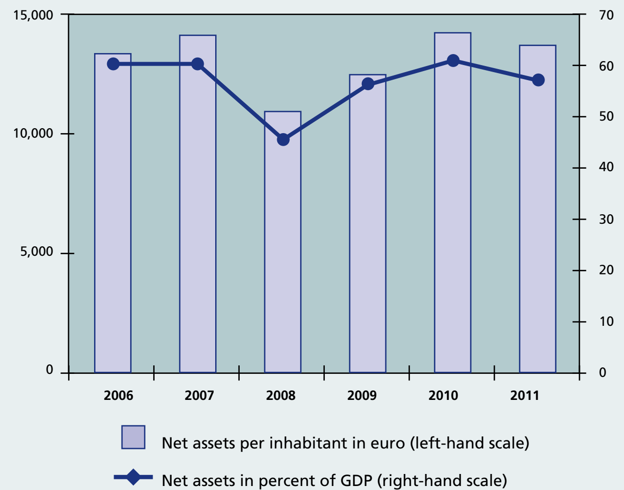
Investment funds per inhabitant registered a slight reduction during the year to €13,600 from €14,100 at end 2010. This reduction came on the back of a turbulent year on financial markets across Europe, which led to a reduction in total net assets of investment funds in Europe. The evolution of investment funds per inhabitant can be seen in chart 2, which shows that investment fund assets are still considerably higher than at end 2008.

Chart 1. Net Assets of European Investment Funds
(EUR billions)



Source[2]: EFAMA, European Commission

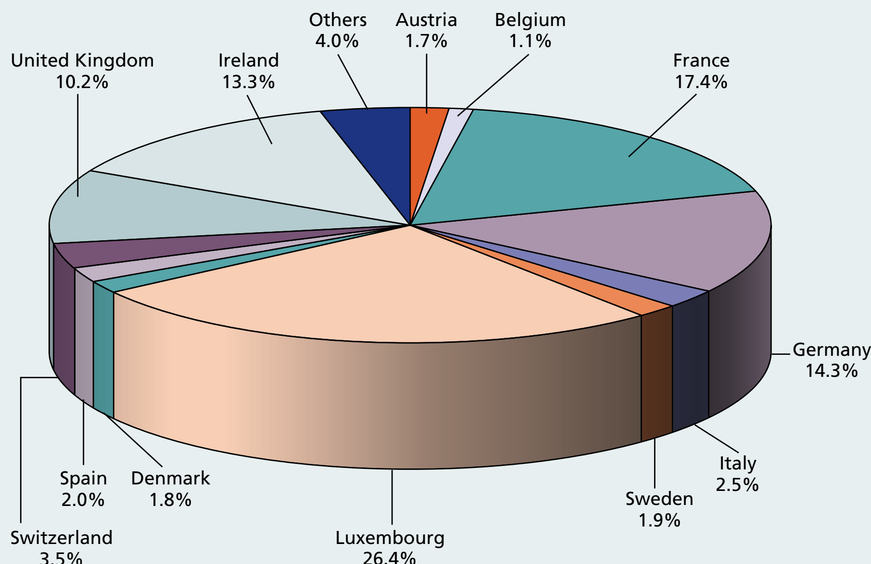
Chart 2. Trends in Investment Funds in Europe [(1)]



(1) Aggregated GDP and population of all EFAMA countries were used to prepare this chart.

Five countries held market shares of above 10% at end 2011 – Luxembourg, France, Germany, Ireland and the United Kingdom. These top 5 countries combined held a cumulative share of 82% of the industry's assets at end 2011. Switzerland, Italy and Spain follow in this ranking with shares of above 2% (Chart 3).

Chart 3. The European Investment Fund Market
(Breakdown of nationally domiciled funds at end 2011)

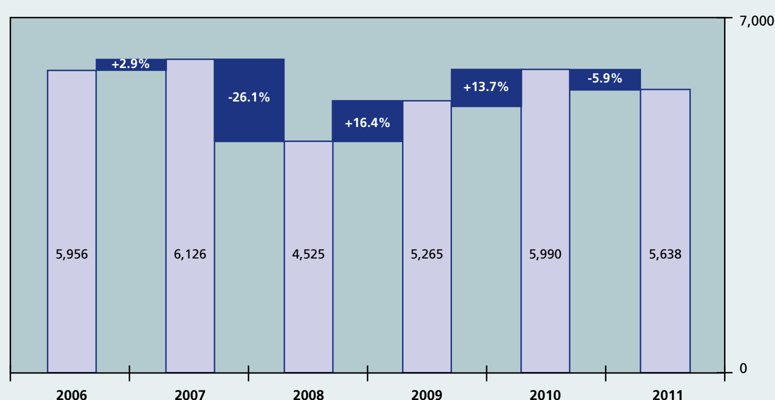


2 Except noted otherwise, EFAMA is the source of data.

2. Trends in the UCITS Industry

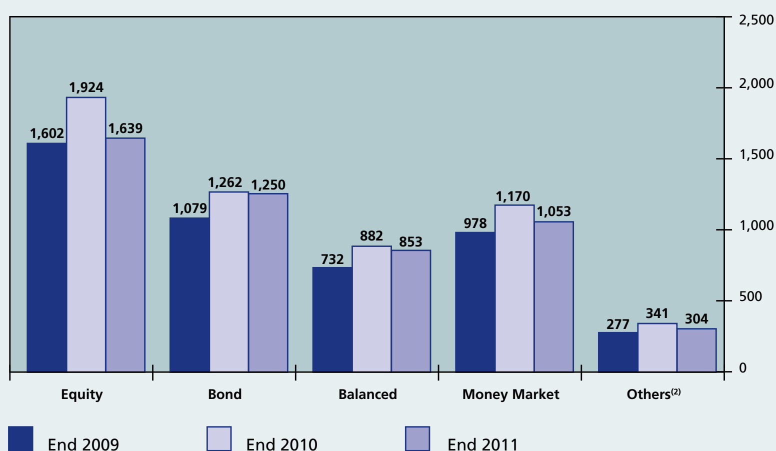
2011 saw a reduction in the total assets of UCITS[3], which fell 5.9% to stand at €5,638bn at year end. Despite this fall, net assets of UCITS still remained 7.1% higher at end 2011 than at end 2009. Chart 4 highlights the evolution of net assets over the past five years in Europe, including the recovery from the financial crisis.

Chart 4. Total Net Assets of UCITS
(in EUR billions)



Turbulence on stock markets made for a difficult year for UCITS. All UCITS categories experienced a reduction in net assets in 2011 (Chart 5). Equity funds experienced a decrease in net assets of 15% during the year. Balanced and bond funds followed with a reduction in assets of 3% and 1%, respectively. Other UCITS, which include funds of funds, funds of hedge funds and all funds whose strategy falls outside the four main UCITS categories, enjoyed an increase in assets of 11%. Money market funds recorded a reduction in net assets of 10%.

Chart 5. Net Assets by Type of UCITS(1)
(in EUR billions)



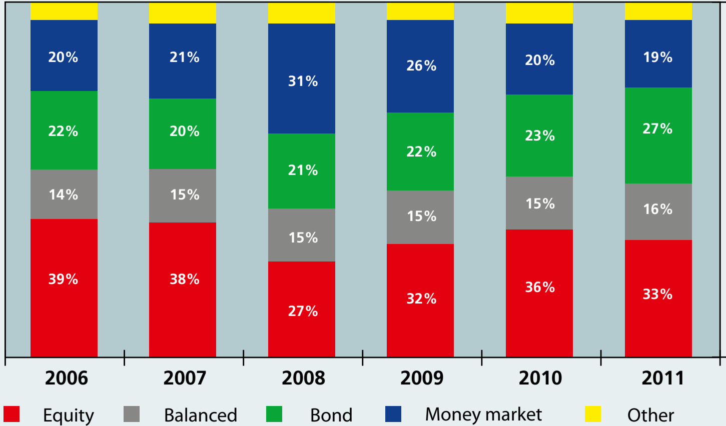
(1) Excluding Ireland, except for money market funds due to non-availability of data.

(2) Including funds of funds.

3 UCITS is defined in this section as publicly offered open-ended funds investing in transferable securities and money market funds.

The asset allocation of UCITS shifted during 2011, with holdings of bond funds increasing to 27% from 23% in 2010. It should be noted that part of the increase in the holdings of bond funds is due to the reclassification of some money market funds during the year to comply with new ESMA guidelines. The asset allocation of money market funds decreased to 19% from 20%. The asset allocation of equity funds also reduced during the year from 36% in 2010 to 33% in 2011. In contrast to this, the share of balanced funds in the UCITS portfolio increased slightly to 16% from 15% in 2010.

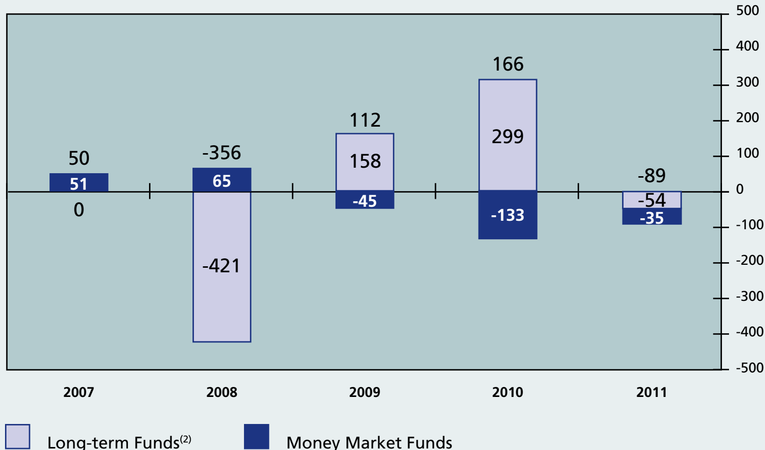
Chart 6. Asset Allocation by UCITS Type[1]
(in percent)



[1] Excluding Ireland 2006-2009.

Demand for UCITS reduced in 2011, with net withdrawals amounting to €89bn, compared to net inflows of €166bn in 2010. Long-term UCITS registered net outflows of €54bn in 2011, compared against net inflows amounting to €299bn in 2010. Money market funds continued to experience net outflows (€35bn) for the third successive year, compared to net outflows of €133bn in 2010.

Chart 7. Net Inflows into UCITS[1]
(in EUR billions)



[1] Excluding Ireland 2007-2009.

[2] All UCITS excluding money market funds.

Charts 7a-7e show the demand for UCITS from 2007. In 2011, equity and bond funds recorded large net outflows of €58bn and €17bn, respectively. On the other hand, balanced funds bucked the trend to record net inflows of €21bn. Money market funds (MMFs) experienced a reduction in net withdrawals in 2011 to €35bn.

Chart 7a. Net Inflows into Equity Funds[1]
(EUR billions)

Chart 7b. Net Inflows into Bond Funds[1]
(EUR billions)

Chart 7c. Net Inflows into Balanced Funds[1]
(EUR billions)

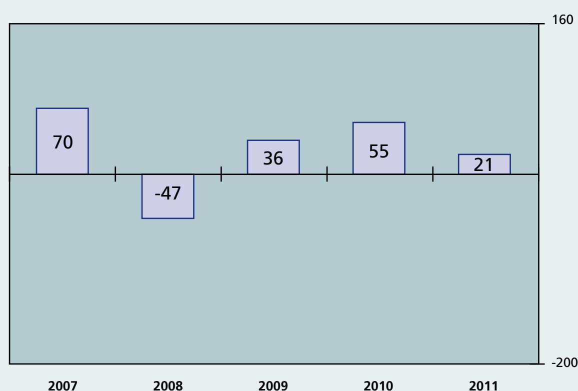


Chart 7d. Net Inflows into Money Market Funds[2]
(EUR billions)

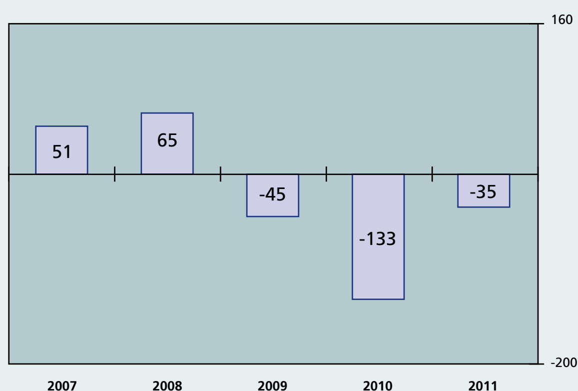
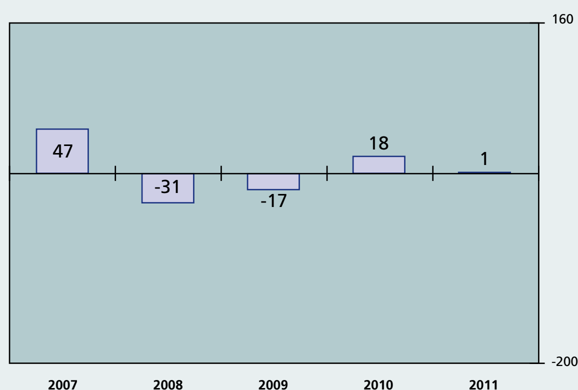


Chart 7e. Net Inflows to Other Funds[1]
(EUR billions)



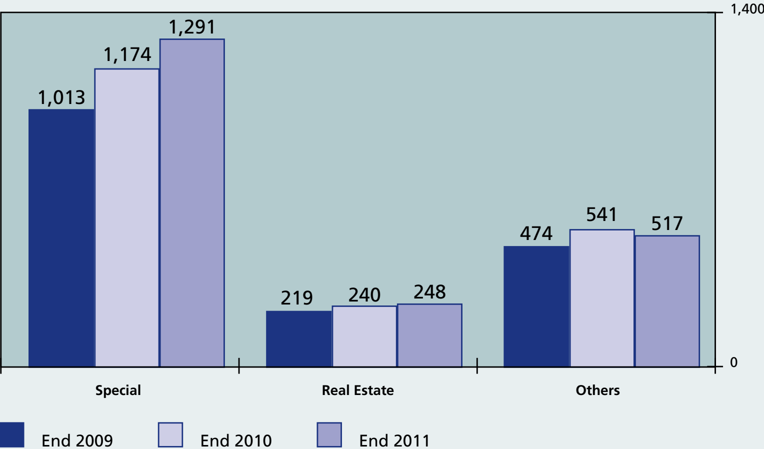
(1) Excluding Ireland 2007-2010 due to non-availability of data.

(2) Excluding Ireland 2007-2009 due to non-availability of data.

3. Trends in the Non-UCITS Industry

Total assets in non-UCITS increased by 6% to reach €2,291bn at end 2011. Special funds (funds reserved for institutional investors) continued to record strong growth in 2011 of 10%, thanks to sustained net inflows. Overall in 2011, special funds collected €80bn in net new money, a slight reduction compared to the inflows of €125bn registered in 2010. Inflows were concentrated in funds domiciled in Luxembourg and Germany. Assets in real estate funds increased by 3% in 2011, whereas "other" non-UCITS assets decreased by 4%.

Chart 8. Net Assets by Type of Non-UCITS[1]
(in EUR billions)



[1] Excluding Ireland.

4. Trends across Europe

Europe recorded net outflows from UCITS during 2011 totaling €89bn or 1.5% of UCITS assets at end 2010. Nine countries registered net inflows during the year. Among the largest domiciles, Ireland recorded strong net sales amounting to €62bn or 8.1% of assets at end 2010. The United Kingdom also recorded strong net sales of €13bn. On the other hand, France, Luxembourg and Germany registered net outflows of €91bn, €24bn and €3bn, respectively. In France, the net outflows were mainly attributable to large net outflows from money market funds (€50bn) and equity funds (€27bn).

In Southern Europe, Italy and Spain continued to suffer net outflows in 2011 amounting to €31bn and €8bn respectively, whereas Portugal recorded net outflows of €2bn. These flows represented approximately 25.3% (Portugal), 17.4% (Italy) and 5.1% (Spain) of UCITS assets at end 2010. Elsewhere, net inflows in relation to UCITS assets at end 2010 varied significantly across the continent from 18% in Romania to outflows of 23% in Slovakia.

Net flows of UCITS in 2011

COUNTRY	NET FLOWS (in EUR bn)	COUNTRY	NET FLOWS (in % of end 2010 assets)
Austria	-5.8	Austria	-6.9%
Bulgaria	0.0	Bulgaria	2.8%
Czech Republic	-0.3	Czech Republic	-6.4%
Denmark	1.7	Denmark	2.6%
Finland	-0.7	Finland	-1.3%
France	-90.9	France	-7.5%
Germany	-3.4	Germany	-1.4%
Greece	-1.2	Greece	-16.5%
Hungary	-0.9	Hungary	-9.3%
Ireland	61.7	Ireland	8.1%
Italy	-30.5	Italy	-17.4%
Liechtenstein (1)	0.1	Liechtenstein (1)	0.3%
Luxembourg	-23.7	Luxembourg	-1.3%
Malta	-0.2	Malta	-9.6%
Netherlands	-7.1	Netherlands	-11.0%
Norway	1.6	Norway	2.6%
Poland	-1.1	Poland	-5.9%
Portugal	-2.2	Portugal	-25.3%
Romania	0.2	Romania	18.0%
Slovakia	-0.8	Slovakia	-23.4%
Slovenia	-0.1	Slovenia	-3.8%
Spain	-8.5	Spain	-5.1%
Sweden	4.2	Sweden	2.6%
Switzerland	6.4	Switzerland	3.1%
Turkey	-1.1	Turkey	-6.6%
United Kingdom	13.5	United Kingdom	2.1%
Europe	**-89.1**	**Europe**	**-1.5%**

(1) 2011 data includes Q1 & Q2 net sales data only.

UCITS assets suffered a reduction in net assets of 5.9% in 2011 to end the year at €5,638bn. Only three countries registered an increase in UCITS net assets in 2011: Ireland (8%), Romania (23%) and Switzerland (4%). Amongst the largest domiciles of UCITS, France saw a reduction in UCITS net assets of 12%, followed by Germany (10%), Luxembourg (6%) and the UK (1%). Elsewhere, the reduction in UCITS assets varied significantly across Europe.

Overall, total UCITS and non-UCITS assets recorded negative growth of 2.7% during 2011, although fortunes were mixed among countries. Ireland posted strong growth in net assets of 10% to take total assets of UCITS and non-UCITS past one trillion euro, a milestone achieved only by France, Luxembourg and Germany. Elsewhere, growth in total assets was registered in Switzerland, Romania, Malta, the UK, Denmark, Liechtenstein and Germany.

Net Assets of Nationally Domiciled UCITS and Non-UCITS

(EUR billions. at end 2011)

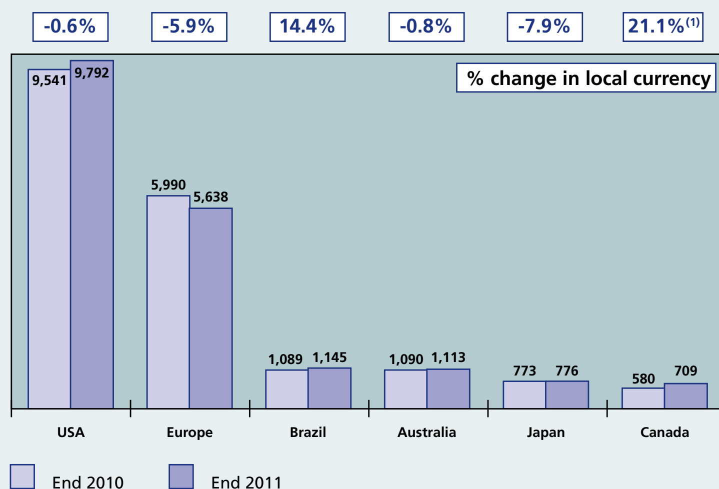
Members	Total Assets	% chg [1]	UCITS Assets	% chg [1]
Austria	137.2	-6.8%	74.3	-12.3%
Belgium	84.7	-12.9%	78.7	-13.6%
Bulgaria	0.2	-0.2%	0.2	-0.2%
Czech Republic	4.2	-9.6%	4.1	-9.8%
Denmark	139.0	2.4%	65.9	-2.5%
Finland	55.4	-9.9%	48.1	-9.8%
France	1379.4	-8.2%	1068.1	-11.7%
Germany	1133.5	0.7%	226.1	-9.4%
Greece	6.3	-31.5%	4.4	-37.3%
Hungary	8.9	-33.7%	6.4	-31.3%
Ireland	1055.3	9.5%	820.0	8.1%
Italy	199.4	-16.9%	139.7	-20.3%
Liechtenstein	30.0	1.7%	25.5	-4.8%
Luxembourg	2096.5	-4.7%	1760.2	-6.4%
Malta	8.3	4.2%	1.6	-10.9%
Netherlands	64.5	-17.4%	53.4	-16.9%
Norway	61.8	-3.2%	61.8	-3.2%
Poland	25.9	-11.4%	14.5	-24.8%
Portugal	22.1	-14.1%	6.0	-31.3%
Romania [2]	3.1	4.9%	1.6	22.6%
Slovakia	3.2	-14.9%	2.7	-25.0%
Slovenia	1.8	-20.9%	1.8	-11.6%
Spain	156.4	-8.9%	150.9	-8.3%
Sweden	150.4	-9.4%	147.0	-9.5%
Switzerland	275.5	6.1%	214.0	4.0%
Turkey	20.2	-12.5%	12.0	-24.3%
United Kingdom	805.8	2.8%	649.1	-1.3%
Europe	**7,929.3**	**-2.7%**	**5,638.3**	**-5.9%**

[1] End 2011 compared to end 2010; [2] asset growth since end 2010 includes two additional funds captured by Romanian data.

5. Trends in Worldwide Investment Fund Assets

Worldwide investment fund[4] assets under management remained flat in 2011 ending the year at €19,967bn, marginally up from €19,942bn at end 2010. Measured in U.S. dollar terms, fund assets worldwide decreased by 3% to $25,836bn at year end. This difference reflects the appreciation of the U.S. dollar vis-à-vis the euro in 2011. Despite measuring growth in euro terms, U.S. mutual fund assets when measured in local currency decreased by 0.6% (Chart 9). Brazil posted strong growth of 14.4% in local currency, whilst Australia and Japan recorded net asset reductions of 0.8% and 7.9%, respectively, in 2011.

Chart 9. Trends in Worldwide Investment Fund Assets
(in EUR billions)

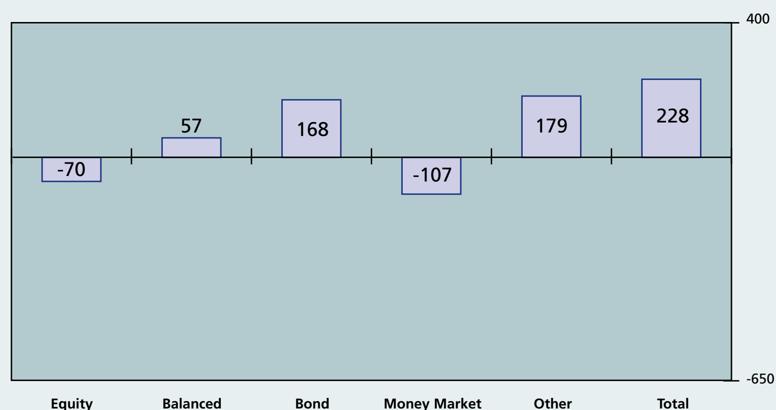


(1) Net asset increase reflects new funds captured by Canadian data.

Source: EFAMA, ICI

Demand for worldwide investment funds reduced in 2011. Net inflows amounted to €228bn in 2011, down from €351bn in 2010. Long-term funds enjoyed net inflows of €335bn during the year, whilst money market funds recorded net outflows amounting to €107bn.

Chart 10. Net Cash Inflows to Worldwide Investment Funds in 2011
(in EUR billions)

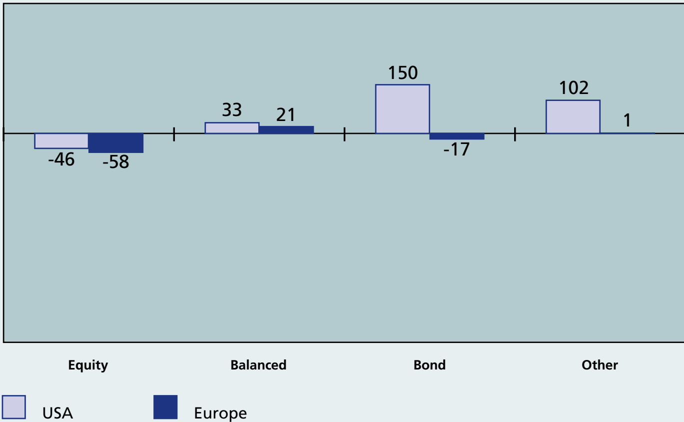


Source: EFAMA, ICI

4 In the sense of publicly offered open-ended funds, i.e. UCITS in Europe and mutual funds in the United States, including funds of funds.

Comparing net inflows between the U.S. and Europe (Chart 11), it can be seen that equity funds suffered on both sides of the Atlantic in 2011, registering net outflows of €46bn in the U.S. and €58bn in Europe. Bond funds posted strong net sales in the U.S. of €150bn, compared to net outflows of €17bn in Europe. Balanced funds performed well during the year attracting net inflows of €33bn in the U.S. and €21bn in Europe. Other funds, which include funds of funds, attracted €102bn of net sales in the U.S. and €1bn in Europe during 2011.

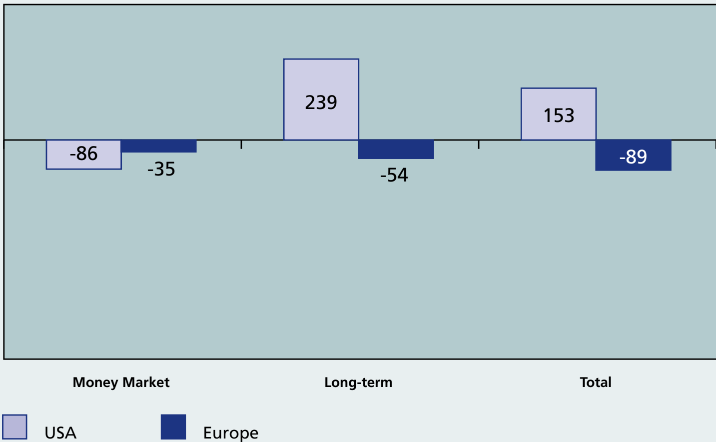
Chart 11. Net Inflows to Worldwide Investment Funds in 2011
(in EUR billions)



Source: EFAMA, ICI

Reflecting these developments, demand for long-term funds experienced a sharp decline on both continents in 2011. Long-term UCITS in Europe experienced net outflows of €54bn, compared to net inflows of €239bn in the U.S. At the same time, money market funds recorded net outflows for the third year running in both the U.S. and Europe amounting to €86bn and €35bn respectively. Overall, net inflows into U.S. domiciled funds reached €153bn, compared to net outflows in Europe of €89bn.

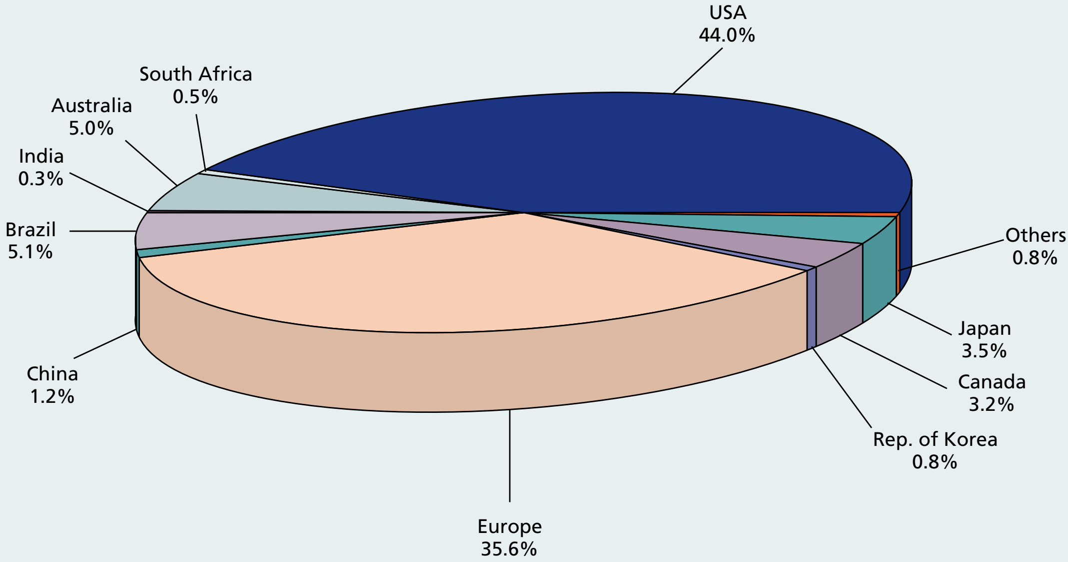
Chart 12. Net Inflows to Investment Funds in 2011
(in EUR billions)



Source: EFAMA, ICI

Looking at the worldwide distribution of investment fund assets, the United States and Europe held the largest share in the world market, with 49.0% and 28.2% respectively at the end of 2011. Brazil, Australia, Japan, Canada and China followed in this ranking. Taking into account non-UCITS assets, the market share of Europe reached 35.6%, compared to 44.0% for the United States (Chart 13).

Chart 13. Worldwide Investment Fund Assets (*)
(Market share at end of 2011 Q4)



(*) Taking into account non-UCITS.

Source: EFAMA, ICI

EFAMA MEMBERSHIP

NATIONAL ASSOCIATIONS 58

CORPORATE MEMBERS 67

ASSOCIATE MEMBERS 72

National Associations

AUSTRIA

VÖIG
Vereinigung Österreichischer Investmentgesellschaften
Austrian Association of Investment Fund Management Companies
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BELGIUM

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Belgische Vereniging van Asset Managers
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Belgian Asset Managers Association
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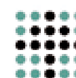
dutch fund and asset
MANAGEMENT ASSOCIATION



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Observer

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BNY MELLON

BNY Mellon
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KBC Asset Management N.V.

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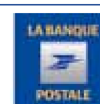

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