



2017

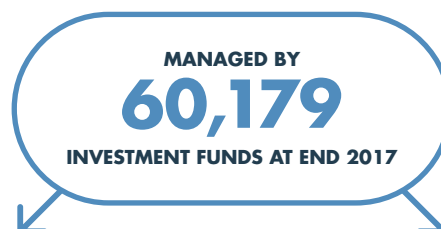
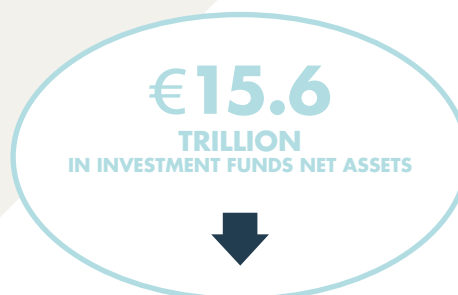
EFAMA  
**ANNUAL  
REPORT**

**efama**

European Fund and Asset Management Association

# EFAMA IS ...

## EFAMA REPRESENTS THROUGH ITS



**32,026**  
UCITS\*

**28,153**  
AIFS\*\*

\* Undertakings for Collective Investments in Transferable Securities

\*\* Alternative Investment Funds

# **ANNUAL REPORT 2017**

**EFAMA is the representative association for the European funds and asset management industry.**

**Its mission is:**

- ◆ to promote optimal conditions for the European fund and asset management industry in its efforts to create value for investors;
- ◆ to influence and support the ongoing development of the regulatory environment including the European Single Market;
- ◆ to promote the interests of its Members among stakeholders;
- ◆ to build confidence and trust in the industry;
- ◆ to promote scientific research concerning the industry.

The background features a large, light beige triangle in the upper left corner and a teal triangle below it. The lower right portion of the page is filled with a soft-focus image of dandelion seed heads.

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# PRESIDENT'S STATEMENT

**William Nott**  
President

June 2018



I had the honour of being elected the President of EFAMA in June 2017, and of having taking up the role from my predecessor, Alexander Schindler. I am thankful to him because in my previous years as Vice-President, I learned much from him and the path had been well paved for me. Along with my colleague Nicolas Calcoen, elected Vice-President of EFAMA also in June 2017, we have been closely teaming up with the EFAMA secretariat on the various topics that remain high on the EU agenda. And believe me there is a lot.

12 months after my election, I have seen new policy and legislative initiatives popping up. Some useful; others, less so. As an industry, we look forward to the exciting opportunities ahead – such as the advent of CMU, the PEPP and the emergence of sustainable finance. And no doubt, also challenges – such as continuing political uncertainty and global systemic risk.

Reflecting over the last year, the following thoughts come to mind.

- ◆ The **Capital Markets Union** (CMU) is the future, and we need to make sure it blossoms to its full potential. This means being a success for the end investors. It is investors who the CMU must put first, second and third. The CMU has put to the forefront the key role that asset managers can play to channel a larger proportion of household savings through capital markets. Currently 40% of euro-area households are still held in bank deposits, yielding negative real rates of return. This situation is not satisfactory, and the CMU project will help put European savings to better use.
- ◆ We strongly believe that European consumers should benefit from more choice when **saving for retirement**. Saving enough for a comfortable retirement is no longer optional, it is a must. We need to encourage younger people to save early and save more. And more broadly, and more challenging also, we need to continue rebuilding the trust of the next generation of savers and future generations of pensioners.

« The CMU is the future, and we need to make sure it blossoms to its full potential. This means being a success for the end investors. It is investors who the CMU must put first, second and third. »

EFAMA was pleased to welcome the European Commission's legislative proposal in June 2017 to create a **pan-European personal pension product** (PEPP). A PEPP will grant consumers more choice when saving for retirement and broaden the range of personal pension providers to promote competition in the market. However to be a success, the PEPP needs to be thoughtfully designed, with the consumer front and centre.

- ◆ CMU, we hope, will help facilitate **cross-border distribution of funds**. End investors will benefit, through access to a larger pool of fund opportunities across countries. We want cross-border distribution in Europe but also beyond Europe, because asset management is a global business. It is vital that CMU contributes to our sector remaining competitive and globally attractive, and lays the foundation for future economic growth.
- ◆ We also believe **sustainable finance** has a vital role to play. Becoming a central part of CMU in 2017 has been an important turning point for Environmental, Social and Governance (ESG) investing. Asset managers already have a fiduciary duty to integrate financially-relevant ESG considerations into their investment process to ensure they best protect their clients' investments over the long-term. The EC's High-Level Expert Group, which includes representatives from our industry, has worked to help develop a European strategy on this topic.
- ◆ The EU is also looking at how to put in place further **supervisory convergence**. We at EFAMA agree it is a crucial element if we want a successful CMU through supervision, and key to removing barriers to cross-border provision of financial services.

The EC's proposals issued by the Commission in September 2017 to **review the European System of Financial Supervision** (ESFS), suggesting changes and new powers to the

European System of Financial Supervision, are complex and wide-ranging. The European Securities and Markets Authority's (ESMA) current powers should be further utilised before giving ESMA yet more powers, in particular in relation to direct supervision of certain funds, and on delegation and outsourcing activities. This last point is particularly worrying as we believe it would lead to a more bureaucratic, costly and inefficient process regarding delegation and outsourcing and would materially weaken the time to market for relevant activities. There is no justification for giving ESMA these new powers, nor any evidence of market failure requiring such powers. We are convinced that supervision of delegation/ outsourcing must remain the competence of National Competent Authorities (NCAs).

Delegation is about delivering the best service to the client. It has functioned well, and its value for European investors, who have benefited from product choice and access to global investment expertise, is undeniable. In line with the CMU's overall aim to establish stronger saving patterns and develop non-bank funding sources, any review of the European supervisory set-up should foster such an investor outcome and should continue to support the good label and global appeal of UCITS.

Two things link all the initiatives I have referred to.

One is the end investor of today and tomorrow, who must remain at the heart of everything we do.

The second is that all the initiatives with the biggest transformative potential – CMU, the PEPP, sustainable finance – need the asset management industry to be pulling together to succeed.

Ahead of the many challenges and opportunities, the European asset management industry is growing stronger. This ties in well with the role of the asset management industry in providing alternative funding

sources, saving solutions, and channelling investments into long-term projects. Let's continue to do more for and with investors, let's continue to voice the views of our industry. Collectively, EFAMA and its members will maintain the constructive dialogue with EU and global policymakers and prepare the ground for the future.



EFAMA President, William Nott, speaking at the Gala Dinner of EFAMA's Investment Management Forum 2017



# DIRECTOR GENERAL'S STATEMENT

**Peter De Proft**  
Director General

June 2018



2017 was an exceptional year for the European investment fund industry: over the last 9 years, against a background of a wave of regulatory reforms, the European asset management industry has become a key part and resilient stakeholder of the wider European financial landscape, to the benefit of its members and investors.

At the same time, a number of challenges have surfaced in 2017 which will fundamentally influence the role and business model of the European asset managers as well as their relationship with the investor and end-customer.

Key challenges facing the asset management industry that will need to be addressed vigorously by EFAMA members and regulators alike include risks around cyber security, changing market structure, and financial technology such as robo-advice, fintech, regtech, blockchain, etc. Multiple blockchain technologies especially might have a fundamental influence on the functioning of the asset management industry in the future.

« Asset managers play a pivotal role in supporting sustainable economic growth and long-term financing of the European economy. »

**The PRIIPs rules:** throughout 2017 EFAMA consistently highlighted its concerns regarding a number of issues: scope, differences in MiFID/PRIIPs, PRIIPs information on future performance and misleading transaction costs. The flaws in the PRIIPs framework may result in making meaningful comparisons between different products difficult, if not impossible.

### **EFAMA is very supportive of the development of sustainability in the investment process.**

By embracing sustainability as an integral part of the investment process and supporting the development of responsible investment in all of its forms, asset managers play a pivotal role in supporting sustainable economic growth and long-term financing of the European economy. European asset managers have been integrating ESG in their investment processes in different forms for many years, and believe this to be part of their pursuit of helping asset owner clients achieve long-term financial returns and a key element of their operational excellence and competitive advantage. In listening to clients and providing them with investment solutions to achieve their objectives, the asset management industry contributes to a more sustainable economy by (1) integrating ESG factors in the investment process, where relevant and material; (2) providing investment solutions that respond to clients' financial, ESG and impact demands; (3) engaging with companies in their portfolios to better understand the management of their ESG risks and opportunities; and (4) reporting to clients, including on ESG related challenges.

EFAMA looks forward to continuing its dialogue with EU policymakers to help shape a European sustainable finance strategy which works for our citizens and our planet.

## **A crucial challenge to the EU's evolution and future: the Brexit Conundrum**

The triggering of Art. 50 of the TFEU by the British Government on 29 March 2017 marked the beginning of a complicated negotiation process between the European Union and the UK to determine the legal, technical and political terms of separation and to define the terms of the new relations between the EU and the UK. The result of the referendum and the ensuing negotiations over the terms of the UK's exit from the EU has ushered in a period of political and economic uncertainty in Europe. It comes at a time of rising geopolitical risks, both within Europe and elsewhere. Moreover, Brexit poses a wide range of uncertainties for financial services firms and investment management professionals.

In relation to Brexit, EFAMA as a pan-European association has an important and very challenging role to play for its members, be they national associations, corporate members or associate members. We will continuously be providing insight into Europe's policymakers and regulators, and will keep the interests of investors in mind.

EFAMA believes that careful consideration needs to be taken to avoid unnecessary market disruption of Europe's financial services industry. Abrupt disruptions in the delivery of investment products and services, or unexpected changes in the conditions for the provision of such products and services, will hurt both European and non-European investors, markets and the economy altogether, and consequently must be avoided with all means. Whilst recognising that the decision of the UK to leave both the European Union and the Single Market will inevitably bring about significant changes, EU and UK policymakers and politicians should therefore ensure minimal disruption. Putting in place the appropriate transitional arrangements will equally be fundamental to avoid such disruption.

In this context, supervisory convergence is crucial, and putting in place supervisory cooperation agreements between the EU 27 National Competent Authorities and the UK NCA is an absolute priority.

Those cooperation agreements need to be in place well in advance of the Brexit date to avoid disruptions in the provision of asset management activities. Both the UCITS Directive and the AIFM Directive require cooperation agreements to make it possible to delegate portfolio or risk management to an entity in a third country, like the UK. Similar requirements exist in MiFID and in other relevant EU regulations. Ensuring that delegation continues to be authorised as it is today is of paramount importance to the asset management industry. Delegation is a reliable, well-functioning and tested model, central to ensuring investor choice with the ability of European investors to access world leading investment expertise. Outsourcing of back office functions is also an important part of the asset management business model which allows for choice, competition, economies of scale, and enables firms to focus on core competencies. All of this provides investors with better value and choice.

**« EFAMA believes that careful consideration needs to be taken to avoid unnecessary market disruption of Europe's financial services industry. »**

Regulatory and supervisory cooperation between ESMA and the UK FCA will be crucial and will require substantial resources to be dedicated on both sides to effectively work in the long run. Such cooperation should drive mutual efforts to exchange information and data, and avoid unintended divergences in the implementation of future regulation between the EU and the UK, potentially creating an accidental unlevel playing field.

EFAMA insists on the need to ensure a stable, coherent and orderly functioning of the market infrastructure in any Brexit scenario, as this is crucial for the overall financial stability and well-functioning of the European capital markets.

Whatever the outcome of Brexit, it will undoubtedly alter the shape of the investment management industry in Europe. In this uncharted territory, EFAMA must listen intensely to its members, which at the time of writing total 28 National

Associations, 62 Corporate Members and 24 Associate Members. Leading a European association in such a challenging, politically unpredictable time, coordinating a diverse group of interests, different cultures and people is a true diplomatic exercise with continuous dialogue, listening mode and good governance as key elements.

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 stressful environment.

Special thanks go to Alexander Schindler, President until June 2017, to William Nott, President since June 2017 and Vice-President Nicolas Calcoen, for their highly appreciated team spirit and advice. Their positive business-minded thinking and continuous support show that true professionalism and a constructive attitude is an absolute asset in order to enhance the credibility of a pan-European Association.









# EU AND GLOBAL REGULATORY FRAMEWORK

## 1. Capital Markets Union

Building a successful and efficient Capital Markets Union remains front and centre of the EU's policy agenda and a number of CMU key chapters feature prominently in EFAMA's workstreams. The CMU is the future, and we need to make sure it blossoms to its full potential. This means being a success for the end investors. It is investors who the CMU must put first, second and third.

The breath of the CMU project is wide-ranging, and we, EFAMA, would highlight a number of CMU initiatives particularly relevant to our industry. The below is not meant to be exhaustive, but merely to give some flavour of the main chapters within the CMU for our industry.

### Fund distribution

The CMU is about addressing barriers to cross-border distribution of funds (*see page 21*), and this is good because we want investors to benefit from a large pool of fund opportunities across countries. Many barriers are still impeding cross-border distribution. There is much to do at the local level, not least the need to remove outstanding tax obstacles.

The European Commission launched a legislative initiative in March 2018 to enhance the distribution of investment funds at cross-border level percentage by removing some of the remaining barriers. Although EFAMA remains supportive of the Commission's general objective, we have important concerns on the choice of the legal instrument and means to achieve this. There are various ways to address these remaining barriers, but EFAMA believes a new legislative initiative would not provide the most appropriate solution, given that the solution must be further clarifying existing rules and ensuring consistent implementation. For that reason, we would

urge for further convergence via Level 3 measures. Moreover, in respect to the suggestions included in the Commission's legislative proposal, we have concerns with regard the definition of a "pre-marketing" regime for AIFs and the conditions governing the de-notification of funds from host jurisdictions. We believe that important amendments to the proposed text will be necessary if the Commission's original objectives are to be attained.

Finally, it is one of the points EFAMA always stresses that cross-border distribution needs to be enhanced within the border of the European single market, but also beyond Europe, because asset management is a global business. The asset management industry is competitive and we want it to remain competitive and globally attractive now and in the future.

### PEPP

The CMU is also about developing a pan-European personal pension product (PEPP) (*see page 41*). We are convinced as ever that a future PEPP will be an integral part of a successful CMU. But it has to be well built. Evidence shows that there is still a lot of cash sitting in bank accounts, in spite of the low interest rate environment. Citizens, in particular the younger generation, need to save more, and earlier. We strongly believe that European consumers should benefit from more choice when saving for retirement. The demographic challenges ahead of us are looming. The size of the gap between the future needs of our ageing population, and what we are saving now, is increasingly worrying. EFAMA very much welcomed the legislative initiative launched by the European Commission to create the PEPP to grant consumers more choice when saving for retirement and broaden the range of personal pension providers to promote competition in the market.

Creating a simple, standardised personal pension product that can be passported throughout the EU is a fantastic solution to:

- ◆ encourage Europe's youth to start saving as early as possible,
- ◆ encourage savers to shift some of their savings from bank accounts into a product that would be higher yielding as a result of competition and economies of scale,
- ◆ increase retirement savings across Europe,
- ◆ develop the capital markets with new funding solutions,
- ◆ improve the financial sustainability of pension systems.

However, to be a success, the PEPP needs to be designed correctly, with the consumer front and center. It needs to be relevant to people's lives, offer good value, and be sufficiently flexible to be attractive to consumers.

## ESFS review

The CMU is also about further supervisory convergence, and EFAMA fully agrees that this is a crucial element in ensuring a successful CMU through supervision, and key to removing barriers to cross-border provision of financial services.

The EC's recent proposals to review the European System of Financial Supervision (see *page 18*) suggesting changes and new powers to the European System of Financial Supervision, are complex and wide-ranging. ESMA's current powers should be further utilised before giving ESMA further powers, in particular in relation to direct supervision of certain funds, and on delegation and outsourcing activities. This last point is particularly worrying as we believe it would lead to a more bureaucratic, costly and inefficient process regarding delegation and outsourcing and would materially weaken the time to market for relevant activities. There is no justification for giving ESMA these new powers, nor any evidence of market failure requiring such powers. We are convinced that supervision of delegation/ outsourcing must remain the competence of NCAs.





**« Whilst welcoming and strongly supporting further supervisory convergence, EFAMA argued against the ESMA's proposed direct supervision of EU regulated funds and expressed deep concern regarding a move to a system of partial supervision by ESMA of UCITS/ AIFs in relation to delegation. »**

A well-functioning delegation model is embedded in the asset management business model. Its value for European investors, who have benefited from product choice and access to global investment expertise, is undeniable. Delegation is about delivering the best service to the client. In this context, and in line with the CMU's overall aim to establish stronger saving patterns and develop non-bank funding sources in Europe, any review of the European supervisory set-up should foster such investor outcome and should continue to support the good label and global appeal of UCITS.

### **Sustainable finance**

2017 was an important turning point for sustainable finance Supervision (see page 25.) in the EU as it became a central part of the European Commission's Capital Markets Union initiative. EFAMA welcomed this, and the EC's High-Level Expert Group on sustainable finance, which includes asset management representatives, worked to help develop a European strategy. The key message has been to explain to policymakers that asset managers already have a fiduciary duty to integrate ESG considerations into the investment process, when these considerations are financially relevant, in other words material– to ensure they best protect their clients' investments over the long-term.

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## **2. ESFS Review**

2017 was a turning point for launching discussions on the reform of the EU's supervisory architecture, with the publication in September 2017 of a legislative proposal to review the current functioning of the European System of Financial Supervision ('ESFS'). This proposal came on the back of the Commission's Mid-term review of the Capital Markets Union Action Plan in June 2017, which had identified strengthening the powers of the European Supervisory Authorities ('ESAs') as the first priority measure in stepping up efforts to complete the Capital Markets Union.

The proposal on the Review of the ESAs was preceded by a European Commission public consultation in April-May 2017, which EFAMA responded to. In our consultation response, we highlighted the importance of supervisory convergence to ensure the Single Market is not hampered by diverging interpretations and gold plating of EU rules. EFAMA also addressed the shortcomings in the role and functioning of the Joint Committee of the ESAs in the context of consumer and investor protection, governance concerns regarding Questions & Answers and Guidelines, as well as the need to more effectively use peer reviews.



EFAMA subsequently drafted a thorough Position Paper, in response to the proposal published in September 2017. Whilst welcoming and strongly supporting the greater involvement of stakeholders, EFAMA articulated arguments against the direct supervision by ESMA of EU regulated funds and expressed deep concern regarding a move to a system of partial supervision by ESMA of UCITS/ AIFs in relation to third country delegation. EFAMA also reiterated the need for better governance with regard to Questions & Answers, suggested that there would be merit in considering giving the ESAs the power to adjust the implementation of a rule through mechanisms such as “no-action letters”, and expressed concern regarding the proposal on sanctions and fines. In relation to the review of the ESRB, EFAMA underlined this Review as an important opportunity going forward in ensuring diverse and adequate representation of all sectors

in the ESRB decision making bodies and improving the transparency of ESRB work streams, notably by enhancing its interaction with stakeholders, including through public consultations.

### Outlook 2018

As the legislative process progressed in the Council of Ministers and European Parliament, EFAMA engaged extensively in 2018 with policymakers on the review of the ESFS on the basis of our position paper. The team met with financial attachés of large number of Member States, the European Commission’s DG FISMA and MEPs in an effort to highlight the key concerns of the European asset management industry.

## 3. Packaged Retail and Insurance-based Investment Products (PRIIPs)

In 2017 the European asset management industry made great efforts in implementing the new PRIIPs Key Information Document (KID), even though fund managers found themselves in a complicated situation: the vast majority of fund managers are legally required to produce the PRIIPs-predecessor (the so called “UCITS KIID”) until, at least, December 2019. In the meantime, they are legally forbidden from providing prospective clients with a PRIIP KID

instead of a UCITS KIID. Nevertheless almost all fund managers are, in fact, already having to produce the underlying PRIIP data because funds are the underlying investments of other PRIIPs (such as, but not limited to, insurance products), which do not benefit from the UCITS exemption. The manufacturers of these PRIIPs therefore need additional data (i.e. the PRIIP data) from fund managers in order to produce their own KIDs.

« The final PRIIPs KID provisions risk causing serious investor detriment by mandating figures, particularly in relation to performance and costs, that will at best confuse investors and at worst mislead them. »

All of these implementation efforts took place under great time pressure, as the European legislators only published the PRIIPs implementing measures in March 2017. Even with those technical details available, a substantial number of critical questions were still not sufficiently addressed. This resulted in the ESAs publishing a number of Q&As throughout the year. In spite of this, missing clarifications inhibited the provision of the required PRIIPs data in a standardised way to other PRIIPs manufacturers, in particular to insurance companies. Both the asset management and insurance industry therefore started working on itemising these data requirements in the forms of standardised data templates. The so-called European PRIIPs Template (EPT) and Comfort European PRIIPs Template (CEPT) were officially approved and endorsed

by EFAMA and Insurance Europe to provide certainty to all relevant industry stakeholders.

Moreover, it also became increasingly clear in 2017 that some parts of the PRIIP KID would not achieve the desired objective of providing the right information to investors, and EFAMA systematic alerted of the risks and concerns throughout the rule-making process. Our calls were however dismissed by the co-legislators, and the final provisions threaten to cause serious investor detriment by mandating figures, particularly in relation to performance and costs, that will at best confuse investors and at worst mislead them. In short, the PRIIP KID risks forcing manufacturers to make claims for products that breach the fundamental principle that investor communication must be 'clear, fair and not misleading'.

## Outlook 2018

Despite our repeated warnings to policymakers, the new PRIIPs rules went live in January 2018 with the undesired flaws that our industry, along with investor representatives, had strongly tried to avoid. EFAMA will continue its efforts throughout 2018 to show evidence of the shortcomings to EU regulators and lawmakers and to call for necessary changes to the PRIIPs framework. In the meantime, policymakers and regulators also need to help explaining the nature of the figures given to investors. It is vital that trust in investment products, and in the information to be provided to investors, is maintained and enhanced. This needs to be achieved through providing investors with truly reliable and not misleading product disclosures on which to base their investment decisions.

« Bringing down barriers does not require new regulatory provisions at this stage, as this would increase the existing complexity. Instead, ESMA Guidelines and Q&As seeking further convergence on the application of existing legislation would be most effective. »

## 4. Cross-border distribution of funds

Following a public consultation in 2016, the European Commission continued its work throughout 2017 to identify the measures that are appropriate to tackle the remaining barriers to cross-border distribution of investment funds within the EU single market. Based on the findings of the initial consultation, a second round of informal discussions with stakeholders from the asset management industry took place during the first half of the year with the objective to understand what type of regulatory and/or non-regulatory instruments would be necessary to allow a higher level of integration of the EU market for investment funds to the benefit of the end-investors. The discussions focused on key areas such as marketing restrictions, distribution costs and regulatory fees, special administrative arrangements, constraints linked to different notification processes. Other areas such as barriers to the use of on-line and direct distribution, as well as the absence of a common tax treatment were left to be further assessed in the future. The second half of 2017 was dedicated to the internal analysis and impact assessment prepared by the European Commission, as well as its final selection of the measures to deal with the existing barriers.

In their engagement with the European Commission both EFAMA and its members highlighted the key role of investment funds for a well-functioning EU Single Market, while also acknowledging that there is significant room for increasing the proportion of funds marketed and sold across the EU and widening the opportunities for European citizens to save and invest. The European asset management industry identified as main barriers the lack of clarity and insufficient transparency of existing rules, and the additional layers of regulatory requirements imposed at the national level. Bringing down such barriers does not require or justify new regulatory provisions at this stage, as this would increase the existing complexity and offer no solutions with regards the lack of common understanding of existing legislation. Instead, we argued that further supervisory convergence would be most effective. Amending sectoral legislation for investment funds should only be a last resort means, if such convergence is proved to be non-effective in practice. Moreover, given that the review of the AIFMD and UCITS frameworks is expected within the next

two years, any proposal to modify the existing legal framework should be tackled within that timeframe and process rather than precipitating a fragmented review earlier on.

Therefore, EFAMA was vocal on the need to give priority to practical solutions at the level of ESMA that can enhance supervisory convergence and legal certainty and promote a common understanding of the existing regulatory provisions among national regulators. ESMA Guidelines and Q&As, adopted in close consultation with the industry, would be more efficient as they would be developed and implemented within a much shorter period than a legislative proposal.

To that end, EFAMA presented concrete proposals on the best ways to mitigate or even eliminate the remaining barriers to marketing funds across the EU single market, such as via increased and centralised information on the national marketing regimes, establishing an ESMA central database on fees charged by all national competent authorities, ESMA Guidelines with practical examples on pre-marketing activities and the possibility for tasks of local agents to be carried on-line or by telephone.

« EFAMA identified as main barriers the lack of clarity and insufficient transparency of existing EU rules, and the additional regulatory requirements imposed at national level. »

## Outlook 2018

In spite of the important concerns of the sector, the European Commission presented in the first months of 2018 a legislative proposal with the aim to tackle some of the existing barriers to the cross-border distribution of funds. The Proposal covers within its scope different types of investment funds (AIFs, UCITS, EuSEFs, EuVECAs, ELTIFs) and proposes amendments to the AIFMD and UCITS Directives in key areas related to pre-marketing of investment funds, conditions on the discontinuation of marketing and further clarifications related to the tasks of local agents. ESMA will be tasked to ensure further transparency via central databases on the national marketing regimes and the existing fees and costs charged by national authorities. The objective will be for this legislative Proposal to be formally adopted and published as an EU regulation by the first semester of 2019.

EFAMA remains committed to the principal goal of enhancing cross-border distribution of investment funds in an efficient way and is convinced that allowing solutions should be the main focus, rather than reaching an agreement and delivering on CMU-related deadlines that bring no substantial added value to the single market and its investors. EU policymakers should seek to ensure give at this stage a role for ESMA to safeguard further consistency on the application of the existing legislation. EU policymakers should equally ensure that rules that are inherent to the AIFMD and UCITS directives' regimes, such as the ones related to marketing activities, are left to be tackled after proper assessment via the AIFMD/UCITS Directives' review.

## 5. Review of the AIFM Directive

As foreseen in the AIFMD review clause (article 69), the revision of the Directive's application was to start by 22 July 2017 - six years after its entry into force, and four years after the end of the date for transposition into the national jurisdictions - on the basis of a public consultation and in light of the discussions with competent authorities. The European Commission is required to submit a report to the European Parliament and the Council once its consultation and assessment is finalised. However there is no concrete deadline for the submission of that report (it should be submitted "without undue delay") and there is no requirement foreseen to accompany the report with proposals for legislative amendments to the AIFMD. Proposals for amendments will be presented by the Commission *"if appropriate"* and *"taking into account the objectives of this Directive and its effects on investor protection, market disruption and competition, the monitoring of systemic risk and potential impacts on investors, AIFs or AIFMs in the Union and in third countries"*.

The report needs to be based on an assessment of the Directive's application that will cover a wide and very detailed list of topics and stakeholders. For

that reason and following a public procurement, the European Commission mandated in October 2017 an external independent provider to prepare a first study on AIFMD's impact for investors, AIFs and AIFMs, listed/unlisted entities and investments within and outside the EU. The main objective was to gather sufficient data and evidence across the EU and globally. Moreover, this assessment would need to focus on jurisdictions different in size and market characteristics.

The preparation of the study started in November 2017 through informal discussions with industry participants in order to identify key issues related to the AIFMD implementation. EFAMA was already involved at this initial stage and expressed its strong interest to work together with the external advisor of the European Commission in order to provide its members' feedback on the AIFMD's impact so far and areas for possible improvement. It was also considered important to gather a better understanding of the results of this impact study and the future policy goals prior to taking a concrete position regarding the topics to be addressed via the AIFMD review.

## Outlook 2018

The preparation of the impact study included an on-line survey open to all market participants and regulators, which ran during the first quarter of 2018. As a follow-up, a second round of discussions with the industry and policymakers will be conducted in an effort to gather more detailed input. This will be the basis for finalising the impact study that will be submitted to the European Commission by the end of October 2018. The study will present the main findings, but no recommendations on policy actions.

Based on the findings, the European Commission is not expected to launch a public consultation before the end of 2018. This would mean that the timeframe for the possible publication of an AIFMD legislative Proposal will most probably fall in the mandate of the European Commission taking office in the second semester of 2019.

EFAMA will further engage in the preparation of the impact study. Moreover, there is a number of important regulatory developments at the international level, e.g. in the area of the use of leverage and liquidity management, as well as the EU level, such as the rules on asset segregation, which EFAMA closely monitors in view as well of the possible relevance for the forthcoming AIFMD review.

« EFAMA underlined the ESRB Review as an important opportunity going forward in ensuring diverse and adequate representation of all sectors in the ESRB decision making bodies and improving the transparency of ESRB work streams, notably by enhancing its interaction with stakeholders, including through public consultations. »



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

### Distributor and Investor Protection

2017 was also the time to plan the implementation of the new MiFID rules on distribution and investor protection. While the relevant implementing measures were already published in 2016, many technical questions were not sufficiently answered, let alone clarified, to foster and facilitate implementation of these rules. Throughout 2017, ESMA produced a number of Q&As and guidelines in order to address some of these uncertainties.

This was true in particular for the new MiFID requirement to produce a “target market” for each financial instrument in order to match a financial product with the right investor. This new prerequisite required standards across stakeholders, as several target market concepts would have made the dialogue between different product manufacturers and distributors impossible. EFAMA took a very active part in these discussions that culminated in ESMA guidelines. Nevertheless, after the publication of these more detailed rules, it was still necessary to homogenise these details. Similar to PRIIPs, industry stakeholders got together and developed the only pan-European data exchange template, the so called “European MiFID Template”. This template does not only contain target market information, but also provides necessary disclosures on the costs of financial products that are needed by distributors when advising products to investors. This template was subsequently endorsed by EFAMA to ensure widespread use among its membership.

ESMA's efforts to provide clarity did not prove successful, and worryingly, decided to classify –without previous industry consultation or discussion– all types of AIFs as complex. This meant that these products could not be sold without investment advice. EFAMA strongly disagreed with this view as many AIF structures exist in EU member states that were specifically designed with retail investors in mind, thus providing appropriate safeguards. AIFs are an important investment pillar for European citizens, and are highly regulated retail funds as they require approval by the national regulators on a product level and for marketing purpose.

### Outlook 2018

On 3 January 2018, MiFID II and MiFIR became applicable throughout the EU even though several Member States lagged behind in transposing the wide-reaching framework in time, thus delaying the overall applicability of the new regime throughout the EU.

### Capital markets

With regard to capital markets, EFAMA closely monitored and provided support to its members in the implementation phase of MiFID II and MiFIR. Our main focuses have been around Investment Research, Best Execution and Liquidity.

Regarding the regime of Investment Research, the crucial elements for EFAMA have been to maintain the option to delegate the management of the research account and the allocation of the costs. In that perspective, we endeavoured to demonstrate that the option to delegate the management of the research accounts was maintained and that the most important principle was the transparency in cost allocation, as confirmed by several NCAs in their interpretative rules. We also deemed important to facilitate the diversity in the model of payment for research, either directly out of P&L accounts of the Investment Firms or through models requiring clients' money. EFAMA viewed this support as a means to maintain the needed diversity in asset management industry that is required to offer investment solutions to every type of investors.

Another key element of focus for EFAMA from the perspective of the protection of the investors is the regime of Best Execution. In that area, EFAMA members have ensured that all their processes meet the highest standards to guarantee that each firm acts in accordance with the best interests of its clients when placing orders and provide appropriate information to clients on its order execution policy. We noted some

difficulties with the practical application of the new rules to the reality, especially in topics such as the recording of conversations and the related degree of reporting to provide (e.g. the starting point of the obligation to register a conversation between a senior trader and a trainee that could lead to a placement of order).

A third element of concern for EFAMA was the treatment of liquidity in the markets, both from a trading and from a theoretical standpoint. We monitored the implementation measures as well as the proposed criteria to consider an instrument as liquid. We equally took part to European Commission's work

aimed at defining the level and barriers to liquidity in the corporate bond markets, also confirming the need to diversify means to source liquidity by asset classes and venues.

Going forward, EFAMA will closely monitor the implementation process and possible issues that could arise especially in the application of the reporting requirements (with a focus on identifiers such as LEI or the use of ISIN codes for every financial instrument). We will also discuss the implications of new technologies, especially the possible use of Distributed Ledger Technologies for different types of reporting (and maybe for trading purposes at a later stage).

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## 7. Sustainable Finance

After 2016 culminated with the creation by the European Commission of a High-Level Expert Group on sustainable finance ('HLEG'), made up of various stakeholders including asset management representatives, 2017 saw this Expert Group carry out and complete two reports (interim and final reports) advising the European Commission on an EU agenda on sustainable finance. The focus mainly centred on how to steer the flow of public and private capital towards sustainable investments as well as identifying steps that financial institutions and supervisors should take to protect the stability of the financial system from risks related to the environment.

EFAMA's Responsible Investment Working Group engaged extensively with the HLEG's work throughout 2017, including in its consultation on its interim report in September, putting together views on key issues on

sustainable finance, particularly relevant from an asset management perspective. In particular, EFAMA sought to consistently clarify that asset managers already have a fiduciary duty to integrate ESG considerations into the investment process, when these considerations are material/financially relevant.

EFAMA also engaged in a parallel initiative from the European Commission in November 2017, providing feedback on the European Commission's Inception Impact Assessment on institutional investors' and asset managers' duties regarding sustainability. Following this, the Commission subsequently published a public consultation on the same issue. In our responses to both documents, EFAMA cautioned against a prescriptive legislative approach to the question, which, in our view, would run the risk of turning ESG investment into a tick the box compliance exercise.

Other initiatives separate to the HLEG and European Commission work were also on the menu for EFAMA's Responsible Investment Working Group. In February 2017, EFAMA responded to the consultation by the FSB's Task Force on Climate-related Financial Disclosures where we made the case for greater coherence between disclosure frameworks used by investee companies. EFAMA also responded to a consultation paper by the European Supervisory Authorities on PRIIPs with environmental or social objectives which was carried out ahead of the ESAs' Technical Advice to the European Commission on the matter. Finally, EFAMA also undertook its own work on ESG fund ratings and labels, finalising an opinion on the matter and setting out a number of principles which we believe should be considered in the elaboration of ESG ratings and labels for investment funds and asset managers.

## Outlook 2018

The HLEG's work concluded in January 2018 with the publication of their final report setting out a number of key recommendations on how to develop an overarching and comprehensive EU roadmap on sustainable finance. EFAMA subsequently engaged with EU policymakers, particularly on the issue of institutional investors' and asset managers' duties regarding sustainability.

In March 2018, the European Commission published its Action Plan on sustainable finance which sets out a strategy on how to further connect finance with sustainability. As a follow-up to this Action Plan, the European Commission is expected to publish at the end of May 2018 a legislative package on sustainability.

« EFAMA sought to clarify that asset managers already have a fiduciary duty to integrate ESG considerations into the investment process, when these considerations are financially relevant. »

## 8. Stewardship

In 2017, EFAMA updated and substantially changed the former 2011 EFAMA 'Code for external governance' into the new 'EFAMA Stewardship Code'. The new Code, which is voluntary, is designed to assist EFAMA corporate members in adopting best practices vis-à-vis their stewardship with the companies they invest in on behalf of clients. Stewardship covers the monitoring of, voting the shares of and engagement with investee companies.

**« The objective of the EFAMA Code is to be a resource for European asset managers.**

**The Code also aims to be a European reference document, notably for asset managers seeking to comply with the revised Shareholder Rights Directive which Member States have to transpose before June 2019. »**

The objective of the EFAMA Code is to be a resource for European asset managers. The Code also aims to be a European reference document, notably for asset managers seeking to comply with the revised Shareholder Rights Directive which Member States have to transpose before June 2019.

It provides a supporting framework of high-level principles and best practice recommendations for asset managers for carrying out their stewardship responsibilities in respect of their investee companies.

The revised Shareholder Rights Directive was an opportunity to revive the EFAMA Code, update it, and have it as a guidance document for asset managers in fulfilling their duties with regards to their stewardship of investee companies. The Code is also a way of responding to general misconceptions regarding the so-called short-termism of asset managers as it highlights how, through stewardship, asset managers can encourage business and management practices in companies on environmental, governance, human rights and social challenges. This is not only part of an asset manager's fiduciary duty to protect and enhance clients' assets, it also encourages long-term value creation and long-term economic sustainability.

In the new Code, EFAMA updated the language to bring it in line with SRD II and current terminology. A new 'background' section was inserted to give more context to how asset managers carry out their shareholder rights on behalf of their clients. The scope of what is covered in the engagement with investee companies was also updated and amended to include: environmental and social concerns, compliance, culture and ethics and performance and capital structure.

## 9. Money Market Funds

### ESMA Consultation and final Report

The Money Market Fund Regulation (MMFR) was published on the official journal on 30 June 2017, following the approval from the European Parliament in April and from the Council of Ministers in May 2017.

ESMA published a consultation on money market funds rule on 24 May 2017 containing proposal on draft technical advice, draft implementing technical standards, and guidelines under the MMFR. EFAMA submitted its response to the consultation paper in August. Key messages were the following:

- ◆ **Reverse Repos:** flexibility is needed for the manager to determine the haircut policy taking into account the credit quality of the counterparty and the quality/maturity of the collateral received. The flexibility left to MMF managers to negotiate an appropriate level of haircut would not prevent some managers who would like to apply recognised standardisation from doing so.
- ◆ **Reporting template:** the reporting template proposed by ESMA is too much based on the AIFMD Annex IV reporting template and this approach would impose new onerous obligations to most MMFs because the vast majority of MMFs are UCITS.
- ◆ **Credit quality assessment:** The technical advice should be 'principle based' in order to allow MMF managers to comply with the requirements

by adapting their existing procedures rather than by developing new processes from scratch. Although some MMF managers may decide to use CRAs as part of their assessment process, ESMA's advice should not impose any obligation to integrate CRAs ratings in the MMFs' credit assessment processes.

- ◆ **Guidelines on stress testing:** the stress test tool should be applied with the aim of checking potential vulnerabilities of a fund, in a context that would limit governance and IT costs. The key variables that are relevant are spreads, redemptions, liquidity and interest rates.
- ◆ **Share cancellation:** while this practice is not used by all Member States, this mechanism is approved and widely used to manage the functioning of CNAV funds in markets with negative interest rates.

### Outlook 2018

The final Report was published by ESMA on 17 November 2017. The final rules represent an improvement compared to the original version of the consultation paper from May and take into account points included by EFAMA in its response. On the issue of share cancellation, ESMA has sought the views of the legal services of the Commission on the basis of which ESMA will be considering follow-up actions. EFAMA will continue to monitor closely the Level 2 process and engage where necessary.



## 10. The digital agenda: Fintech and Blockchain

The overarching theme of technology applied to the provision of financial services (“Fintech”) has continued to be a prominent feature of the regulatory debate in the course of 2017. At a European level, the European Commission published in March 2017 a public consultation on FinTech, in view of seeking views about how to foster a more competitive and innovative European financial sector as part of the Single Market. Perspectives were sought in particular on new technologies and their impact on the European financial services sector, both from the perspective of providers of financial services and consumers, as well as whether the regulatory and supervisory framework should do more to foster technological innovation in line with three core principles: (i) technologic neutrality, (ii) proportionality and (iii) integrity.

In EFAMA’s response to the consultation, submitted in June 2017, we highlighted a number of FinTech applications currently being developed to gradually transform existing practices within the asset management industry:

- (i) Initial client on-boarding and following interactions, with or without the intervention of a human advisor (“automated advice”);
- (ii) Automating front- to back-office functions (via distributed ledger technology or “DLT”, “smart contracts”, robotic process automation or intelligent algorithms);
- (iii) Using artificial intelligence to complement fundamental analysis in the investment process (i.e. “Big Data”) in view of improving performance or to implement quantitative and rules-based approaches to investing (e.g. “strategic beta”); and
- (iv) Standardising existing reporting requirements (i.e. “RegTech”).

EFAMA noted that although some applications remained still largely untested, legacy systems would gradually be replaced to support new product offerings and new means of service delivery to clients. We believe that such innovations should not systematically entail changes to existing national legislation emanating in turn from new EU law. The gradual take-up of these applications by the European “buy-side” industry would also depend on other service providers working closely with asset management firms, e.g. custodians, accountants, transfer agents, distributors, etc.

Related to the provision of digital services, there are numerous initiatives to raise awareness and combat cybercrime within the asset management industry. As a member of the IOSCO Affiliate Members’ Consultative Committee (AMCC), EFAMA continues to participate in a dedicated task force within the AMCC, looking specifically at cybercrime risks and counter-measures to be adopted by the asset management industry. A third annual survey was conducted in 2017 across a broad range of jurisdictions with the intent to record how the global asset management industry’s security profile evolves as technology and cyber risks change, allowing institutions to compare their cybersecurity practices with those of other actors in the financial industry at large. The 2017 survey results have provided light about concrete evidence of the expansion of good practices conducive to adequate cyber risk prevention within the asset management industry.



## 11. Remuneration Principles for Asset Managers

In late 2016 the European Commission published a Proposal amending the CRD/CRR legislative framework (CRD V/ CRR II), where as regards the remuneration rules for bank-owned groups the same policies are foreseen both for parent entities and their subsidiaries. The current possibility to dis-apply rules that would not be appropriate for subsidiaries with a different business model is deleted. The application of proportionality is foreseen only for institutions managing assets of an average value equal to or less than EUR 5 billion and staff members whose annual variable remuneration does not exceed EUR 50,000 and does not represent more than one fourth of the staff members' annual total remuneration. The proposal makes no reference to the specific features of subsidiaries' business of model.

The CRD/CRR legislative package was debated in 2017 both in the ECON Committee of the European Parliament and in the Council. The European Parliament's draft report proposed reinstating a previous CRD IV wording that would enable further proportionality in the application of the remuneration rules for subsidiaries to the extent this would be justified among others by the nature of their services. In the Council the compromise under discussion suggested that sectoral legislation for banks' subsidiaries, whether they are EU and non-EU based subsidiaries, on remuneration rules, where applicable, will prevail over the CRD remuneration policies. This stands the same with for EU and non-EU based subsidiaries.

In addition, the European Commission published in December 2017 a proposal for a new prudential regime for investment firms (*see page 31 for more details*) that includes a separate remuneration regime from the CRD requirements, which is more proportionate, does not include a "bonus cap" and provides discretion to investment firms in setting an appropriate ratio between fixed and variable remuneration for their staff.

EFAMA considers that the proportionality proposed in CRD V is not in line with the sector specificities, in particular regarding the asset management sector. The proportionality proposed is targeting specific size of institutions and categories of staff, but fails to take

into account the specificities and characteristics of the sector each subsidiary represents and is not reflecting the heterogeneous characteristics and business model of the asset management industry.

Moreover, this approach of restricted proportionality is not aligned with the sectoral legislation for asset management companies. ESMA's final Guidelines on sound remuneration policies under the UCITS Directive and AIFMD, adopted on 31 March 2016, as well as the accompanying letter addressed to the European Commission, the European Parliament and the Economic and Financial Affairs Council explicitly acknowledged the specificity of asset managers' agency business model vis à vis that of credit institutions, as well as the specific regulatory constraints and limits imposed on managers by investment guidelines and/or mandates. In this way, ESMA confirmed that the diverse nature of the asset management sector warrants a different approach to proportionality.

In this respect, EFAMA has called for a more targeted application of proportionality, allowing for those subsidiaries that are covered by sectoral legislation to be exempted from the scope of the CRD remuneration rules. Also, in view of the ongoing review of the prudential regime for non-systemic investment firms and in the interest of avoiding unnecessary and duplicative regulatory changes, EFAMA called for a grandfathering clause that would exclude investment firms that will be in the scope of the new prudential from complying with the new provisions of CRD V.

### Outlook 2018

Both the European Parliament and the Council are expected to adopt their respective positions by June 2018, with the negotiations for the adoption of the CRD/CRR package to start in the second half of the year. As stated in the European Commission's report on the cumulative effect of the new financial sector rules put in place since the crisis, the final approach set out in CRD V will impact the proportionality of rules in the AIFMD and UCITS in relation to aligning remuneration regimes. The outcome may also impact

the future discussions on the AIFMD review and the prudential regime for investment firms.

Asset managers perform similar activities that must be aligned with client experience regardless of whether they are bank-, insurance-owned or independent. Applying CRD V rules to a part of the asset management sector creates an un-level playing field between stand-alone asset managers and those within a CRD group, an approach lacking justification and proportionality on the basis of the different business models.

« EFAMA has advocated a convergence of the future prudential regime with the existing relative requirements for UCITS and AIF management companies. »

## 12. Investment Firms Prudential Review

Following an EBA Discussion Paper published in November 2016 and a public hearing the following month, EFAMA responded to the consultation in February 2017 by welcoming the future proposal. In particular, the “tiering” of investment firms into three main categories was an important step in the direction of further separating bank from non-bank actors and activities, thus removing much confusion around the appropriateness of CRD/CRR requirements for non-bank, investment firm entities. For those among these providing individual portfolio management and client advice as a core service, with minimal or no use of their own balance sheet, EFAMA has advocated a convergence of the future prudential regime with the existing

relative requirements for UCITS and AIF management companies. These, together with important reservations, were channelled to EBA at a second public hearing in July 2017, as EBA made progress towards finalising its advice to the European Commission, delineating the contours of the new regime. Such advice was published in the form of an Opinion at the end of September 2017, offering the Commission the necessary inputs in view of presenting a forthcoming proposal. Over the following months, EFAMA participated in European Commission public hearings organised and has engaged in discussions with the Commission. The Commission’s proposal – comprising a Directive and a Regulation – was published on 20 December 2017.

### Outlook 2018

In early 2018, EFAMA built a common position with its Members on the two texts of the proposal. While reiterating its strong support for the underlying intent of the new prudential regime, numerous reservations have been articulated with regard to some of the more detailed provisions of both texts, and in particular, of the Regulation. Adjustments in view of mitigating the impact of the new regime on “limited authorisation” firms and clarifications around the co-existence of the new regime for group subsidiaries with a parent’s own CRD/CRR consolidation requirements remain necessary. A clearer definition of some of the relevant “K-factors”,

defining the new prudential requirement calculations for the bulk of the European investment firm universe, is also warranted to avoid issues such as “double-counting”, or the inappropriate application of unjustified capital charges. Reservations were also expressed on the introduction of bank-specific (LCR) liquidity requirements and disproportionate reporting obligations, specifically on prudential capital calculation methods, on country-by-country reporting and on remuneration disclosures. Finally, among EFAMA’s main reservations, are certain aspects tied to third-country provisions, as well as those placing the oversight powers over the new regime into the continued remit of national bank supervisors and EBA members. Regarding this second reservation, and despite the fact that all of the MiFID II-related implementing legislation for investment firms has been drawn up by ESMA, together with the original purpose of the new regime to separate investment firms from the existing CRD/CRR requirements appropriate for banks, EFAMA believes that the new regime – unless duly amended – could risk faltering on its proposed objectives.

EFAMA will continue to engage with the co-legislators on this important file. Insofar as remuneration requirements are concerned, EFAMA also deems it critical for the co-legislators to ensure consistency between the Commission’s recent proposal for remunerating staff within investment firms (as part of the new prudential regime) and the ongoing negotiations on the “CRDV/CRDII” banking reform package, in particular, to ensure that sector-specific remuneration requirements – as per the UCITS/AIFMD frameworks – are duly recognised in a bank group context.

## 13. Review of EMIR

### **EMIR (European Market Infrastructure Regulation on OTC derivatives, central counterparties and trade repositories) and its review**

As the implementing regulation at EU level of the G20 requirements<sup>1</sup> set in September 2009 in Pittsburgh to control the use of OTC derivatives, EMIR imposes (i) reporting of all derivatives transactions to trade repositories; (ii) Central Clearing for certain classes of OTC derivatives; and (iii) Application of risk mitigation techniques for non-centrally cleared OTC derivatives.

In the scope of the last phases of the application of EMIR, EFAMA has been very active in protecting the derivatives markets by obtaining a sustainable application of variation margins regimes for all types of instruments by European market participants. By

extension, we encouraged the authorities to reconsider the mechanism and timing of implementation of those reporting requirements and to maintain an alignment with other markets especially in the area of FX transactions.

In parallel, acting on the basis of the review clause included in EMIR, the European Commission published two legislative proposals (EMIR Refit and a proposed regulation on CCP Supervision<sup>2</sup> that clarify the roles of the authorities supervising the CCPs, focusing on the control of systemic risks). EFAMA particularly welcomed the definition of a regime for small financial counterparties and the insertion of the possibility to stop clearing in specified circumstances.

In the scope of the review of EMIR, the key messages for EFAMA remain that:

1 G20, Pittsburgh, Sept. 2009: “... 16. To make sure our regulatory system for banks and other financial firms reins in the excesses that led to the crisis. Where reckless behavior and a lack of responsibility led to crisis, we will not allow a return to banking as usual.”

2 Please see the links to the proposed EMIR Refit regulation (<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52017PC0208>) and proposed CCP Supervision regulation (<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52017PC0331>)

Investors' protection should come first (tax payers and end-investors are the same individuals and should never provide any form of guarantee to companies that are paid to execute services on behalf of their clients);

Authorities and market participants should have readily access to relevant information. Additionally, information on the transactions should be provided in a format

allowing automated treatment down to the level of instruments through the allocation of ISIN codes;

The use of collateral should be facilitated to guarantee the efficiency of the markets and allow the most efficient use of risk mitigation tools. Therefore, assets eligible for collateral should be extended both in terms of asset classes recognised as eligible and for all market participants.

## Outlook 2018

EFAMA will maintain its active engagement in the current debate around the review of EMIR especially focusing on investors' protection and efficiency of reporting.

We will also continue our efforts to ensure that regulation facilitates the use of diversified and high quality liquid asset as collateral.

In that perspective, we will be seeking for a better treatment of repos for funds. Asset managers and regulated funds are providing collateral on "own assets", with limited capabilities to use leverage. Therefore, we consider that the margining regime must be well calibrated and rules should facilitate the use of repos to provide eligible collateral in every relevant legislation (EMIR, CRD V).

## 14. Benchmarks and Indices

Following the entry into force of the Benchmark Regulation in June 2016, ESMA and the European Commission produced in the course of 2017 a long list of implementing measures in an effort to further clarify the provisions of the Regulation that will become applicable in January 2020.

Investment funds are supervised entities that are deemed as users in the case of "determination of the performance of an investment fund through an index or a combination of indices for the purpose of tracking the return of such index or combination of indices, of defining the asset allocation of a portfolio or of computing the performance fees". The main requirements that apply to them as users of benchmarks are (1) making use of benchmarks that are already authorised or registered according to the Regulation - therefore the ones that will be included in the ESMA register - and (2) ensuring that their

Prospectus is referencing the benchmarks used and (3) maintaining at all times robust written plans setting out the actions that they would take in the event that a benchmark they use materially changes or ceases to be provided.

EFAMA focused on further clarifying cases where the use of an index by an investment fund would make the fund a "user" per the Regulation's definition. Our main position was that the Regulation covers only three cases of "use" by an investment fund that are mentioned above (tracking the return of index or combination of indices to determine the performance of a fund, defining the asset allocation of a portfolio or computing performance fees). EFAMA engaged with ESMA to highlight that the reference to an index in a fund is not always linked to one of the three above-mentioned purposes, e.g. it may be used as an external comparison tool to complement



investors' understanding of the performance of the fund. Therefore, for any other purpose apart from the ones stated in the Regulation, the use of an index by a fund should not fall in its scope. In order to ensure regulatory convergence and legal certainty on that point EFAMA asked for a Q&A.

Another key point has been the definition of what constitutes an index made available to the public. In the case of asset managers, this point is important for bespoke indices, which are the result of combination/modification of existing indices and are used to meet the specific objectives of their investors. EFAMA responded to the consultation for the draft delegated act on this point, focusing on the need to keep in the scope of the Regulation only those indices that are widely distributed and therefore hold an interest for the market stability. The final delegated act published by the European Commission in October 2017 foresees that only indices accessible to a "potentially indeterminate number of (legal or natural) persons outside of the provider's legal entity" are to be considered public ones. In the case of bespoke indices that are therefore open only to a limited number of investors, they will not fall in the scope of the Regulation. EFAMA considers this is a balanced approach, alleviating the burden from those indices that are less susceptible to manipulation and conflicts of interest, as well as less relevant for the stability of the market. EFAMA also sought further clarifications as to the bespoke indices that will remain in the scope of the Regulation and how it can be ensured that the act of combination will not be considered as "provision" of a benchmark. Even though this is not a point that ESMA is mandated to further clarify via Level 2 measures, it seems the prevailing interpretation is that the decisive criterion will be whether discretion is applied as regards the combination of the underlying data, with cases of no discretion being more clearly cases of "use".

EFAMA submitted additional remarks and suggestions for further clarifications to ESMA in October 2017 in order to ensure consistent application across the EU and common understanding of some key

provisions in relation to the transitional regime for users and the maintenance of continuity plans. In addition, EFAMA drafted a comparative analysis of the users' requirements deriving from the Benchmark Regulation and the investment funds requirements in relation to use of indices deriving from the ESMA Guidelines on ETFs and other UCITS issues. This analysis highlighted that even though the Regulation's objective is to harmonise requirements for all users, the sectoral legislation for asset managers imposes an important additional layer of requirements in relation to the use of an index. Moreover, the aim of this analysis was to present the difficulties that asset managers are faced with when asked to meet the requirements of the ESMA Guidelines, in particular when access to the underlying data is necessary, in spite of the fact that the Benchmark Regulation does not require index providers to grant access to such information. It is therefore EFAMA's request to align the ESMA Guidelines to the latest requirements for users foreseen in the Benchmark Regulation.

## Outlook 2018

Some of the key Level 2 and Level 3 measures for the asset management sector of the Benchmark Regulation are expected within the first months of 2018, such as the Q&A on the definition of the "use" of an index by an investment fund. Moreover, ESMA and the Commission will need to provide some additional clarifications in relation to the transitional provisions and their application for asset managers. In particular, as regards the update of the Prospectus as of 1 January 2019, it is important that a common regulatory practice is identified. Given that asset managers will be called to proceed with the update prior to the registration of existing indices being finalised (the transitional provision for which ends a year later, in January 2020), EFAMA will focus its efforts in finding a commonly agreed approach as to the timing of the update.

## 15. Anti-Money Laundering

In June 2017, the ESAs published their final Guidelines on anti-money laundering and countering the financing of terrorism (AML/CFT). Chapter 9 of the Guidelines refers to the sectoral rules for providers of investment funds and the application of their due diligence duties in respect to AML Directive. On the key point related to the identification of the beneficial owner, the ESAs seem to maintain their approach that even when the intermediaries are registered as the owner of the shares of a fund, asset managers may rely on them to ensure that the end-investor complies with the AML/CFT requirements, but they should still be able to identify the investors underlying the financial intermediary. In that way, they retain the final responsibility. The Guidelines will apply from 26 June 2018, whereas a first update is foreseen once amendments to Directive (EU) 2015/849 have been agreed.

Following up to EFAMA's position on this matter, presented to ESMA and EBA at the end of 2016, a second informal position was communicated to them, national regulators and the European Commission in the months prior to the finalisation of the ESAs Guidelines. The main objective was to further explain the role of intermediation in the distribution process of fund shares needed and allow for a more pragmatic approach to be reflected in the Guidelines. In that respect, the Guidelines in Chapter 9 remain problematic,

in particular when requesting asset managers to have access to the data of the distributors' clients. They do not seem to take into consideration the several layers of distribution that often occur in practice. These Guidelines, if implemented strictly, will in several cases result in the need to review the distribution agreements of the management company with its distributors, which is an overly burdensome and difficult process, not necessary as long as the AML/CFT controls on the end-investors are performed by the entity of the distribution chain that is closer to them.

EFAMA also responded to the ESAs' consultation on the Draft Joint Regulatory Technical Standards on the measures credit institutions and financial institutions shall take to mitigate the risk of money laundering and terrorist financing where a third country's law does not permit the application of group-wide policies and procedures. EFAMA supported the concept that on top of minimum action to be taken by credit and financial institutions, it is good to have a risk-based adjustment on the nature and extent of the remaining additional measures. EFAMA also considers that the list of minimum actions to be taken cannot be very wide, given the important regulatory differences among non-EU jurisdictions, which in some cases prevent asset managers from efficiently dealing with ML/TF risks.

## 16. Revision of the Shareholder Rights Directive

The Revised Shareholder Rights Directive was published in the Official Journal of the European Union on 20 May 2017. Member States have to implement this Directive by 10 June 2019.

The European Commission subsequently set up an Expert Group on technical aspects of corporate governance processes, namely to assist the Commission in the preparation of implementing measures. EFAMA is represented by the Chair of the EFAMA Corporate Governance Working Group in the Commission's Expert Group.

### Outlook 2018

In April 2018, the European Commission published a draft Implementing Regulation laying down minimum requirements as regards shareholder identification, the transmission of information and the facilitation of the exercise of shareholders rights. At the time of writing, EFAMA is drafting input on this draft Implementing Regulation.

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## 17. CCP Recovery and Resolution

Following the European Commission's proposal for a regulation on the recovery and resolution framework for CCPs in November 2016 and EFAMA's consequent position paper of March 2017, discussions with the Member States in Council and with selected MEPs in the European Parliament have progressed. In particular on the Parliament's side, EFAMA has submitted improvements to the ECON draft report in November 2017, pointing to some of its controversial items from the perspective of the European asset management industry. In particular, EFAMA's points related to the continued consideration of variation margin gains haircutting (VMGH) as a loss allocation tool in a CCP's

recovery phase, as well as on forms of recompense in the event end-investors' margin (i.e. funds) were to be seized as part of the CCP recovery process under the control of the Resolution Authority.

### Outlook 2018

Further progress on this filed has stalled in early 2018, with the co-Legislator choosing to prioritise the more controversial aspects of the EMIR review and those tied to the supervision of CCPs.

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## 18. The Volcker Rule

2017 saw EFAMA continue its dialogue with U.S. authorities related to some of the outstanding implications from the application of the so-called Volcker Rule to EU funds when sponsored and managed by an EU banking entity. An important relief was already obtained from the U.S. agencies in July 2015 in the form of a guidance ("FAQ 14"), exempting foreign public funds (notably of the UCITS type) from the application of the Volcker Rule, and in particular, from its proprietary trading restrictions.

EFAMA, together with other European industry associations and with the support of the European Commission, had also undertaken a number of actions to obtain a similar exemption for foreign private funds before the expiration of the conformance period on 21 July 2017. Although no definitive relief guidance has still been granted by the U.S. agencies, a positive development has been that, among these, the Office of the Comptroller of the Currency (OCC) published a request for information on revisiting certain aspect

of the regulations implementing the Volcker Rule in August 2017. EFAMA responded to this consultation in September 2017, reinstating the case for foreign funds (whether public or private) to be excluded from the notion of "covered funds", and consequently from being defined as "banking entities" under the Rule.

The U.S. Treasury's Report addressing the asset management and insurance industries, entitled "A Financial System That Creates Economic Opportunities" of October 2017, usefully called on the relevant agencies to refrain from enforcing the Volcker Rule against the foreign private funds until a permanent solution had not been identified.

### Outlook 2018

At the time of writing this Annual Report, there has been no follow-up by the U.S. agencies, including the OCC, to the last public request for information.

# TAXATION

- ◆ Regarding its Base Erosion and Profit Shifting (BEPS) project, the OECD published in January 2017 a relevant discussion draft dealing with the interaction between the treaty provisions of BEPS Action 6 and the treaty entitlement of Non-Collective Investment Vehicles (Non-CIVs).
- ◆ The European Commission continued its work on tackling withholding tax issues. On 24 March 2017, the EC issued the report “Accelerating the capital markets union: addressing national barriers to capital flows”, presenting nine best practices in connection with Withholding Tax refunds and reclaim procedures that the EC’s Member States Experts group on barriers to free movement of capital identified. In December 2017, the European Commission issued the “Code of Conduct on Withholding Tax”, an initiative to improve the efficiency of Withholding Tax Procedures.
- ◆ Right before Christmas 2016, the Indian Central Board of Direct Taxes (CBDT) issued a circular basically confirming that Foreign Portfolio Investors are subject to their indirect transfer tax provisions. Due to the stakeholder concerns they received on that circular, the CBDT excluded Category I and II FPIs (i.e. amongst others regulated mutual funds) when they presented their Union Budget 2017.

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## 1. Base Erosion and Profit Shifting (BEPS)

### OECD initiatives on BEPS Action 6

In January 2017, the OECD issued another discussion draft dealing with the treaty- entitlement of Non-CIVs. This discussion draft was intended to provide stakeholders with an update on the OECD work on the interaction between the treaty provisions of the report on BEPS Action 6 and the treaty entitlement of non-CIV funds. It provided three draft examples related to the application of the principal purposes test (PPT) rule with respect to some common transactions involving non-CIV funds and invited interested parties to comment on these examples.

EFAMA sent a response letter to the OECD to comment both on the examples and on the general situation of investment funds after the implementation of BEPS Action 6. EFAMA underlined our full support of the aim of BEPS Action 6 to prevent treaty abuse by preventing the granting of treaty benefits in inappropriate cases and by avoiding double non-taxation. However, EFAMA is of the opinion that the lack of specific clarifications for investment funds may have significant unintended consequences for investor outcomes. Therefore, EFAMA asked again for

a clearer and extended definition of CIVs. Regulated investment vehicles that are sold to the public or that are open-ended and capable of having an unlimited number of investors should qualify as CIVs, irrespective of the legal form and the kind of assets the vehicle is invested in. EFAMA noted that the text of the Multilateral Convention to implement Tax Treaty related measures to prevent Base Erosion and Profit Shifting which has been released by the OECD on 24 November 2016 leaves very great discretion to tax authorities in acting bilaterally. This leads again to a situation of uncertainty regarding whether treaty relief will be provided despite the fact that regulated investment vehicles that are sold to the public or that are open-ended and capable of having an unlimited number of investors represent a low risk of being used for treaty shopping purposes.

EFAMA stated that the industry needed more clarity (for CIVs as well as for Non-CIVs) and that the examples provided by the OECD so far do not take into account a big part of practical applications. EFAMA called for continued vigilance on the part of the OECD so that the practical implementation by tax authorities does not lead to real impact on investment flows.

## 2. Withholding tax

### 1) Latest initiatives of the European Commission

The European Commission (EC) has long been committed to tackling withholding tax (WHT) issues (e.g. Giovannini reports in 2001 and 2003 or the Tax Barriers Business Advisory Group in 2010). At the moment, the EC continues its work in the framework of the Capital Markets Union. The EC's Member States Experts group on barriers to the free movement of capital has recognised withholding taxes as one of the main barriers to the free movement of capital. On 24 March 2017, the EC issued the report "Accelerating the capital markets union: addressing national barriers to capital flows", presenting nine best practices in connection with Withholding Tax refunds and reclaim procedures that the EC's Expert Group had identified.

The European Commission issued a Consultation Document "*on post-trade in a Capital Market Union: dismantling barriers and strategy for the future.*" One of its questions addressed the inefficient withholding tax procedures and asked stakeholders for additional approaches to improve the efficiency of relief procedures. In our answer, EFAMA highly recommended one of the following approaches:

#### a. Abolishment of WHT for payments made to Collective Investment Undertakings (CIUs) or a harmonisation of WHT rate

From EFAMA's point of view the easiest solution to solve complex legal and practical WHT problems in Europe would be the abolishment of WHT on transferable securities for payments made to CIUs within the EU and partner jurisdictions to the European Union. As major source countries in Europe already follow that approach, this would help to create a level playing field for all countries within the EU and partner jurisdictions and to boost the competitiveness of the Single Market as a whole. An interim step on the way to the abolishment of WHT within the EU and partner jurisdictions could be a European Commission recommendation to limit the WHT rate equal to the rate foreseen in double tax

treaties which is 15%. Due to the extensive treaty network, the applicable WHT rate is in most cases not more than 15% anyway. A related EU recommendation would therefore mainly help to limit reclaim procedures and the administrative burden.

#### b. Treaty entitlement for CIUs that are sold to the public or which are open-ended and capable of having an unlimited number of investors

CIUS (and UCITS in particular) which are sold to the public or which are open-ended and capable of having an unlimited number of investors, are low risk entities and should be treaty entitled. A general treaty entitlement for widely-held CIUs would serve the goals of neutrality between direct investments and investments through a CIU as the risk of double taxation between the source state and the investor's state of residence would decrease.

#### c. Treaty Relief and Compliance Enhancement (TRACE)

TRACE (Treaty Relief and Compliance Enhancement) has been designed by the OECD to improve efficiency for claiming treaty benefits for investors and to overcome WHT issues. After implementing a general treaty entitlement for CIUs or better and easier European WHT rules, EFAMA would be in favour of an implementation of TRACE. TRACE could definitely ease the WHT recovery issues and therefore reduce tax barriers on cross-border investments for funds.

In December 2017, the European Commission issued the "Code of Conduct on Withholding Tax", an initiative to improve the efficiency of Withholding Tax Procedures. The WHT Code of Conduct is non-binding and asks for the voluntary commitment of Member States. It is suggesting different approaches to improve the efficiency of WHT procedures with a strong focus on WHT refund procedures.



## Outlook 2018

On 30 January 2018, the European Commission organised a Public Hearing on the Code of Conduct to present the code to stakeholders and have a lively exchange of views. EFAMA's Director General Peter De Proft was invited to speak on the panel "How to ensure that the Code actually leads to change – Actions and commitments needed to implement the Code". He called on Member States to recognise that UCITS should be treaty entitled and asked the Commission's support to this suggestion. As a possible alternative, he asked Member States to limit the applicable WHT rate to 15% which would be the same than the applicable WHT rate in double tax treaties and in line with recent rulings of the Court of Justice of the European Union.

## 2) Treaty Relief and Compliance Enhancement (TRACE)

EFAMA has been supportive of a TRACE implementation or any other alternative that facilitates burdensome

Withholding Tax (WHT) procedures. At the same time, EFAMA was always concerned that in practice implementation may be quite protracted and will not in all cases ensure treaty entitlement of widely-held CIUs. As a result, we believe that it would be helpful to have better and easier WHT rules in advance of the implementation of TRACE.

The TRACE implementation package has already been approved by the OECD in 2013. However, in the process of time, the discussions on TRACE became almost silent. In the course of 2017, the OECD brought new life into the work around TRACE.

When meeting the OECD, EFAMA underlined that TRACE was mainly helpful for investment funds if the tax treaty access for the CIV was clear.

In addition, EFAMA has begun discussing possibilities to support TRACE ("TRACE 2.0") and to eliminate the remaining issues in connection with TRACE. In the second half of 2017, EFAMA also begun discussing with its expert members the issue of whether and how blockchain could help solve the WHT issues investment funds are facing.

## 3. Applicability of indirect transfer tax provisions to Foreign Portfolio Investors (FPIs) in India

Right before Christmas 2016, the Indian Central Board of Direct Taxes (CBDT) confirmed the applicability of indirect transfer tax provisions to Foreign Portfolio Investors (FPIs). The CBDT issued a circular basically confirming that FPIs are subject to the indirect tax provisions, i.e. any transfer of shares / units (including sale as well as redemptions) by offshore investors in an FPI (including an offshore fund) would be subject to Indian tax where the FPI derives more than 50% of its value from India (with a limited exception for small investors in the FPI which own less than 5% of the FPI). The applicability of indirect transfer provisions to investors in FPIs could result in double taxation as the FPIs are required to pay taxes in India on the gains made by selling Indian securities.

On 22 January 2017, EFAMA co-signed a Fund Industry Coalition Letter, together with the Investment Company Institute (ICI), the Investment Funds Institute of Canada, the Financial Services Council from Australia and several national associations and raised the serious concerns of our industry. The letter suggested that the Indian Government could clarify that the relevant indirect transfer provisions would only apply to those situations wherein there is no direct transfer of an Indian asset, instead there is an indirect transfer by virtue of a transfer of shares of a foreign company or ownership interest in any other type of foreign entity which derives a substantial part of its value from assets located in India. As an alternative, the Fund Coalition suggested a clarification stating that the relevant indirect transfer tax provisions were never intended to apply to and will not apply to non-resident investors, investing, directly

or indirectly, in SEBI (Securities and Exchange Board of India) registered FPIs.

On 1 February 2017, the Indian Government presented the Union Budget 2017 in the Indian Parliament with the result that Category I and II FPIs (i.e. amongst others regulated mutual funds) were exempted from the Indian Transfer Tax rules. The Fund Industry Coalition noticed, however, that some questions remained unresolved. Members were concerned with not extending the carve-out from the indirect transfer provisions to investors in certain Category-III FPIs and existing SEBI registered FPIs (Foreign Institutional Investors). In addition, the industry was concerned about a proposed restriction of the exemption for long-term capital gains on the sale of equity shares, only where securities transaction tax (STT) has paid on purchase of the equity shares.

On 2 March 2017, EFAMA co-signed a follow-up Fund Industry Coalition letter that raised these remaining concerns. The CBDT responded to these concerns by issuing a request asking stakeholders to comment on a draft notification on the capital gains issue for transactions on which STT had not been charged on purchases as far back as 2004. On 11 April 2017, EFAMA co-signed a third Fund Industry Coalition Letter answering to this request and asking for further clarifications, especially with respect to genuine transactions. The CBDT issued a final notification in July 2017 to protect exemption for genuine cases for which the STT could not have been paid by listing three situations comprising a negative list of transactions which are not eligible to exemption.



# THE PAN-EUROPEAN PERSONAL PENSION PRODUCT

## European Commission proposal

The European Commission published its draft proposal for a Pan-European Personal Pension Product (PEPP) Regulation on 29 June 2017, together with an Impact Assessment and a Recommendation on the tax treatment of personal pension products including the PEPP. EFAMA welcomed both the Commission proposal. In particular, EFAMA strongly supports the Commission's aim of creating a simple, standardised personal pension product that can be passported throughout the EU. This will generate economies of scale and, in turn, benefit consumers through lower costs. We also welcome the Commission's recommendation to Member States to give PEPPs the most favorable tax treatment available to their national personal pension products.

However, EFAMA has identified a number of issues that will need to be addressed in order to guarantee the success of the proposal:

- ◆ Confirming life-cycle investment strategies as PEPP default option is the single most important issue which will ensure a more competitive pension market, better choice for investors and will determine whether the PEPP and CMU works for European savers. Whereas Article 37.1 establishes that the default option should ensure capital protection on the basis of a risk-mitigation technique that results in a safe investment strategy, Article 37.2 notes that "capital protection shall allow the PEPP saver to recoup the capital invested". This wording suggests that the default option should offer a capital guarantee. As only insurers are generally be able to offer capital guarantees, this would close the PEPP market to asset managers. To avoid this, the Commission's proposal should be amended to enable different types of providers to offer a PEPP and encourage the development of different types of default investment strategies,

including life-cycle strategies. These strategies offer long-term investment market exposure and risk diversification throughout the accumulation phase, while offering a very robust level of consumer protection.

- ◆ PEPP providers should be able to decide which Member States they are able to offer the portability service in. The requirement in the Commission's proposal that each PEPP provider offer national compartments for all Member States would be a strong deterrent for providers considering entry into the PEPP market.

« EFAMA welcomed the Commission approach to have a flexible choice of pay-out options to be agreed between savers and providers. »

- ◆ The success of the PEPP will depend on whether it is flexible enough to accommodate investors with different needs, wealth, risk profiles and pension benefits. For this reason EFAMA welcomed the Commission approach to have a flexible choice of pay-out options to be agreed between savers and providers.
- ◆ In order to have a level playing field for all PEPP providers and distributors, the same distribution and information requirement should apply for everyone, including the same inducement rules.

## The Pan-European Personal Pension Product

### Life-cycle strategies - key findings from a Bocconi Study\*

Nearly all (99.9%) of the savers will end up with a pension accumulated wealth higher than their contributions



95% of the savers can expect to end up with a level of pension wealth at least 1.4 times greater than their contributions



50% of the savers can expect to accumulate a level of pension assets at least 1.96 times greater than their contributions



#### Key assumptions:

- Accumulation phase of 20 years (i.e. starting from age 45)
- 55% initial asset allocation to equity, gradually decreasing to 35% at retirement age (65)
- An annual management fee of 1% on accumulated assets
- 5,000 scenarios of the random evolution of market returns, generated by a "Monte Carlo Bootstrap" simulation approach on the basis of asset returns observed in January 1998 to November 2017

\* [http://www.efama.org/Publications/Public/Long-Term\\_Savings\\_and\\_Pension\\_Steering\\_Committee/Bocconi%20Study.pdf](http://www.efama.org/Publications/Public/Long-Term_Savings_and_Pension_Steering_Committee/Bocconi%20Study.pdf)



EFAMA is the representative association for the European investment management industry. EFAMA represents through its 28 member associations and 62 corporate members. At end 2017, total net assets of European investment funds reached EUR 15.6 trillion, with close to 32,000 of these funds being UCITS funds and close to 28,000 being AIFs (Alternative Investment Funds).

## Why does Europe need a PEPP?

As the European population is aging and people live longer, a **simple, transparent, safe, portable and cost-effective** personal pension product with a EU label would reduce costs and encourage more people to save for retirement.

## What is a life-cycle investment strategy?

A life-cycle investment strategy is a strategy that ensures that most assets are invested in equities for younger savers and include a de-risking mechanism to increase the proportion of bonds and cash as the planned retirement approaches.

This ensures return generation for most of the accumulation years, and a reduction in exposure to market volatility once the saver nears retirement.

## Why do life-cycle strategies matter from the point of view of consumer protection?

Life-cycle strategies aim at protecting consumers from holding too much of their savings in under-diversified, low-risk and low-return asset portfolios.

The solid results achieved by life-cycle strategies demonstrate the effectiveness of **asset diversification and de-risking** as tools to mitigate inflation, investment and credit risks.

Page 1

**WHY DOES EUROPE NEED A PEPP?**

## Engagement

Following the release of the European Commission proposal and the start of the negotiations in the European Parliament and with Member States, EFAMA has reached out to a number of policymakers to present its view on the text and suggestions on how to address the main concerns in the text. The EFAMA Secretariat has met with a number of financial attaches, Members of the European Parliament and their Assistants to reinforce the support for the PEPP proposal and the message that the PEPP is going to contribute to increasing retirement savings across Europe and improve the financial sustainability of pension system. However, the introduction of life cycling strategies in the default option needs to be a necessary condition to allow asset managers access the market and protect future retirement income. This message is consistent with the views expressed from EIOPA and the OECD.

## Bocconi study

Following the publication of the proposal, EFAMA took the view that there was the need to have an independent study from an academic institution or to assess whether life cycling strategies which use other

risk-mitigation techniques than a guarantee on capital would be well suited as default strategy for the PEPP. The official tender was launched in September and 5 institutions responded to EFAMA with their proposals. A Selection Task Force was created to assess the quality of those proposals against a number of selection criteria (i.e. relevance of methodology, technical capacity of the team, credibility of the institution). The highest score was given to the proposal submitted by the SDA Bocconi School of Management in Milan under the leadership of Professor Claudio Tebaldi.

## European Parliament hearing

Discussions in the European Parliament kicked off with a hearing organised in November by the Dutch MEP in charge of drafting the Report, Sophie in't Veld from the Liberal group. The purpose of the hearing was to collect views from stakeholders about pros and cons of the creation of this pan-European product, and feedback from insurers, asset managers, academia, consumer protection organisations and pension funds on how to improve the European Commission's text. The hearing was an opportunity to reiterate the message that life-cycle strategies should be considered as appropriate default option.

« Confirming life-cycle investment strategies as PEPP default option is the single most important issue which will ensure a more competitive pension market, better choice for investors and will determine whether the PEPP and CMU works for European savers. »

## STATISTICS AND ECONOMIC RESEARCH

In 2017, EFAMA continued to publish key statistics on investment funds, as well as annual reports on recent developments in the European investment fund and

asset management industry. This work is carried out in close collaboration with EFAMA's member associations, which are the official providers of statistics to EFAMA.

### 1. Investment Fund Statistics

#### 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 and AIF (including a breakdown between categories). Twenty-nine countries provide data for inclusion in the monthly statistics.

#### 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, while also presenting 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 AIF, as well as the number of UCITS and AIF are also presented in this release. Twenty-nine countries provide statistics for inclusion in the quarterly 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, covering open-ended, substantively regulated investment funds by domicile, while also presenting a commentary on the trends in the industry during the quarter. The report presents a commentary on the trends in the

industry during the quarter, based on an analysis of the 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.

The Fact Sheets and the quarterly releases are available on EFAMA’s website [www.efama.org](http://www.efama.org) free of charge.

## 2. EFAMA’s Annual Fact Book and Asset Management Report



### EFAMA’s Fact Book – Trends in European Investment Funds

The 15th edition of the annual Fact Book was published in September 2017. As usual, the Fact Book provided an in-depth analysis of the recent trends in net assets and net sales, the main holders of investment funds, where investments funds are domiciled in Europe and the rest of the world, and the outlook for the industry. As in its previous editions, the Fact Book also included country reports, which offer useful information about the current situation and recent developments of the investment fund industry in each country of EFAMA’s member associations.

The 16th edition of the Fact Book will be published in June 2018. The usual publication date of the Fact Book was advanced from September to June in order to provide readers with more timely and relevant information.

An electronic version of the Fact Book as well as hard copies will be available for purchase on EFAMA’s website: [www.efama.org](http://www.efama.org).

### EFAMA’s Asset Management Report

The EFAMA Asset Management Report focuses on assets professionally managed in Europe, as opposed to assets domiciled in Europe. It provides a snapshot of the European asset management industry across both the retail and institutional landscape, with a



distinction between investment funds and discretionary mandates assets. It is a free-of-charge report, available on EFAMA's website.

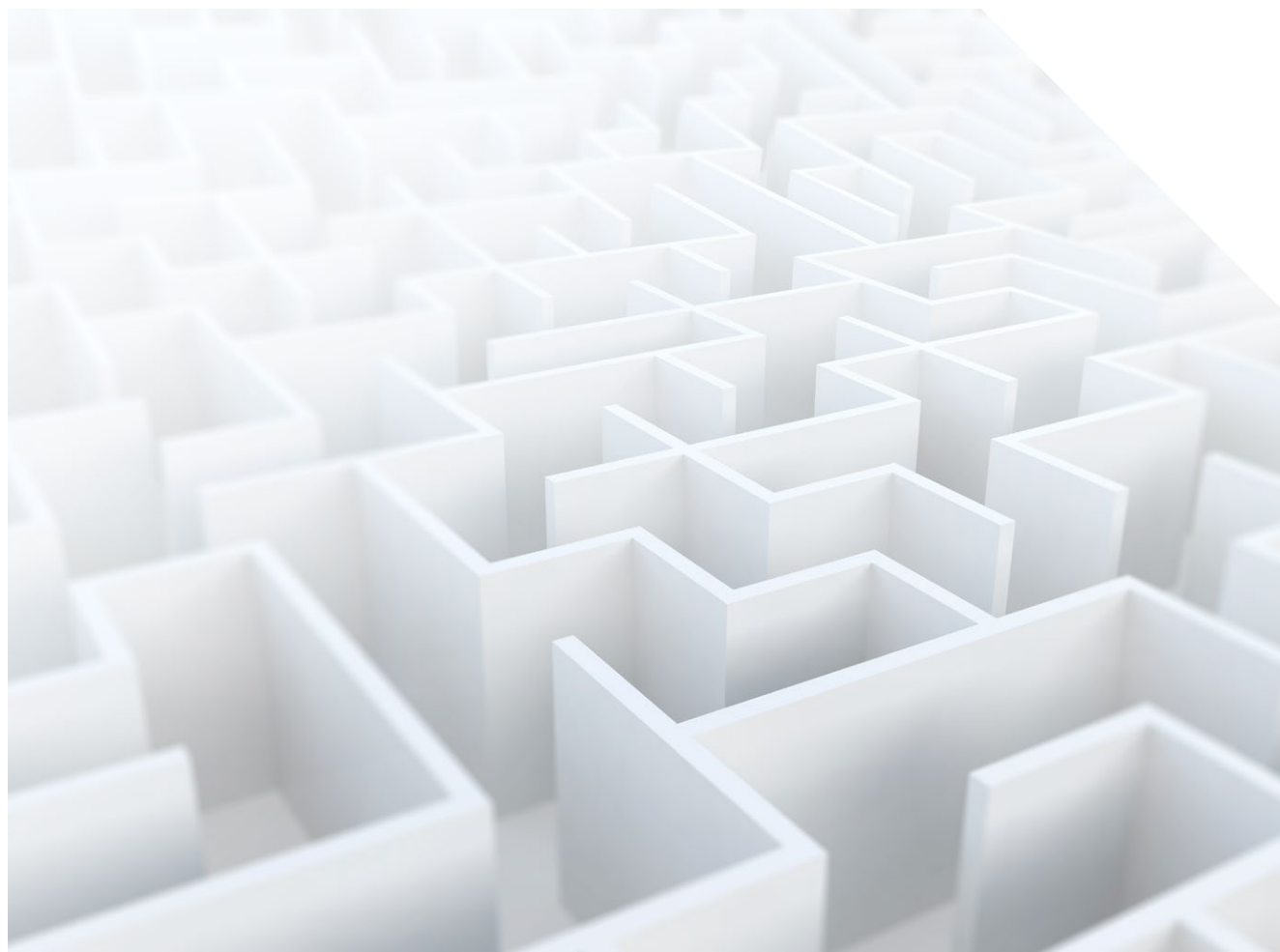
The 9th edition of the Asset Management Report was published in May 2017. It highlighted, amongst other things, the following key facts and figures about the European asset management industry:

- ◆ Assets managed in Europe reached a record high of EUR 22.8 trillion in 2016.
- ◆ Investment fund assets reached EUR 11.8 trillion or 51.8% of total assets under management in Europe at the end of 2016, with discretionary mandates accounting for the remaining EUR 11 trillion or 48.2%.
- ◆ Institutional clients represent the largest client category of the European asset management

industry, accounting for 73% of total AuM in Europe at the end of 2016. Insurance companies and pension funds each accounted for 27% of total AuM.

- ◆ More than 4,000 asset management companies in Europe directly employ 100,000 people at end 2015.

The 2017 edition of the Asset Management Report also provided an overview of the role of the asset management industry in the economy, the services it provides to investors, its specificities compared to other financial service institutions, and its contribution to the financing of the economy. Furthermore, the report included a high level description of the Capital Markets Union initiative and its goal to rebalance the European financial system towards a more "market-based system" in which asset managers will play a more active role than is the case today.



# EFAMA AND ITS MEMBERS

EFAMA's profile has changed significantly over the past years. Today, and with the Brexit conundrum even more so, one of the most important missions and challenges of EFAMA is to speak 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 trying to strike a fair balance of rights and decision-making aptitude

between corporations and associations as well as between large and small associations.

An intense diplomatic and negotiating effort is a prerequisite for efficiency in reaching common and clear positions. National associations, corporate members and associate members all play a key role in EFAMA's daily life.

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## 1. Independent National Associations



Some national associations function under the umbrella of wider financial trade associations, creating potential conflicts of interest. The discussion initiated more than ten 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 PRIIPs file has been very illustrative in this context.

This is why EFAMA's Rules of Procedure 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.

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## 2. Corporate Members: a vital part of EFAMA

Corporate members have been very much 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 invaluable asset and constantly takes 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 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;

- ◆ Meetings held specifically for corporate members;
- ◆ Six-weekly information conference calls and permanent updates;
- ◆ Important representation in EFAMA's institutional bodies, chairing of Working Groups, representing EFAMA in meetings with EC, EP, ESMA, EIOPA, FSB, ECB, IOSCO, EPFSF, etc.

EFAMA is proud that in these budgetary difficult times, the number of corporate members was over 60 at the end of 2017.

### 3. Associate Membership: an established part of EFAMA membership

In September 2010, an Extraordinary General Meeting of members extended EFAMA membership to a new category referred to as "Associate Members". These are companies, 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 and/or the investment management industry and have developed specific expertise in those fields which are increasingly 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, as well as clearing and settlement institutions. At the end of 2017 associate membership of EFAMA remained stable at 24 firms which is a very satisfying number given the recent economic challenges faced by the industry.

#### Benefits of membership

The benefits of becoming an associate member of EFAMA are numerous. Associate members may attend

EFAMA's general meetings (without voting rights). Furthermore, they participate in the EFAMA Investment Management Forum which is an annual two-day conference organised in Brussels, where industry leaders, policymakers and other stakeholders come together to exchange views and network in a high-level framework.

Associate members are also invited to other seminars organised by EFAMA on a number of topics. Importantly, the EFAMA Board of Directors decided in May 2012 that associate members can participate in EFAMA Working Groups, which are the main tool for EFAMA to form its opinion on regulatory and industry developments.

Associate members receive EFAMA's regular statistics and similar information and reports, working papers relating to the work and findings of EFAMA Working Groups as well as any other document of general interest provided to EFAMA members. Six weekly conference calls are organised to update both corporate and associate members on the key regulatory files EFAMA is working on.



## 4. The EFAMA Investment Management Forum 2017

The 23rd EFAMA Investment Management Forum (IMF) took place on 15-16 November 2017 in Brussels. It brought together over 220 investment managers, investor representatives, policymakers and other industry stakeholders from 20 different countries.

The 2017 Investment Management Forum explored the implications that Brexit is likely to have on asset managers and their investors. Beyond the horizon of Brexit, much of the industry's daily agendas continued to be dedicated to the EU but also to the global regulatory debates that govern and drive the business model of asset managers. As ever, the EFAMA IMF provided a platform for the industry, policymakers and regulators to continue the open dialogue from a European and global perspective. Distinguished speakers contributed to thoughtful debates and helped us navigate through all these matters.

Whatever the shape and pace of political events, the European asset management industry continues to support and contribute to the CMU project, to the PEPP project, to planned next steps to make the fund

industry thrive, to sustainable finance and Fin-Tech. These were some of the topics that were discussed at the 2017 conference.

EFAMA President William Nott opened the conference highlighting the growing role of the European asset management industry in managing savings and strengthening growth in Europe.

Day 1 of the conference reflected on what is in the CMU 2.0 agenda for investors and asset managers, the Personal European Pension Product as a pension product for the future and on sustainable finance as a new open window for investors. Lord Hill, former European Commissioner for Financial Stability, Financial Services and Capital Markets Union, was one of EFAMA's guest speaker on Day 1. Others were Dariush Yazdani, Partner at PwC, and Xavier Rolet, then CEO of the London Stock Exchange Group. A panel of industry leaders and CEOs discussed in a roundtable their perspectives about the state of the asset management industry and the 2018 agenda for the industry.



Panel session on Brexit, left to right: Jarkko Syrriälä (Moderator), David Wright (Chair, Eurofi), Simon Lewis (AFME), Thierry Philipponnat (Institut Friedland), Chris Cummings (The IA), Julie Patterson (KPMG), Jean-Marc Goy (CSSF Luxembourg).





EFAMA President, William Nott, addressing EFAMA's 23rd Investment Management Forum



EFAMA Vice-President, Nicolas Calcoen, addressing EFAMA's 23rd Investment Management Forum



Lord Hill, Keynote Speaker at EFAMA's Investment Management Forum 2017



Steven Maijoor, Chair of ESMA, Keynote Speaker at EFAMA's Investment Management Forum 2017

At the Gala Dinner, the Keynote Speaker, Univ. Prof. Dipl.-Ing. Dr. mont. Reinhold W. Lang, Head of Institute, Institute of Polymeric Materials and Testing, Johannes Kepler University Linz, shared most interesting reflections.

Day 2 featured Steven Maijoor, Chair of ESMA, who gave the audience a good overview of ESMA's priorities for 2018, and Ugo Bassi, European Commission Director, DG Financial Stability, Financial Services and CMU. The Forum further focused on the implications of Brexit on asset managers and their investors, as well as the global matters, in particular those driven by the FSB and IOSCO work on financial stability and the potential vulnerabilities of asset management firms. Panellists discussed whether we should expect new turns in regulatory dialogues, and in which direction.

The conference concluded with the "U.S. regulatory update Workshop", during which participants discussed the latest developments in the U.S. regulation of funds and asset managers and the potential implications for European asset managers.

The conference was officially closed by EFAMA Vice-President Nicolas Calcoen. We look forward to more insightful debates at the 2018 EFAMA Investment Management Forum.



# EFAMA AND EUROPEAN ORGANISATIONS

## 1. EFAMA and the European Supervisory Authorities

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 (MSG) established within ESMA for a 2.5 year term and was elected Vice-Chair by ESMA's MSG; he served for a second term until June 2016.

The Securities and Markets Stakeholder Group (MSG) was established in April 2011 under ESMA's founding Regulation to help facilitate consultation with key financial market stakeholders in all areas relevant to ESMA's tasks. The MSG provides ESMA with opinions and advice on policy workstreams and must be consulted on technical standards and guidelines and recommendations. In addition, the Stakeholder Group is expected to notify ESMA of any inconsistent application of European Union law as well as inconsistent supervisory practices in the Member States.

Since its launch, the Group has produced numerous public opinions, advice and reports. The Group has also

delivered a number of informal feedback documents to ESMA. The Group's ambition is to deliver advice at the earliest upstream stage possible and to focus on strategic issues. This means that the MSG has tried to get involved at an early stage, often by responding to "discussion papers" rather than by taking part in ESMA's later Public Consultations on standards or guidelines. The MSG Advice Papers and responses to Consultation Papers can be found in the ESMA Library at <https://www.esma.europa.eu/databases-library/esma-library>.

In 2017, Vincent Ingham, Director for Regulatory Policy at EFAMA, was selected to join the Consultative Working Group to the Investment Management Standing Committee of ESMA, as industry representative for a period of two years. As part of this Group, Vincent regularly meets with representatives from ESMA and from the National Competent Authorities to provide expert advice on issues relative to collective investment management of investment funds within the remit of ESMA.

## 2. EFAMA and the European Insurance and Occupational Pensions Authority (EIOPA)

EIOPA started its operations in January 2011, in accordance with the new European financial supervision framework. EIOPA maintains a close dialogue with representatives of the industry, consumers and academics, through two Stakeholder Groups: the **Insurance & Reinsurance Stakeholder Group** (IRSG) and the **Occupational Pensions Stakeholder Group** (OPSG), which include 30 members each.

The stakeholder groups were established to facilitate EIOPA's consultation with stakeholders in Europe on issues such as regulatory and implementing technical standards as well as guidelines and recommendations applying to the insurance and occupational pensions industry. Members of the stakeholder groups can submit opinions and advice to EIOPA on any issue related to its task. Additionally, the stakeholder groups are expected to notify EIOPA of inconsistent application of European

Union law as well as inconsistent supervisory practices in the different European Member States.

In 2016, Bernard Delbecque, Senior Director at EFAMA, was selected by EIOPA's Board of Supervisors to join the OPSG for a 2.5 year mandate as of April 4, and he was elected as the OPSG Vice-Chairman. In this capacity, Bernard collaborates with the OPSG Chairman, Matti Leppälä, Secretary General of PensionsEurope, on the preparation of the Group's meetings.

In 2017, Bernard also was responsible for the preparation of the OPSG's position paper on the European Commission's proposal for the PEPP Regulation. This position paper addresses the main issues raised by the Commission's proposal, including the features of the default investment option and the payout options.<sup>3</sup> In

this context, it is worth highlighting the conclusions reached by the OPSG:

- ◆ *"The PEPP default option could take the form of an investment options with either a "capital" guarantee or a de-risking life-cycle investment strategy."*
- ◆ *"Flexibility on pay-out options would result as the best solution."*

In 2017, the OPSG met on 28 February, 26 April, 20 June, 5 October and 28 November (in a joint meeting with the IRSG and EIOPA Board of Supervisors). The summary of conclusions of the OPSG meetings, the related documents, the OPSG Work Plan and Organization can all be found on EIOPA website.<sup>4</sup>

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### 3. European Associations

Speaking with peer EU associations is part of EFAMA's mission, and as such, the close relations with the other financial industry trade organisations, EBF, FESE, Invest Europe, AFME, Insurance Europe, PensionsEurope, EAPB, ESBG, EACB, Business Europe, etc., carry on as there are many files in common.

A number of joint initiatives have stemmed as a result of the informal dialogue with our peer colleagues from

EU associations. EFAMA has joined forces on files such as the review of the European Financial Supervisory System (EFSF) where all EU associations co-signed a joint letter.

EFAMA is equally maintaining a constructive dialogue with the EU umbrella of the investors' representative, Better Finance, with whom we joined forces in particular on two of EFAMA's key files, i.e. PRIIPs and the PEPP.

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3 See [https://eiopa.europa.eu/Publications/Stakeholder%20Opinions/OPSG-17-22\\_OPSPG\\_Position\\_Paper\\_PEPP\\_Proposal.pdf](https://eiopa.europa.eu/Publications/Stakeholder%20Opinions/OPSG-17-22_OPSPG_Position_Paper_PEPP_Proposal.pdf)

4 See <https://eiopa.europa.eu/about-eiopa/organisation/stakeholder-groups/occupational-pensions-sg>.

## 4. European Parliament Financial Services Forum (EPFSF)

EFAMA continued to be very engaged as Chair of the EPFSF.

The EPFSF industry membership represents the diversity of Europe's financial services industry. The EPFSF's role as a forum for exchanges and debates between Members of the European Parliament (MEPs) and the financial industry continued to prove useful as topics of interest to MEPs were discussed at every lunch event.

The Chair of the EPFSF Financial Industry Committee, EFAMA's Director General Peter De Proft, and the Chair of the EPFSF Steering Committee MEP Burkhard Balz worked closely to enhance the visibility and relevance of the EPFSF.

In 2017, the EU public affairs consultancy Kreab was appointed to take up the role of the EPFSF secretariat.

In the course of 2017 EFAMA provided speakers for several events:

- ◆ 25 April 2017: "Capital Markets Union (CMU): Sustainable Finance Chapter"
- ◆ 21 June 2017: "Capital Markets Union (CMU): Pan-European Personal Pension Product (PEPP) Chapter"
- ◆ 12 July 2017: "Review of the European System of Financial Supervision"
- ◆ 6 December 2017: "Transatlantic Relations in Financial Services"



# 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, in context of the ICI's General Membership meeting in May. The aim of the meeting is to intensify contacts between the European and the U.S. investment fund industries and to identify issues of mutual interest. An increasing number of other members of the International Investment Fund Association also attends this meeting, making it more and more a global forum for discussion on regulatory trends and industry initiatives.

The 2017 meeting was co-chaired by Paul Stevens, President and CEO of the ICI, and Alexander Schindler, then President of EFAMA. The key topics discussed were:

- ◆ EU policy and regulatory developments;
- ◆ Recent U.S. regulatory developments – liquidity management, funds' use of derivatives;
- ◆ Insights for managers distributing funds cross-border;
- ◆ Global perspectives – funds and retirement saving plans.





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## 2. The 31st International Investment Funds Associations (IIFA) Conference in Switzerland

The International Investment Funds Association (IIFA)<sup>5</sup> gathers more than 40 investment fund associations from across the world. Its 2017 Annual Meeting was hosted by the Swiss Funds & Asset Management Association SFAMA and took place in Zurich on 2-6 October 2017.

Conference delegates heard from experts on the Swiss Franc and the monetary policy of the Swiss National Bank, on the perspectives for the global funds and asset management industry, the changing economic

and social environment, and the demographic change as key driver for the asset management industry.

Furthermore, leaders held panel discussion on many issues affecting their businesses, including liquidity management and systemic risks, practical aspects and considerations of commissions and regulation in Europe, Asia and the United States. They also discussed global and regional perspectives on South America, Japan and India and the geo-political landscape.

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## 3. Cumberland Lodge

The Cumberland Lodge Financial Markets Conference is an important annually held international event where senior industry representatives, regulators and policymakers are able to debate the key issues impacting the financial services industry in a unique setting. The discussions are cross-sectoral as in addition to investment management banking, insurance and asset management are also represented. EFAMA has for more than 10 years now been a co-sponsor of the event, facilitating from its part the evolution of the event.

The 2017 conference was organised on 9-10 November and chaired by David Wright, Chairman of Eurofi. The conference examined financial services in an era of uncertainty: the future of financial services worldwide, capital markets, fixed income, pensions and asset management, financial regulation, impact of Brexit were the main topics discussed.

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## 4. The EFAMA-ICI Industry Roundtable

In order to raise understanding on both sides of the Atlantic on issues of mutual interest, EFAMA's Director General and the ICI's President and CEO held the 9th EFAMA-ICI Industry Roundtable in Brussels on 14 November 2017, to complement the discussions at

the EFAMA-ICI joint May meeting. Discussions at the 2017 roundtable and dinner focused on the possible implications of Brexit, as well as a number of key topics for the asset management industry worldwide.

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<sup>5</sup> For more information see: [www.iifa.ca](http://www.iifa.ca)

## 5. The IOSCO Agenda

### Debate around Vulnerabilities from Asset Management Activities

On 12 January 2017, the FSB published its final policy Recommendations to address perceived “structural vulnerabilities” from asset management activities. Overall, the 14 Recommendations were well received by the buy-side industry to the extent that these did not call for substantial regulatory reviews of existing standards and further mandated IOSCO to develop additional guidance on some aspects by end-2017/end-2018. Of the four categories of perceived “vulnerabilities”, concerns tied to liquidity mismatches and use of leverage within funds were prioritised. As a result, IOSCO (Committee 5) has organised its work into two separate phases, respectively (i) addressing liquidity risk management in open-end funds and (ii) develop a globally consistent measure of leverage.

#### (i) Liquidity risk management: Reviewing and enhancing the 2013 IOSCO Recommendations

As to liquidity risk management, IOSCO opted to revise its existing 2013 Recommendations on liquidity risk management and to develop additional guidance by the end-2017. In this light, a consultation was published in early July 2017, inviting stakeholders to comment on a proposed enhancement of the existing recommendations in view of improving investor protection, enhancing governance structures and addressing some of the FSB’s specific concerns (including those related to ETFs). In parallel, IOSCO also proposed two new recommendations, respectively on contingency planning and on expanding of the tool-kit available to managers in managing redemption risks. The consultation document was followed by a draft guidance paper on existing good practices, taking into account the full range of liquidity management tools and their concrete application in a number of instances. Stakeholders’ views were also sought on this guidance paper, to be intended as a reference guide for regulators, the asset management industry and for end-investors.

EFAMA responded to the consultation in September 2018, broadly welcoming the proposed revisions and its sensible enhancements. The main tenets of the EFAMA response were for IOSCO to avoid recommending a too prescriptive approach to liquidity risk management, but rather allow for managers’ discretion in complementing an already robust legal framework stemming from both the UCITS and AIFM Directives. Stress-testing remained an essential component of this framework, although remained relevant only if applied at the level of an individual fund (unlike initial recommendations by the FSB to also consider “system-wide” liquidity stress-tests). With regard to ETFs, EFAMA underscored how these remained essentially UCITS products and as such should be considered in the broader remit of the future Recommendations. Finally, in terms of additional investor disclosures, EFAMA supported the proposed recommendations, cautioning however that distinctions were warranted to provide only the most relevant information so as not to overburden and/or mislead investors with too many details.

#### (ii) Fund leverage: Developing global consistent measures

##### – IOSCO Discussions

The sub-working group on leverage established in the context of the IOSCO Committee on Asset Management (C5) continued its work throughout 2017 to identify consistent measures of leverage and facilitate more meaningful monitoring for financial stability purposes. IOSCO regulators seem keen to reach a pragmatic approach reflecting the fact that a large number of investment funds are not substantially leveraged and therefore the main focus needs to be put on those cases with relevance for the financial stability. A two-step approach, where regulators will firstly seek to understand the general footprint of a fund’s exposures and identify funds with important economic exposures that may pose risks for financial stability and in a second step will examine closer those funds and assess the potential risks on the basis of complementary risk-based measures.

« EFAMA/AMIC Joint Paper: the paper analyses how and why leverage is used in investment funds in Europe, and explores how the UCITS and AIFMD legislative frameworks offer a robust framework that allows regulators to assess levels of leverage in investment funds and address the related risks. »

Concerning the first assessment, a matrix of measures rather than a one-size-fits-all measure seems to be preferred, as well as consistency and comparability. Regulators' starting point has been existing methodologies based on the notional exposures, i.e. the gross notional exposure (with no adjustments or with some adjustments) and the net notional exposure. But further discussions are necessary as the conditions for computing the net notional exposure are still not standardised at a global level. More discussions were also necessary as to the criteria to assess risks related to leverage in the second step.

EFAMA reiterated its support for the EU model for measuring leverage, arguably the most advanced currently at global level, as it consists of a matrix of different measures ensuring a realistic representation of a fund's economic exposure and allowing regulators to draw the right conclusions for financial stability purposes. As regards the objective to aggregate data in order to improve direct comparisons across funds, EFAMA pointed out that given the broad range of investment vehicles and strategies any simple aggregation of data for all investment

funds irrespective of the specificities of each fund category cannot result in meaningful aggregations and therefore in a substantial monitoring for financial stability purposes. EFAMA was also positive on the pragmatic two-steps approach allowing a "screening process" of the majority of not substantially leveraged funds.

– **EFAMA/AMIC Joint Paper on use of leverage by investment funds**

In July 2017, EFAMA together with the International Capital Market Association's (ICMA) Asset Management and Investors Council (AMIC) published a joint paper analysing how and why leverage is used in investment funds in Europe, how firms address in practice related risks and the technical tools used to measure leverage and improve the efficient management of their portfolio. The report also explores how the European legislative regime, notably the UCITS and AIFMD legislative frameworks, offers a robust framework that allows regulators to assess levels of leverage in investment funds and address the related risks.

EFAMA and AMIC consider that the existing EU regulatory framework is regulating in a consistent way the use of leverage in investment funds, along with key related topics, such as: the mandatory disclosures to investors, the reporting requirements to the regulators and the monitoring of leverage by regulators for systemic risk purposes. The paper calls IOSCO and FSB regulators to use this framework as the benchmark and starting point for their work. This will allow them to deliver their mandate and propose a consistent matrix of different measures that can capture the broad universe of fund vehicles and investment strategies.

The report puts forward a number of recommendations to improve monitoring and analysis of leverage risk:

- 1) The existing regulatory standards at the EU level can be the basis for developing, at global level, leverage and risk measurements through a matrix of different measures.
- 2) Further streamlining of global calculation methodologies for leverage and risk. Regulators should in that respect rely upon the existing EU regulatory regime.
- 3) Adjustments and updates of these methods, particularly the 2010 CESR Guidelines, based on the best practices at EU level, could be envisaged if necessary.
- 4) Data sharing among regulators of already reported data is key and should be improved at both EU and global level. This would enable regulators to better assess the overall risks related to funds in Europe and globally.

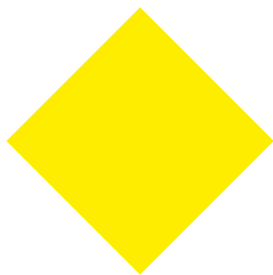
## Outlook 2018

The IOSCO Final Report amending the previous Recommendations on liquidity risk management was published in February 2018. EFAMA broadly supports these Recommendations. Apart from following a principles-based approach, it is certainly positive that most Recommendations are already well aligned with existing European standards and industry best practices. More importantly, another positive outcome is that the Final Report departs from the controversial earlier proposals of the FSB, namely those around “system-wide” stress-tests, as well as around the more prescriptive management of assets into pre-selected liquidity “buckets”, depending on the underlying assets’ contingent liquidity state. Important are also the references to improvements in end-client profiling for the purpose of managing potential asset-liability mismatches, as well as those related to investor disclosures.

As regards the IOSCO discussions on leverage, the first public consultation is expected to be published in July 2018, probably focusing on the choice of the right measures to be used by the regulators at the first step of their supervision.

## ESRB’s recommendations

Finally, in February 2018, the ESRB published its 5 Recommendations aimed at addressing perceived liquidity and leverage risks in funds. Although the ESRB’s mandate is formally independent from that of IOSCO, conceptually it seeks to address some common concerns. Despite the lack of relevant data and evidence to substantiate some of its core assumptions, the ESRB recommends both legislative changes to existing UCITS and AIFM Directives, while also tasking ESMA to develop guidance defining inherently less-liquid assets, the design of liquidity stress-tests for funds, advise on a framework to assess when leverage would contribute to the build-up of systemic risks, and on the design, calibration of implementation of macro-prudential leverage limits, amongst other elements.



# EUROPEAN INVESTMENT FUND DEVELOPMENTS IN 2017







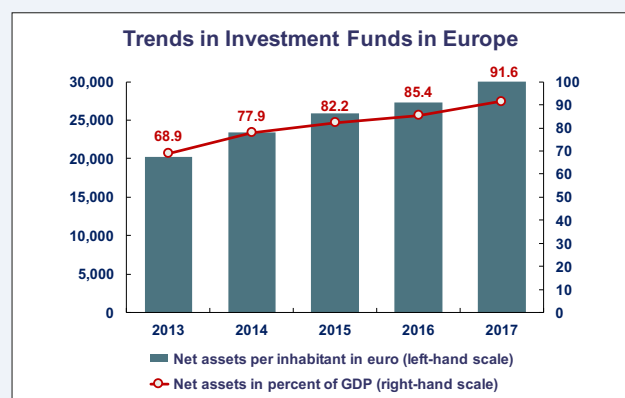
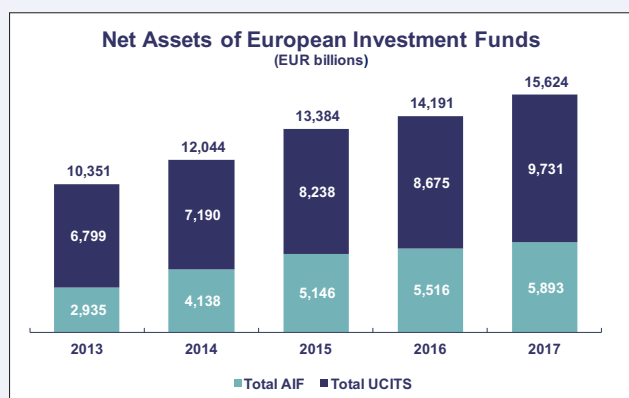
# EUROPEAN INVESTMENT FUND DEVELOPMENTS IN 2017

## 1. Trends in the European investment fund market

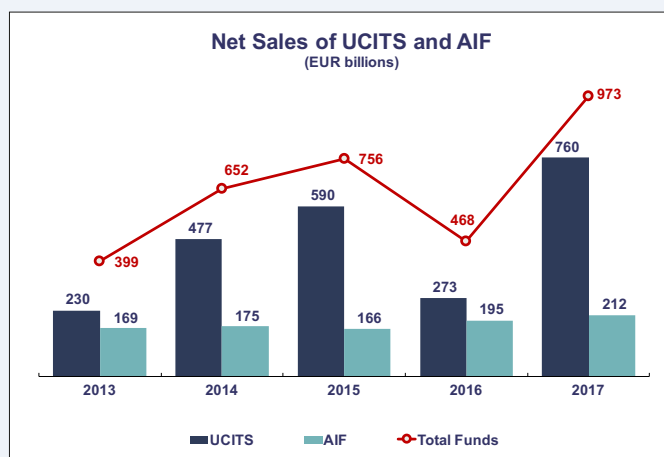
2017 was an exceptional year for the European investment fund industry, with net assets of European investment funds rising to an all-time high of EUR 15,624 billion.<sup>1</sup> Net assets of UCITS increased to EUR 9,731 billion, while net assets of AIF rose to 5,893 EUR billion.

Investment fund assets per inhabitant registered a 10.2% increase to reach EUR 30,097, compared to EUR 27,318 at end 2016 and EUR 20,218 at end 2013.

Net assets of European investment funds represented 91.6% of GDP<sup>2</sup> at end 2017, up from 85.4% at end 2016. This indicator highlights the important role played by investment fund managers in the European economy, as managers of long-term savings, investors in financial markets, shareholders in European companies, providers of short-term funding for many European corporations and of direct and indirect employment.



2017 was also a record year for net sales, which amounted to nearly EUR 1 trillion. Across Europe, strong economic growth and rising stock markets, combined with a monetary policy that remained accommodating, boosted investor confidence and led to the highest-ever net sales of both UCITS (EUR 760 billion) and AIFs (EUR 212 billion).

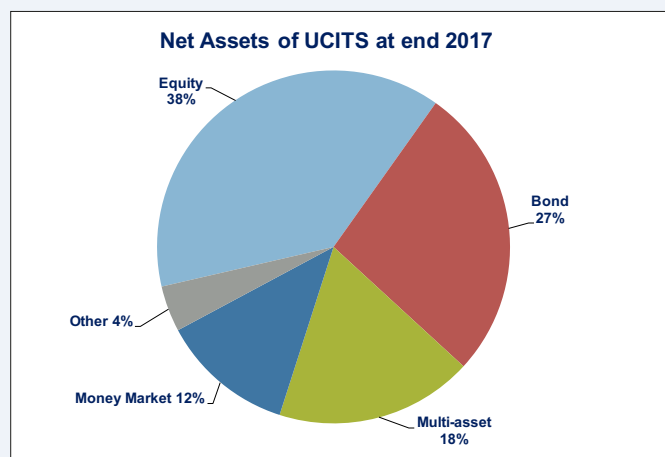


<sup>1</sup> Funds are classified according to the regulatory definition as of 2014. Unless noted otherwise, EFAMA is the source of data.

<sup>2</sup> Aggregated GDP of all reporting EFAMA countries.

Total UCITS net assets increased by 12.2% in 2017 to stand at EUR 9,731 billion at year end, a record high. This growth marked the sixth successive year of growth for UCITS net assets.

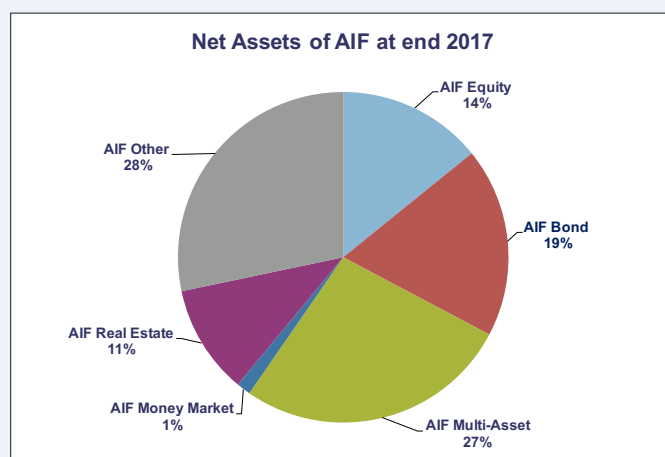
Examining UCITS assets by fund type, the share of equity funds increased from 37% in 2016 to 38% in 2017. Bond funds and multi-asset funds accounted for 27% and 18%, respectively. Money market fund holdings decreased to 12% in 2017, from 13% in 2016.



Total AIF net assets increased by 7% in 2017, ending the year at EUR 5,893 billion. 2017 marks the ninth consecutive year of AIF net asset growth since 2008.

(14%), real estate (11%) and money market funds (1%). Other AIFs held the remaining 28% of total AIF assets. These 'other AIFs' encompass various other types of funds such as securitisation funds, private equity funds, hedge funds, as well as remaining others funds such as commodities funds.

At the end of 2017, multi-asset funds held 27% of total AIF assets, followed by bond (19%), equity



## 2. Trends in net assets and net sales across European countries

Net assets of UCITS grew in all but two countries in 2017. The 5 countries with the largest UCITS net asset growth were Hungary (137%), Cyprus (55%), Belgium (48%), Bulgaria (23%) and the Czech Republic (25%). Among the three largest domiciles of UCITS, Ireland

recorded the strongest growth (16%), followed by the United Kingdom (12%) and Luxembourg (12%).

In the AIF market, the strongest growth was recorded in the Czech Republic (41%), Cyprus (25%), Croatia (25%), Luxembourg (15%) and Sweden (12%).

### Net Assets of Nationally Domiciled UCITS and AIF

(EUR millions, at end 2017)

MEMBERS	UCITS ASSETS	% CHANGE	AIF ASSETS	% CHANGE	TOTAL ASSETS	% CHANGE
Austria	82,228	2.4%	100,654	7.7%	182,882	5.2%
Belgium	120,462	48.5%	34,793	-24.0%	155,255	22.4%
Bulgaria	645	23.4%	9	7.1%	654	23.1%
Croatia	2,487	1.9%	480	24.6%	2,966	5.0%
Cyprus	167	54.6%	2,581	24.7%	2,748	26.2%
Czech Republic	10,746	24.9%	928	41.2%	11,674	26.1%
Denmark	129,153	10.0%	171,671	8.3%	300,824	9.0%
Finland	102,932	19.4%	13,323	-34.1%	116,254	9.3%
France	873,868	9.8%	1,055,247	5.2%	1,929,115	7.3%
Germany	371,779	12.8%	1,666,413	6.9%	2,038,192	7.9%
Greece	4,928	13.4%	2,906	5.1%	7,834	10.2%
Hungary	1,579	136.9%	18,189	0.7%	19,768	5.5%
Ireland	1,830,520	15.9%	565,569	11.8%	2,396,089	14.9%
Italy	255,784	9.2%	64,983	-5.7%	320,767	5.8%
Liechtenstein	28,132	6.4%	18,263	3.4%	46,396	5.2%
Luxembourg	3,486,445	11.9%	673,169	15.1%	4,159,614	12.4%
Malta	2,714	21.2%	8,089	6.9%	10,804	10.1%
Netherlands	37,153	-3.0%	806,335	5.6%	843,488	5.2%
Norway	115,682	7.1%	-	-	115,682	7.1%
Poland	25,847	22.7%	40,939	8.8%	66,786	13.8%
Portugal	8,827	22.5%	14,252	-1.2%	23,080	6.7%
Romania	4,874	1.1%	4,289	2.6%	9,164	1.8%
Slovakia	4,926	13.3%	1,652	7.4%	6,578	11.7%
Slovenia	2,657	7.9%	-	-	2,657	6.2%
Spain	225,419	16.5%	69,846	-6.9%	295,265	10.0%
Sweden	312,505	10.2%	22,916	12.3%	335,421	10.4%
Switzerland <sup>1</sup>	451,486	3.1%	99,313	-0.6%	550,799	2.4%
Turkey <sup>1</sup>	10,994	-5.6%	14,656	-6.2%	25,649	-5.9%
United Kingdom	1,225,854	11.7%	421,322	6.7%	1,647,175	10.4%
Europe	9,730,793	12.2%	5,892,786	7.0%	15,623,579	10.4%

<sup>1</sup> Funds domiciled in Turkey and Switzerland that fulfill the UCITS criteria are classified as UCITS in this report.

The large majority of domiciles registered net inflows into UCITS funds in 2017 with Luxembourg and Ireland attracting the largest share, EUR 281 billion and EUR 242 billion, respectively. The United Kingdom (EUR 55 billion), France (EUR 45 billion) and Germany (EUR 25 billion) completed the top 5.

In the AIF market, Germany captured by far the largest net sales (EUR 87 billion) in 2017. Large inflows were also seen in Ireland (EUR 56 billion) and Luxembourg (EUR 27 billion). The Netherlands (EUR 10 billion) and the United Kingdom (EUR 9 billion) took fourth and fifth place, respectively.

### Net Sales of Nationally Domiciled UCITS and AIF in 2017

(EUR billions)

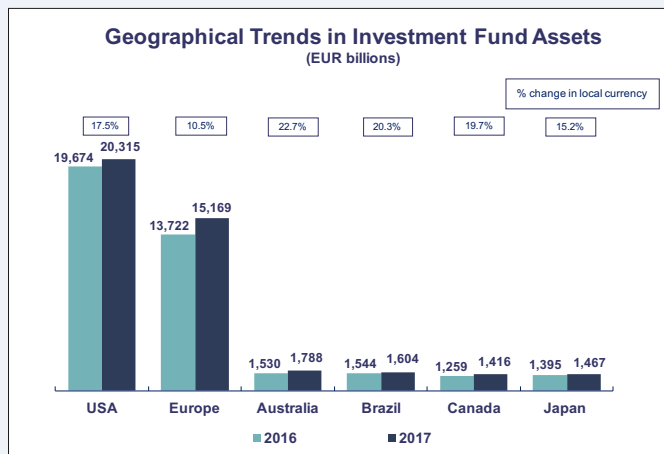
COUNTRY	UCITS Net Sales	AIF Net Sales	Total Net Sales
Austria	0.3	3.9	4.2
Belgium	21.4	4.7	26.1
Bulgaria	0.1	-	0.1
Croatia	-1.7	-	-1.7
Cyprus	0.05	0.2	0.25
Czech Republic	1.3	0.2	1.4
Denmark	7.7	6.1	13.8
Finland	2.1	1.4	3.5
France	45.4	3.1	48.5
Germany	25.1	86.9	112.0
Greece	-0.1	-	-0.1
Hungary	0.2	0.6	0.9
Ireland	242.1	56.0	298.1
Italy	16.9	-0.9	15.9
Liechtenstein	1.2	1.2	2.4
Luxembourg	280.9	27.4	308.4
Malta	0.1	0.3	0.4
Netherlands	-1.0	10.0	8.9
Norway	7.8	-	7.8
Poland	2.1	1.3	3.3
Portugal	1.3	-0.4	0.9
Romania	0.1	0.03	0.1
Slovakia	0.5	0.1	0.5
Slovenia	0.03	-	0.03
Spain	24.4	-3.2	21.2
Sweden	9.9	1.2	11.0
Switzerland <sup>1</sup>	16.5	2.9	19.4
Turkey <sup>1</sup>	0.4	0.1	0.4
United Kingdom	55.6	9.1	64.6
<b>Europe</b>	<b>760.4</b>	<b>212.1</b>	<b>972.6</b>

<sup>1</sup> Funds domiciled in Turkey and Switzerland that fulfill the UCITS criteria are classified as UCITS in this report.

### 3. Trends in worldwide investment funds<sup>3</sup>

Worldwide investment fund assets under management increased by 6.8% in 2017 to reach EUR 44.3 trillion at year end. Measured in euros, European investment fund net assets increased by 10.5% in 2017, compared

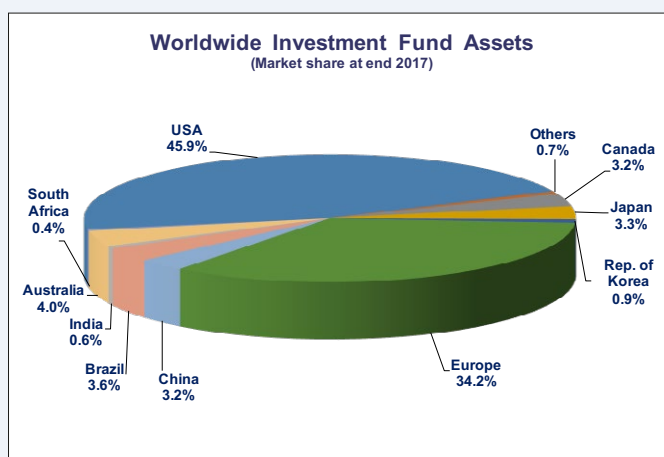
to 3.3% in the United States. Calculated using national currency, Australia posted a strong growth of 22.7%, followed by Brazil (20.3%), Canada (19.7%), the United States (17.5%), Japan (15.2%) and Australia (7.2%).



Source: EFAMA, ICI

Looking at the worldwide distribution of investment fund assets, the United States and Europe held the largest shares in the world market at end 2017, with

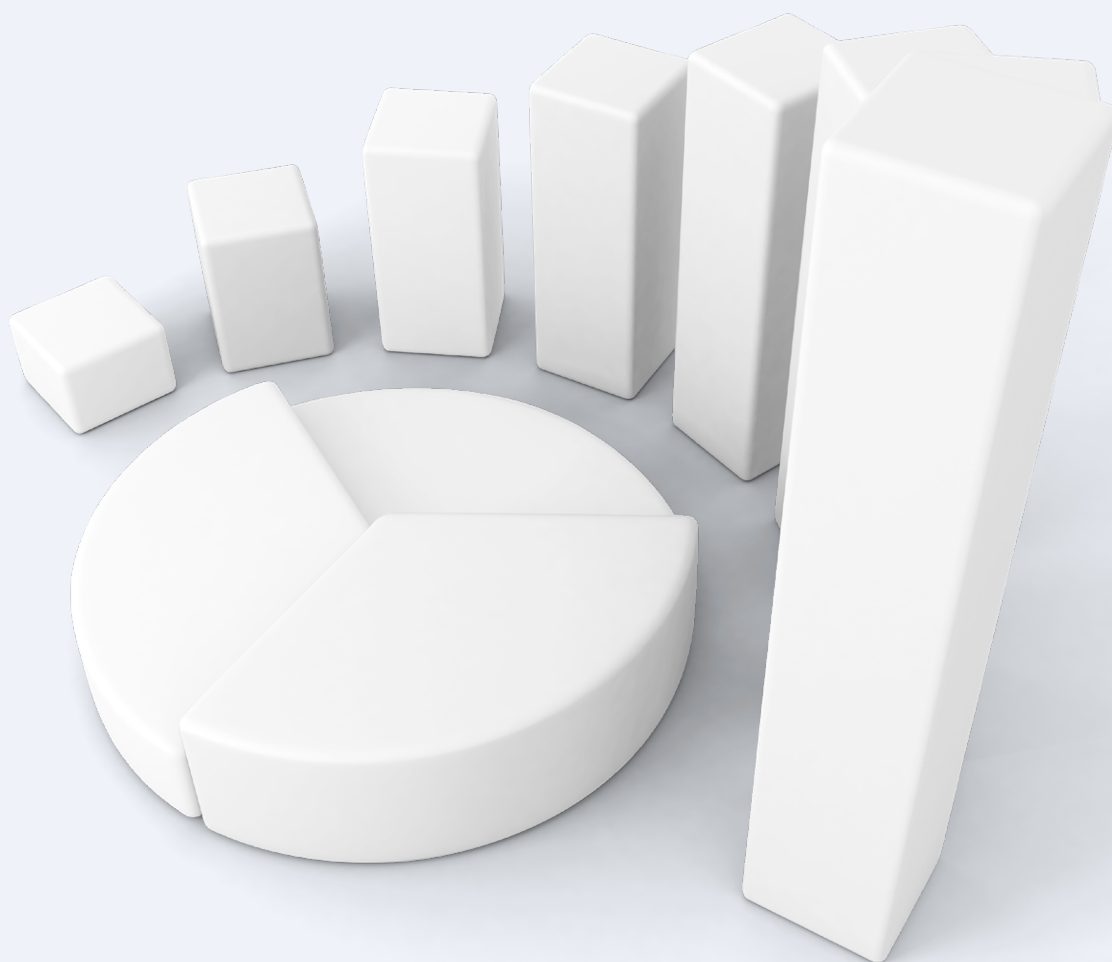
46% and 34%, respectively. Australia, Brazil, Japan, Canada, China, Rep. of Korea, India and South Africa followed in this ranking.



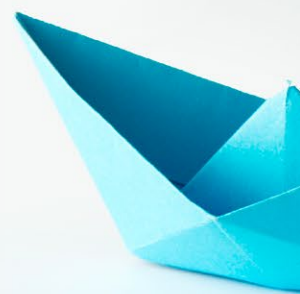
Source: EFAMA, ICI

<sup>3</sup> The data reported in this section covers all open-ended (i.e. redeemable), substantively-regulated funds. In the United States, this includes mutual funds. In Europe, this includes all UCITS and approximately 92% of all AIF funds as of end 2017.





# **EFAMA** **MEMBERSHIP**





# NATIONAL ASSOCIATIONS

## AUSTRIA

**VÖIG**

Vereinigung Österreichischer Investmentgesellschaften

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Vice-Chairman: Dragana Resan

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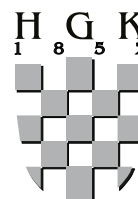
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---

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---

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---

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ASSOGESTIONI

associazione del risparmio gestito

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dutch fund and asset  
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---

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*Slovenská asociácia správcovských spoločností*

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ZDRUŽENJE DRUŽB ZA UPRAVLJANJE  
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inverco

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Fondbolagens förening

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---

## Janus Henderson

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---



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---

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INVESTMENT MANAGERS

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Address : Avenue des Morgines 6, CH-1213 Petit-Lancy, Switzerland  
Tel. : +41 22 793 06 87  
Website : <http://www.loim.com>

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## LYXOR

Asset Management  
SOCIETE GENERALE GROUP

### Lyxor Asset Management S.A.S.

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Défense, France  
E-mail: [communication@lyxor.com](mailto:communication@lyxor.com)  
Website: <http://www.lyxor.com>

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0HH, United Kingdom  
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E-mail: [info@mandg.co.uk](mailto:info@mandg.co.uk)  
Website: <http://www.mandg.com>

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One Carter Lane, London EC4V 5ER, United Kingdom  
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Website: <http://www.mfs.com>

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## MIRABAUD

Asset Management

### MIRABAUD Asset Management (Europe) SA

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Website: <http://www.mirabaud-am.com>

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### Nordea Asset Management

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### Principal Global Investors

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### Santander Asset Management

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Corporate website: [www.santanderassetmanagement.com](http://www.santanderassetmanagement.com)



### Schroder Investment Management Limited

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### SEB Investment Management AB

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### State Street Global Advisors Limited

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### T. Rowe Price International Ltd

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### Vanguard Asset Management, Limited

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### victor buck services

shaping information

### Victor Buck Services

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# EFAMA'S SECRETARIAT



**Back row, from left to right:** Vincent Dessard, Gráinne Davis, Bernard Delbecque, Thomas Tilley, Peter De Proft, Gabriela Diezhandino, Vincent Ingham. **Front row, from left to right:** Andreas Stepnitzka, Federico Cupelli, Agathi Pafili, Miriam Brunson, Antonella Massimi, Chiara Sandon, Isabelle Van Acker, Inga Nitsche.



Peter De Proft,  
Director General



Bernard Delbecque,  
Senior Director, Economics & Research



Gabriela Diezhandino,  
Director of Public Policy



Vincent Ingham,  
Director, Regulatory Policy



Vincent Dessard,  
Senior Regulatory Policy Advisor



Agathi Pafili,  
Senior Regulatory Policy Advisor



Gráinne Davis,  
Senior Regulatory Policy Advisor



Andreas Stepnitzka,  
Senior Regulatory Policy Advisor



Federico Cupelli,  
Senior Regulatory Policy Advisor



Chiara Sandon,  
Senior Policy Advisor



Thomas Tilley,  
Senior Economist



Inga Nitsche,  
Senior Tax Advisor



Miriam Brunson,  
Head of Client Services:



Isabelle Van Acker,  
Executive Secretary



Antonella Massimi,  
Frontline Officer



# ASSET MANAGEMENT

WHAT IS IT AND WHY IS IT USEFUL

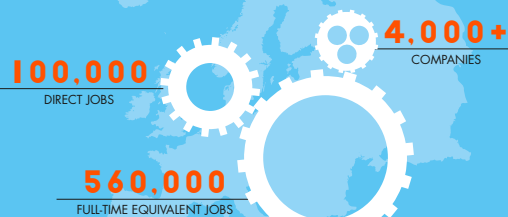
[www.efama.org](http://www.efama.org)



[www.assetmanagement-efama.org](http://www.assetmanagement-efama.org)

## JOB CREATION BY THE EUROPEAN ASSET MANAGEMENT INDUSTRY

MORE THAN 4,000 ASSET MANAGEMENT COMPANIES IN EUROPE  
DIRECTLY EMPLOY 100,000 PEOPLE AT END 2015



### ASSET MANAGERS HELP PEOPLE PROVIDE FOR THEIR FUTURE

Asset management, also known as investment management, is about helping people to provide for their future and to achieve other long-term goals. Individuals, and organisations investing on their behalf, entrust their money to asset managers who seek to make it grow by investing in companies and infrastructure such as transport links and hospitals. They also help to fund governments. Acting on behalf of their clients, asset managers are one of the biggest investors in government bonds. This helps to create jobs and to support a strong economy.



### ASSET MANAGERS CHANNEL LONG-TERM SAVINGS INTO THE ECONOMY

As professional managers of other people's savings, managers are bound by regulation to act in the best interests of their clients. They take a long-term view on where to invest their clients' money. For those seeking finance to grow a business, for example, that money can provide a source of funds which can be a useful alternative to a bank loan. Managers buying and selling assets on behalf of their clients also contribute to the smooth operation of financial markets.

## ASSETS MANAGERS PLAY A KEY ROLE IN CHANNELLING SAVINGS TOWARD INVESTMENT



**SAVINGS**

RETAIL +  
INSTITUTIONAL  
INVESTORS



**CAPITAL  
MARKETS**

ASSET  
MANAGERS



**INVESTMENT**

COMPANIES +  
GOVERNMENTS

AS THE GATEWAY BETWEEN INVESTORS' SAVINGS AND THE REAL ECONOMY, ASSET MANAGERS PLAY A CRUCIAL ROLE IN THE DEVELOPMENT OF OUR ECONOMIC SYSTEMS AND ACT AS A FUNDAMENTAL SUPPORT TO BOTH INVESTORS AND SOCIETY AS A WHOLE.

photos: iStock by VVWS ©

## ASSET MANAGERS ARE ACCESSIBLE IN A RANGE OF DIFFERENT WAYS



Some investors have direct contact with an asset manager which allows them to benefit from the expertise of qualified investment professionals. This also allows them to gain access, in a cost effective way, to a wider range of investments than would be available to someone who chose to do it themselves. Others will benefit from that expertise indirectly, as asset managers also manage pension funds and are at the heart of many investment products offered by insurance companies and banks.

Some investors (whether individuals or institutions such as pension funds) will invest through regulated funds where their savings are pooled with those of other investors with similar investment goals. Others, particularly those with more to invest, may choose the option to specify their own "mandate", meaning that the asset manager will offer a tailor-made solution to meet particular investment goals.

photos: iStock by VVWS ©

## ASSET MANAGERS ACT IN THE INTERESTS OF INVESTORS

Asset managers are required by law to act in the best interests of their clients and to invest in accordance with a predefined set of rules and principles. Asset managers must therefore provide the information necessary for investors to make informed decisions and report regularly on how their investments are doing.

Asset managers will usually charge a fee which is based on the value of the assets they manage. In this way, the incentives of investors and asset managers for the fund to achieve positive returns are aligned.

Investors' assets always remain the property of the investor and are held by third parties (called depositories, custodians or trustees). In this way, they are kept safe and can be withdrawn or transferred to be managed by another manager, if necessary.



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## A GROWING INDUSTRY

ASSETS MANAGED IN EUROPE REACHED A RECORD HIGH OF €22.8 TRILLION IN 2016



photos: iStock by VVWS ©



## INVESTING IS ABOUT TAKING SOME RISK FOR EXPECTED REWARD

Investing means taking risk with the aim of expected reward. Some investors will take higher risks with the hope of higher rewards. While the asset manager will help manage that risk (through diversification and risk management, for example), investors take the risk that the value of assets may go down as well as up.

photos: iStock by VVWS ©



## ASSET MANAGERS ENGAGE WITH COMPANIES

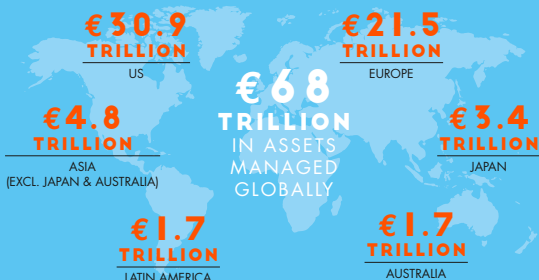
In looking after other people's money, asset managers have an interest in ensuring that the companies in which they invest prosper. Still, where an asset manager invests largely depends on the decisions of the investors themselves.

Shareholders hold the companies accountable to ensure that they are well run and thrive. This involves regular engagement and contact, voting at general meetings, and holding these companies to the highest corporate governance standards. Many managers, acting on behalf of investors, also ensure that companies in which they invest take environmental and social aspects seriously.

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## SIZE OF THE EUROPEAN ASSET MANAGEMENT INDUSTRY IN THE WORLD

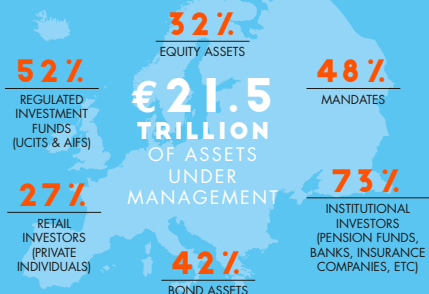
SECOND LARGEST INDUSTRY GLOBALLY



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## SIZE OF THE ASSET MANAGEMENT INDUSTRY IN EUROPE

A BREAKDOWN OF THE EUROPEAN ASSET MANAGEMENT INDUSTRY



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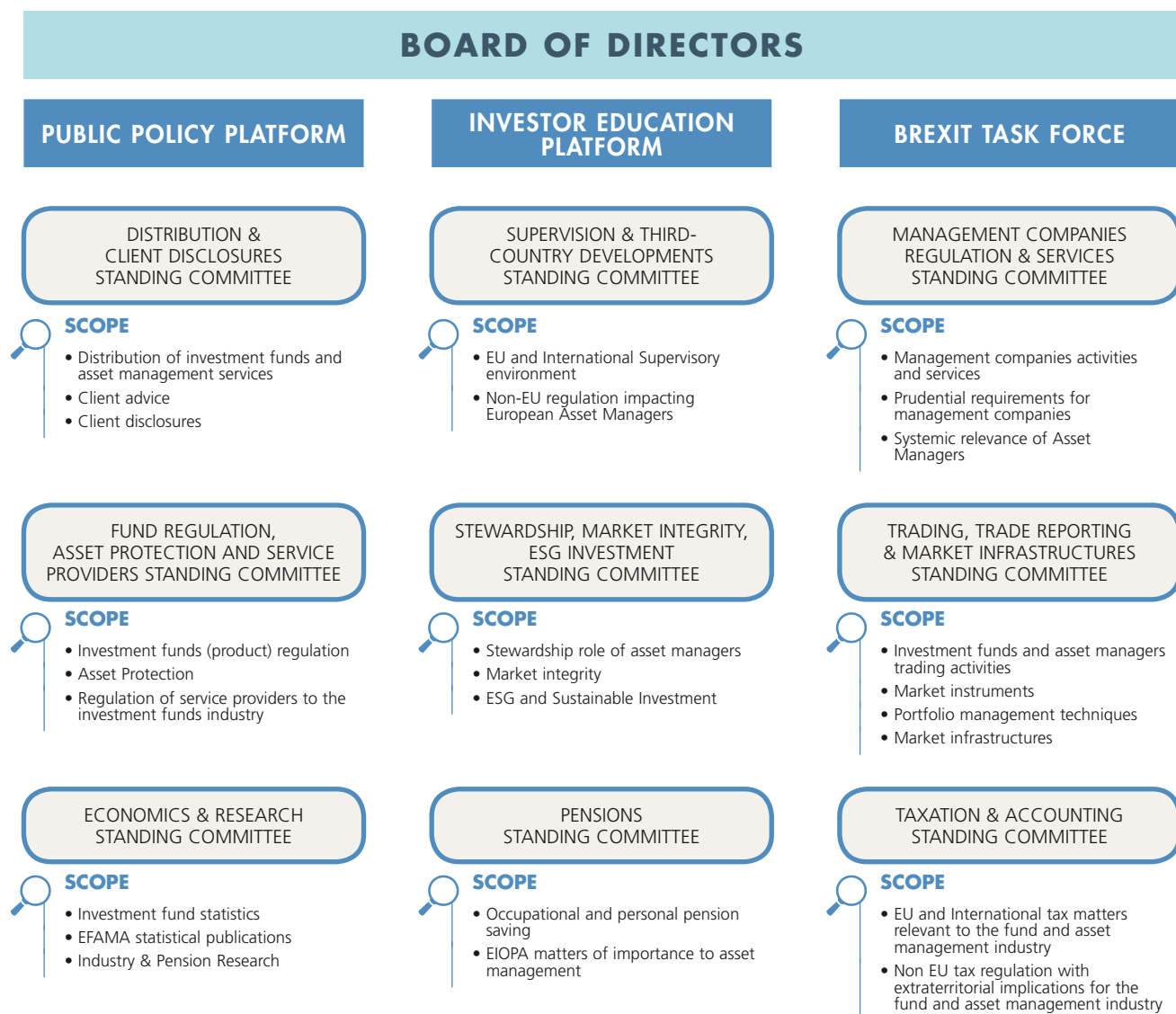




# EFAMA'S STANDING COMMITTEES

## GLOBAL ARCHITECTURE OF EFAMA'S WORKING STRUCTURE:

9 Standing Committees and 3 horizontal bodies, reporting to the Board of Directors



« EFAMA's working bodies provide a platform for experts among its Members to conduct discussions on EU/global initiatives and developments for the benefit of EFAMA's membership and to build common positions. »

## **EFAMA**

European Fund and Asset Management Association

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