BLACKROCK

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European Banking Authority
One Canada Square (Floor 46)
Canary Wharf
London E14 5AA

Submitted online at www.eba.europa.eu

RE: Designing a new prudential regime for investment firms

Dear Sirs,

BlackRock, Inc. (BlackRock)[1] is pleased to have the opportunity to respond to the discussion paper on designing a new prudential regime for investment firms, issued by the EBA.

BlackRock supports a regulatory regime that increases transparency, protects investors, and facilitates responsible growth of capital markets while preserving consumer choice and assessing benefits versus implementation costs.

We welcome the opportunity to comment on the issues raised by this discussion paper and will continue to contribute to the thinking of the EBA on any issues that may assist in the final outcome.

Executive summary

Support for a regime separate from CRD/CRR for investment firms

The current CRD/CRR regime which is primarily designed to mitigate the risks to shareholders and taxpayers of inappropriate risk taking within banking entities, neither sufficiently takes into account the different risk profiles of other investment firms nor reflects the many other risk mitigants which currently exist in the European regulatory capital regime. This has resulted in a regulatory regime that does not recognise the agency business model of many investment firms such as asset managers.

BlackRock supports the aims of the EBA in designing a new prudential regime for investment firms, which provides appropriate incentives to mitigate risk and a more effective use of capital. In addition, we support the general aim of developing a prudential regime that has rules that are appropriately tailored for investment firms in general, and asset managers in particular, rather than relying on a "one-size-fits-all" set of rules originally designed to apply to banks

Recognition of the different business model and different risk profile of asset managers compared with other investment firms

BlackRock's response focuses on the discussion paper from the asset management perspective. We recognise that other investment firms may have different business models and risk profiles. While there is value in setting out a minimum set of requirements to consider across all investment firms, it is also important to note that

[1] BlackRock is one of the world's leading asset management firms. We manage assets on behalf of institutional and individual clients worldwide, across equity, fixed income, liquidity, real estate, alternatives, and multi-asset strategies. Our client base includes pension plans, endowments, foundations, charities, official institutions, insurers and other financial institutions, as well as individuals around the world.

not all factors will be relevant to asset managers and other firms that are structured on an agency basis. A proportionate approach is needed that permits firms to not apply factors that are not relevant to their business model and therefore avoids creating unnecessary complexity. In particular, capital has a clear role in managing operational risk, depending on the nature and type of the strategies being managed for clients. It is not effective in addressing any potential systemic risk arising from asset management activities: other tools are more appropriate.

Systemic risk and risk to customers and risk to markets

The Discussion Paper refers to a number of risks in determining the appropriate level of capital for investment firms such as risks to customers, risks to markets and risks to firm. Capital requirements to mitigate the systemic risk are not appropriate for asset managers. Asset managers act as agents on behalf of asset owners. The assets belong to the asset owners, with the assets held by a custodian. Client assets, including investment fund assets are not commingled with the asset management firm's assets meaning that losses on client investment portfolios do not result in losses to the asset manager's balance sheet. Asset managers are obligated from a legal, regulatory, and ethical perspective to make investment decisions in line with client guidelines. Further, asset managers are not the counterparty to client trades or derivatives contracts, and in this regard, the role of asset manager is never to act as a buffer to the sale of assets or the unwinding of derivatives contracts by its clients. Any investment losses on AuM (Assets Under Management) are dispersed among investors in each investment vehicle. The greater the number and diversity of clients a manager has the greater the potential for dispersal, rather than concentration of risk, in the financial system. Increased AuM should not therefore necessarily be seen as a greater indicator of systemic risk.

We draw the EBA's attention to the ongoing work conducted by both the FSB and IOSCO on the potential systemic risk implications of asset management activities and the ongoing focus on liquidity and leverage within asset management products.

Operational risk and risks to firms and risks to customers

In some instances, capital can play a role in the effective management of operational risk. The Discussion Paper does not, however, provide sufficient detail on the scalars to be used in the proposed K-Factor approach for us to determine whether it will be an effective measure for managing the types of operational risk asset managers face. We have therefore provided indicative responses to the questions and highlighted in our observations where we believe greater clarity would be beneficial. In particular, we question the assumption that there is a linear relationship between the size of a firm's AuM and the amount of capital it should be required to hold against operational risk. AuM by itself is not necessarily a reliable indicator of risk and therefore, we do not believe that a firm's AuM should simply be aggregated for the purposes of determining its capital requirements to be set aside against potential operational risk.

It is important that any new regime recognises the following:-

- the diversity and risks associated with the firm's business, the types of clients and strategies it manages;
- the firm's underlying processes such as the effectiveness of its management of operational risk and business continuity processes;
- the volume, type and agency nature of business a firm undertakes.

We also agree with the EBA that it would be appropriate for an FOR calculation to remain part of a new prudential regime for Class 2 firms, and for that calculation to provide a base capital requirement. This could then be complemented by additional capital reflecting the operational risks posed by the firm's activities, as highlighted above.

Recognition of existing protection for asset management clients

In relation to risks posed by the holding of client assets, we note the requirements in MIFID 2 for asset managers to ensure client assets are held in separately managed accounts to be custodised with third parties. We also note that the managers of investment funds subject to the UCITS Directive and the AIFMD are required to appoint an independent depositary to ensure segregation of the fund's assets away from the manager's balance sheet. National client asset rules such as the UK's CASS rules increasingly provide comprehensive protection for client monies received by managers pending investment and transfer to the relevant custodian.

Remuneration and Governance

We recognise that an appropriate remuneration and governance regime, proportionate and calibrated to the nature of the asset management business, should accompany the proposed prudential regime for asset management firms.

The different business models of asset managers and banks have different implications for systemic risk and, therefore, on appropriate remuneration models.

In particular, the remuneration principles should be applied with a view to creating the right incentives given the fiduciary agent model of investment managers. Ideally, incentives should reinforce positive client investment outcomes as well as appropriate market behaviours and effective risk management. Investment managers' interests are naturally aligned with those of their clients and we would recommend that any remuneration guidelines should underline this fiduciary responsibility to act in the best interests of their clients over the long term. We recommend that the starting point should be the regime for UCITS managers and AIFMs.

We welcome the opportunity for the asset management industry to work with the EBA with a view to developing a model, which reflects on the above, and establishes a new prudential regime tailored for asset managers within the wider regime for investment firms, and also further discussion on any of the points that we have raised.

Yours faithfully,

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Question 1.
What are your views on the application of the same criteria, as provided for G-SIIs and O-SIIs, for the identification of 'systemic and bank-like' investment firms? What are your views on both qualitative and quantitative indicators or thresholds for 'bank-like' activities, being underwriting on a firm commitment basis and proprietary trading at a very large scale? What aspects in the identification of 'systemic and bank- like' investment firms could be improved?

We support the aims of the review to differentiate investment firms from firms that operate in a bank-like regime and to provide a different prudential framework than that set out in the current guidelines.

EBA/Op/2015/20 recognised that category 1 firms would be a small minority of MiFID firms with substantial undertakings which run 'bank-like' intermediation and underwriting risks at a significant scale. Such activities expose those institutions to credit risk, primarily in the form of counterparty risk, and market risk for positions taken on own account, be it for the purpose of external clients or not. The majority of investment firms, in particular asset managers, typically do not engage in these activities on their own account. Whereas banks own the assets and control the assets on their balance sheet (which are primarily funded through leverage) the AuM of asset managers belong to distinct asset owners, with the asset manager functioning as a highly constrained fiduciary on behalf of the asset owner. Asset managers do not therefore employ significant balance sheet leverage. The risk from leverage in portfolios managed by asset managers is a different risk which is borne by the asset manager's client and which is constrained by the terms of the client's mandate or the fund's objectives in the case of an investment fund. We also point the EBA to the ongoing work being conducted by the FSB and IOSCO to determine appropriate controls in relation to leverage in investment firms. It would not be appropriate to determine additional controls over leverage within funds until final recommendations have been reached by FSB and IOSCO.

The concept of segregation operated by investment firms creates a distinction from bank like organisations, which sets investment firms apart. Consequently, unlike banks, appropriately capitalised, managed and supervised asset management firms do not need to be rescued with taxpayer's money to prevent public harm when their businesses become unviable. There is no requirement to provide for a bank-like resolution regime as the current regulatory regime applicable to asset managers ensures that clients' assets and monies are appropriately segregated from the assets of the manager. Institutions running an agency based business model can, under a suitable and well-designed prudential framework, always be wound down in an orderly manner without external adverse effects.

Looking back over the past 30 years, we cannot find a single case of a large or complex manager exhibiting the operational problems that would constitute a systemic risk. We have included in Appendix A, a list of situations in which a firm or a fund that it manages has experienced a stress event. Most of the examples we can find are due to investment losses/performance issues, regulatory sanctions, reputational issues or organizational change/key personnel departures. Several cases involved large firms who experienced significant withdrawals of assets by dissatisfied clients. In these cases, all client redemptions were met (where funds were involved), and we are not aware of any instances where transferring assets, including OTC derivatives, has caused market disruption let alone a systemic risk event.

We believe that continuing to apply the EBA's existing guidelines on O-SIIs and G-SIIs, which are designed to identify systemically important institutions, is the appropriate criteria by which to differentiate between entities that undertake bank-like activities and the majority of investment firms, including asset managers that do not. Firms that do not engage in bank like activities should not therefore fall into category 1 and we would welcome clarification of this analysis.

Question 2.
What are your views on the principles for the proposed prudential regime for investment firms?

With regard to the over-arching principles under paragraph 12 of the Discussion Paper, whilst in principle we welcome the views expressed on the specific requirements of investment firms, we would also make the following comments:

- In relation to Principle a) we would like to reiterate the point we made in response to Question 1 and note that an asset manager performing as a highly constrained fiduciary on behalf of the asset owner and not undertaking 'bank-like' activities should not be considered 'systemic'. We believe that the systemic nature of any financial institution should be assessed on the basis of its own balance sheet activities and its business model and that asset managers do not therefore present a systemic risk.

- In relation to Principle b) we agree with the overall principle but we would reiterate the point we made in answer to question 1 that because the AuM of asset managers belong to distinct asset owners institutions running an agency based business model can be wound down in an orderly manner without external adverse impact on customers and markets. In addition, asset management activities are highly substitutable. Asset managers are not critical components of the financial system given that asset owners can always invest their money directly. Since the risks outlined in Principle b) are operational by their nature we would encourage the EBA to elaborate more clearly on the type of operational risks intended to be addressed by the new prudential regime.

- In relation to Principle c) we believe that it is important that when considering the risks different investment firms pose, the EBA distinguishes between cases where client money is recorded on the balance sheet of the investment firm as an asset and where it is not. Where investment firms do not hold client assets on their own balance sheet, e.g. because these assets are required to be legally segregated and held in custody with a separate depositary institution or custodian in the name of the firm's clients there should be not be a need to make provision for risks to clients. Such segregation requirements can also extend to client money, even when they are deposited in separate bank accounts, legally owned and operated by the investment firm. The potential failure of an investment firm complying with such a regime would therefore not impact the value of client assets since these would remain removed and free from creditor claims on the firm's own assets.

- In relation to Principle e) the EBA proposes that investment firms that pose more risk to customers and markets hold more capital than those that pose less risk. We reiterate that the reported AuM of asset managers belongs to distinct asset owners, asset managers, who run an agency-based business model, can be wound down in an orderly manner without external adverse impact on customers and markets. In addition, as stated above, in many cases client

assets and monies are not held on the investment firm's balance sheet. Consequently, and in relation to Principle f), we presently see no need for further capital requirements for commercial decisions made by firms in relation to their balance sheet exposures since we believe that there is existing legislation that specifically addresses these risks.

- However, we also understand that the EBA considers that some risks may not be fully addressed by existing legislation and would welcome more clarity on the points raised within paragraph 12 of the EBA Discussion Paper to better understand the proposed risk mitigation measures.

Question 3.
What are your views on the identification and prudential treatment of very small and non- interconnected investment firms ('Class 3')? If, for example, such class was subject to fixed overheads requirements only, what advantages and drawbacks would have introducing such a Class 3? Conversely, what advantages and drawbacks could merging Class 3 with other investment firms under one single prudential regime with 'built-in' proportionality have?

In general, with regard to asset management firms whose core business is to manage portfolios on behalf of third-party clients, we support the move towards a proposed single prudential regime, which will cater for all investment firms, provided it recognises the need to build in proportionality.

Capital requirements and the subsequent prudential treatment of other investment firms should ensure primarily the ongoing operation of a going concern, in addition to the smooth transition and orderly wind down of a firm when it is no longer viable.

Class 3 investment firms in our view, by their nature tend to be small specialist businesses, whose business is to manage portfolios on behalf of third parties, and as such, in our opinion, any attempt to improve the existing prudential regime would be welcomed on a general basis, given the current regime is more suited to more bank like institutions. We do, however, recognise that a more complex regime could act as a significant barrier to entry for new market entrants if it significantly increases capital requirements and therefore have anti-competitive effects.

There is the potential prospect that changes to the FOR requirement in relation to class 3 firms might prove to be more burdensome than the current €50k requirement.

Question 4.
What are your views on the criteria discussed above for identifying 'Class 3' investment firms?

Please refer to our response to question 3 above.

Question 5.
Do you have any comments on the approach focusing on risk to customers (RtC), risk to markets (RtM) and risk to firm (RtF)?

We welcome the EBA's attempt to devise a more realistic and reliable set of capital proxies (or "K-factors") to estimate the degree of firm-specific operational risk; however not all the proposed K-factors will be applicable to asset managers. More specifically, on the individual risk types identified in the Discussion Paper, we would note the following observations. We also set out additional comments in our response to Question 6 on the scope of definitions of both AuM and AuA.

Risk to Customers (RtC)

While we believe that capital does have a role to play in the effective management of operational risk, we question the automatic link that being made between the size of a firm's AuM and the amount of capital it should be required to hold. We do not believe that a firm's AuM should simply be aggregated for the purposes of determining its capital. The Discussion Paper does not, however, provide sufficient detail on the scalars to be used in the proposed K-Factor approach for us to determine whether it will be an effective measure for managing the types of operational risk asset managers face. It is important that any new regime recognises the following:-

- the diversity and risks associated with the firm's business, the types of clients and strategies it manages;
- the firm's underlying processes such as the effectiveness of its management of operational risk and business continuity processes;
- the volume, type and agency nature of business a firm undertakes.

We would welcome the opportunity for the asset management industry to work with the EBA with a view to developing a model, which reflects on the above, and establishes a new prudential regime tailored for investment firms.

We also note that at present there is no harmonised definition of AuM within existing European legislation. We believe that it would be beneficial for the EBA to provide one as part of their review of a new prudential regime for investment firms, especially so as to avoid the risk of double counting of assets.

In terms of the following K-factors assets under advice (ASA), assets safeguarded and administered (ASA), client money held (CMH) and liabilities to customers (LTC) we believe that the same principles highlighted in relation to AuM above, would also be relevant, and the following areas should equally be considered:-

- the diversity and risks associated with the firm's business, the types of clients and strategies it manages;
- the firm's underlying processes such as the effectiveness of its management of operational risk and business continuity processes;
- the volume, type and agency nature of business a firm undertakes.

Risk to Markets (RtM)

As investment firms offering third-party portfolio management services to clients, the agency nature of asset managers precludes them from dealing on their own account. Consequently, the proposed "K-factor" of proprietary trading activities (PTA) would be minimal for asset managers and be limited to relatively short terms capital commitments such as the provision of seed capital to assist in the launch of new funds.

Risk to Firms (RtF)

We understand this third risk type is aiming to capture any potential residual risk that has not been addressed by the RtC or RtM "K-factors". As investment firms offering portfolio management services do not typically employ their own balance sheet to take-on market exposures – with a number of negligible exceptions for example seed capital funding – firms remain relatively immune to adverse market price movements, counterparty defaults and/or credit downgrades, as exemplified in paragraph 47 of the Discussion Paper. These risks are borne directly by the firms' investor clients and

prudently managed by the investment firm in line with existing EU securities law requirements.

We would also support the views within paragraph 48 of the Discussion Paper, that firms should not be required to apply any additional RtF uplift factor because any relevant risks will already have been captured either through the K-factor approach (or through an appropriate fixed overhead requirement designed to support an orderly wind-down process).

Question 6.
What are your views on the initial K-factors identified? For example, should there be separate K-factors for client money and financial instruments belonging to clients? And should there be an RtM for securitisation risk-retentions? Do you have any suggestions for additional K-factors that can be both easily observable and risk sensitive?

We recommend that the EBA provide a set of clear definitions if the factors are planned for use within the calculation of capital requirements, as discussed in response to question 5 above.

The definition of these factors and their calibration would have to be further specified and cannot be based on the size of the assets alone. Equally any linear correlation or relationship should not be a basis for any calculation of capital, i.e. the higher the value of assets under management, the more capital has to be held, for the reasons set out above. There are specific requirements for AuM in both the UCITS Directive and AIFMD but do reflect the specific nature of investment funds and do require amendment (e.g, to avoid double counting) before being applied to the totality of assets managed by the firm.

As referred to in question 5, we believe the following should be considered in relation to the k factors:-

- the diversity and risks associated with the firm's business, the types of clients and strategies it manages;
- the firm's underlying processes such as the effectiveness of its management of operational risk and business continuity processes;
- the volume, type and agency nature of business a firm undertakes.

Assets Safeguarded and Administered (ASA) and Client Monies (CMH)

As asset managers are generally employed to provide discretionary portfolio management, there will be relatively few instances in the asset management universe where the sole service is the provision of the MiFID service of investment advice as opposed to the provision of discretionary portfolio management. Even where investment advice as defined in MiFID (where there is not discretion to execute deals on behalf of clients) is the only service provided we note that the same comments apply in relation to segregation of client assets as for assets under management.

These assets and monies are typically segregated into separate cash accounts with a credit institution and subject to specific oversight and monitoring standards.

Specific rules are already in existence via the UCITS/AIFM cash monitoring rules, which would render these types of clients' assets subject to suitable regulation and control.

As such, where client money is legally segregated and duly monitored by the depositary/custodian (including any sub-custodians in the chain of custody), there is little rationale to justify related capital add-ons for client compensation purposes. Where client money is in fact accounted for as an asset of the investment firm itself and recorded as a debit *vis-à-vis* clients, there are grounds for calibrating a firm's capital requirements accordingly.

The inclusion of client monies in the new regime in our view will require further consideration of whether client monies are deemed to sit on a firm's balance sheet (and thus form part of the assets for insolvency). Using client money as a k-factor, will lead to very different impacts on capital depending on whether it is deemed to be held on or off the balance sheet.

Our understanding is that client money may be accounted differently across jurisdictions, and that there may be instances where it is recorded as an "asset" on the investment firm's balance sheet at national level, for example, where it is held in a common bank account together with the firm's own funds. In this regard, it is important to distinguish instances where client money is recorded on the balance of the investment firm as an asset, compared to situations where it is not.

Securitisation Risk Retentions

Securitised instruments may be invested into by asset management firms in executing their investment mandates, in line with regulation and with clients' specific risk tolerances. The latter activity should therefore be appreciated in light of the agency business model asset managers operate and would therefore not call forth specific capital charges. Where a firm holds risk retention (a typical example would be as a sponsor of a CLO arrangement), the instruments issued by the securitisation would be treated no differently from any other asset held on the firm's balance sheet. In our view, it is neither necessary nor appropriate to design specific scalars in relation to securitisations. The key issue should be a requirement for the manager to maintain the relevant exposure for risk alignment purposes.

Question 7.
Is the proposed risk to firm 'up-lift' measure an appropriate way to address the indirect impact of the exposure risk a firm poses to customers and markets? If not, what alternative approach to addressing risk to firm (RtF) would you suggest?

We support the views within paragraph 48 of the Discussion Paper, that firms should not be required to apply any additional RtF uplift factor because any relevant risks will already have been captured either through the K-factor approach (or through an appropriate fixed overhead requirement designed to support an orderly wind-down process). We assume the RtF factor would also capture any activity based risks identified that may not fall into either the market or customer risk categories. Clarification would be required as to the representative scaler used, and the impact this would have on capital.

Question 8.
What are your views on the 'built-in' approach to delivering simpler, proportionate capital requirements for Class 3 investment firms, (compared to having a separate regime for such firms)?

Please refer to our responses in relation to class 3 firms as set out in our response to question 3.

Question 9.
Should a fixed overhead requirement (FOR) remain part of the capital regime? If so, how could it be improved?

We believe that it would be appropriate for an FOR calculation to remain part of a new prudential regime and for that calculation to provide a base capital requirement for Class 2 firms. It may not however be a proportionate response for Class 3 firms, and further analysis, on the impact on the cost to capital for smaller firms, should be carried out. Over and above which, there should be a recognition of a firm's activities and associated operational risks, which should reflect upon, amongst others, the areas we have highlighted in our responses to question 5.

Any improvements could come from any of the following:-

- Further defining fixed overheads to provide clarity on the values used;
- Any potential exemptions from fixed overheads;
- The ability to disapply certain factors for firms operating an agency business model, and / or for smaller firms.

Question 10.
What are your views on the appropriate capital requirements required for larger firms that trade financial instruments (including derivatives)?

This question pre-supposes, that only large firms trade in financial instruments, and who are therefore bank-like in their operations. In general the question is not relevant to asset managers as they do not trade financial instruments on their own account.

Question 11.
Do you think the K-factor approach is appropriate for any investment firms that may be systemic but are not 'bank-like'?

We support a new regime that is specifically tailored to the risks that investment firms might pose and experience, rather than the continued application of the current legislation within the CRD regime, which is mainly driven by requirements that are solely designed for banks.

The source of any new regime in our opinion should be driven by an assessment of the risks faced by any investment firm and any inherent risk driven from / found in its business model, no matter what the size. As noted above the agency model of asset managers should mean that they should not be treated as systemic.

Question 12.
Does the definition of capital in the CRR appropriately cater for all the cases of investment firms that are not joint stock companies (such as partnerships, LLPs and sole-traders)?

In our view, the CRR can be overly complicated and confusing at times, culminating in a number of different interpretations. The current rules tend to be difficult to apply, resulting in increased complexity and difficulty in establishing defined processes for reporting purposes.

As stated in previous responses, the CRR is designed more for banks and banking activities, which in itself can drive any firm's confusion in digesting the legislation. Any

regime should provide a clear definition and application of the specific elements of capital that any investment firm should hold. Equally, the new regime should also have the capability of easy application across all investment firms.

We believe, the current rules which apply to all firms, including non-joint stock companies, are complex and difficult to apply, particularly in the context of firms that are established using structures other than company structures

Question 13.
Are the cases described above a real concern for the investment firms? How can those aspects be addressed while properly safeguarding applicable objectives of the permanence principle?

We would in general support the view specified in paragraph 85 of the discussion paper, namely that any provision relating to the definition and the quality of capital also needs to be capable of being applied to investment firms that do not have one of the legal form(s) specified in the relevant accounting directives that apply to limited companies.

We agree these cases are a concern, however we believe that the methodologies outlined in the discussion paper, in particular the k factors, seek to resolve these concerns. We would once again draw the EBA's attention to our response to question 5.

Question 14.
What are your views on whether or not simplification in the range of items that qualify as regulatory capital and how the different 'tiers' of capital operate for investment firms would be appropriate? If so, how could this be achieved?

Whilst we recognise the current legislation and articles within the CRR, which define regulatory capital, we recognise there is a compelling case for simplification of the range of items qualifying as regulatory capital and the tiering of capital instruments for investment firms. It is our belief that a large number of investment firms will have a very simple capital structure. As the discussion paper has highlighted, such firms typically structure their regulatory capital as CET1 shares, partnership contributions, and potentially some subordinated T2 debt.

It would therefore be helpful if the regulatory capital rules applying to asset managers focused on the core requirements for instruments of that nature to be eligible for treatment as CET1 or T2 capital and drafted simplified rules accordingly.

Question 15.
In the context of deductions and prudential filters, in which areas is it possible to simplify the current CRR approach, whilst maintaining the same level of quality in the capital definition*?*

In accordance with paragraph 94 of the discussion paper, we support the view that the CRR places too much focus on the accounting values of capital, and thereby can limit the ability to allow the use of 'Prudential' like filters, where the accounting values of certain items may be adjusted for the purpose of Prudential Regulation, rather than for any meaningful reason.

Examples of where this could have an impact on investment firms and where there would be merit in simplifying the rules relate to:-

- the treatment/application of revenue recognition – where elements of income can be correctly netted off within expenditure;
- the treatment/application of retrocessions;
- the treatment/application of lease accounting.

All of the above can have varying degrees of impact on the quality of capital for investment firms

Simplification could be achieved by providing clarity on how these examples could be or should be applied to firm's capital.

Question 16.
What are your views overall on the options for the best way forward for the definition and quality of capital for investment firms?

Based on the two options suggested within paragraphs 97 and 98 of the EBA discussion paper, we would support a methodology placing focus on a more simple and clear definition, ensuring that within any solution:

- focus is placed on the key drivers and risks for the industry;
- focus is placed on the specific business activities of the firm;
- there is elimination/removal of non-attributable elements not evidenced in investment firms.

Specifically we would look for capital to be based on the tangible assets of the firm, supported by robust liquidity rules.

Question 17.
What are your views on the definition of initial capital and the potential for simplification? To what extent should the definition of initial capital be aligned with that of regulatory capital used for meeting capital requirements?

We make the following observations with regard to the definition of initial capital and the potential for simplification:-

- We would support the view in paragraphs 99 to 111 of the discussion paper, related to the definition of 'initial capital' to examine any alternatives for simplification, so that it is aligned with the definition of capital recognised as own funds on an ongoing basis. Any alternatives should look to align the current legislation across MiFID and CRD investment firms. This would in our view provide some consistency and assist any ongoing harmonisation of regulatory requirements, with any such changes also making it easier for firms and supervisors;

- We recognise that an element of change would result, forcing the holding of higher initial capital values for some firms; given little change has been applied for some 20 years, and, as the discussion paper states, has not changed since they were set within the original CAD legislation;

- We support the observation that there are currently a mix of activities (specifically covering MiFID services) that are not covered by certain articles within the CRD and that having a base level of capital would simplify the

‘starting position’ for all firms, given the diverse nature, size and business models which in theory be addressed by the relevant categorisations or k factors that any new regime would introduce.

Question 18.
***What aspects should be taken into account when requiring different levels of initial capital for different firms? Is there any undesirable consequence or incentive* that should be considered?**

We believe that the initial capital requirement should be set at a level at which is not a barrier to new market participants entering the market.

Question 19.
What are your views on whether there is a need to have a separate concept of eligible capital, or whether there is potential for simplification through aligning this concept with the definition of regulatory capital used for meeting capital requirements?

As stated in the response to previous questions, we support simplification of the prudential regime across the asset management industry, and would question the requirement for the maintenance of a separate concept for eligible capital. In moving to a more unified definition of regulatory capital, based on own funds for all purposes, would result in a more simplified and intuitive prudential regime. We again would highlight the re-examination of eligible capital calculations, for the following reasons:-

- Existing legislation within the CRR is overly complicated;
- Providing further clarity on the definition and impact of both the tiers of capital and qualifying holdings, would as a result also be of value.

Note - The term eligible capital is used for meeting three specific types of requirement: the fixed overheads requirement in Article 97 of the CRR, the large exposures regime in Part Four of the CRR, and for qualifying holdings outside the financial sector in Title III or Part Two of the CRR.

Question 20.
Do you see any common stress scenario for liquidity as necessary for investment firms? If so, how could that stress be defined?

As a general comment we note that as asset managers operate using an agency model it is important to differentiate between liquidity stress testing carried out on portfolios they manage for clients and liquidity on the asset manager’s balance sheet. At European level we draw the EBA’s attention to the liquidity management and stress testing requirements which exist under AIFMD and the UCITS directives. Stress testing this part of the manager’s activities does not need to be replicated for the purposes of assessing liquidity risk on the manager’s own balance sheet. Rather a more limited approach to stress testing of operational risk to which the manager’s balance sheet is exposed is needed for investment firms which act as agent.

We would support the view that there should be common stress scenarios for liquidity. There are currently a number of key factors we believe should be considered in the identification of common stress scenarios for liquidity as follows:-

- individual operating business model of the firm and the business activities they undertake;

- the content of the balance sheet (to a certain degree);
- the regulatory environment itself.

These are already reviewed and considered as part of the current Pillar 2 processes firms undertake.

Common stress scenarios should include activities that are viewed as the main drivers of liquidity. These could include, but not be limited to, the following simple and measureable examples for asset managers:-

- review the impact of debtors not paying say for three months as a proxy (focussing on the non-automated payments received by firms, which could vary by business activity;
- review the impact of a large operating event – e.g. a large fraud;
- review the impact of market based events, e.g. using client monies, if proprietary trading exists.

Question 21.
What is your view on whether holding an amount of liquid assets set by reference to a percentage of the amount of obligations reflected in regulatory capital requirements such as the FOR would provide an appropriate basis and floor for liquidity requirements for 'non-systemic' investment firms? More specifically, could you provide any evidence or counter-examples where holding an amount of liquid assets equivalent to a percentage of the FOR may not provide an appropriate basis for a liquidity regime for very small and 'non-interconnected' investment firms?

In our view, using methodology based on FOR is a sensible starting position. Given our understanding that this should represent wind up costs we consider that this would be adequate for the range of investment firms currently within the industry. Examining further the outputs from the scenarios highlighted in our response to question 20, we consider the following could be used a proxy:

- review the impact of debtors not paying say for three months as a proxy focussing on the non-automated payments received by firms, which could vary by business activity;
- review the impact of a large operating event – e.g. a large fraud;
- review the impact of market based events, e.g. using client monies, but only if proprietary trading exists or where there is no segregation of client assets.

Question 22.
What types of items do you think should count as liquid assets to meet any regulatory liquidity requirements, and why? (Please refer to Annex 4 for some considerations in determining what may be a liquid asset).

Given the definitions and requirements specified within the EU UCITS and AIFM frameworks, we would offer the following examples of liquid assets which would meet any regulatory requirements. The time limit generally on these assets will be of a short term nature, e.g. one month in duration:-

- on balance sheet liquidity resources, typically of a short term nature, e.g. one month;
- cash – at bank or cash investments – readily available for conversion into cash for use in a short period of time – currently under the LCR for banks, cash held for a

short period of time is not considered a liquid asset, however in the asset management industry, cash, provided cash is held by a bank in an OECD jurisdiction this can be classified as liquid assets;

- cash invested in sovereign securities;
- potential group credit facilities, in the case of investment firms part of larger groups;
- committed facilities provided by third parties.

Question 23.
Could you provide your views on the need to support a minimum liquidity standard for investment firms with the ability for competent authorities to apply "supplementary" qualitative requirements to individual firms, where justified by the risk of the firm's business?

In our view, it makes sense to ensure that any minimum liquidity requirement is tailored to the relevant firms' business models and business activities, including any wind down requirements. The standard should take into account the risk to the firm liquidity levels, including any stress testing carried out through existing Pillar 2 calculations.

We also believe it appropriate that authorities should have the ability to apply supplementary requirements where they believe there are deficiencies in the firm's reviews of its activities and risks.

Question 24.
Do you have any comment on the need for additional operational requirements for liquidity risk management, which would be applied according to the individual nature, scale and complexity of the investment firm's business?

We emphasise the importance of differentiating between liquidity risk management that needs to be applied to an investment firm's balance sheet and liquidity risk management applied to the funds that an asset manager manages. Open-ended investment funds are designed to offer their investors the ability redeem their holdings at the current market price – asset managers do not guarantee a redemption price for investors[1].

Essentially, market liquidity is not the same as fund redemption risk and the critical missing component is liquidity risk management. Liquidity is not a new risk, and liquidity risk management is not a new practice. Fund managers take a variety of factors into consideration in managing funds. These factors include the asset class and the market conditions for that asset class, the tools available to a specific fund, the fund redemption terms, and the underlying investors and their behaviour.

BlackRock has consistently advocated for expanding the toolkit for managing liquidity in funds and for raising the bar on liquidity risk management industrywide. In September 2014, we published a *ViewPoint* highlighting the different tools available in various jurisdictions.[2] We recommended that securities regulators provide the maximum flexibility to fund managers to be able to address whatever events might occur in the future. We continue to believe this is key to successful risk management

[1] This is also the case for money market funds following the recent agreement on the EU's Money Market Fund Regulation. Guaranteed funds rely on a guarantee provided from wither a bank or an insurance company and the risk of this guarantee does not sit on the manager's balance sheet.

[2] BlackRock, *ViewPoint*, Fund Structures as Systemic Risk Mitigants (Sep. 2014), available at https://www.blackrock.com/corporate/en-us/literature/whitepaper/viewpoint-fund-structures-as-systemic-risk-mitigants-september-2014.pdf (Fund Structures *ViewPoint*).

and the ability to navigate future crises. Likewise, we recommended ensuring that there are high standards for liquidity risk management by funds. Indeed, many regulators around the world have already taken steps to ensure these high standards are in place. Given that each fund is a legally separate entity, we continue to recommend focusing on the risk characteristics and risk management of each fund rather than trying to lump disparate funds together. In January 2017, the FSB issued policy recommendations for activities in asset management, which included nine recommendations focused on liquidity risk management in open-end funds. The recommendations focus on enhancing information transparency and disclosure, expanding the liquidity toolkit for funds where necessary, and fund liquidity stress testing.

We recommend that the EBA look further into the drivers behind what can cause stress within liquidity before applying additional operational requirements. We offer the following examples which supervisors may wish to take into account:-

- the levels of controls and their robustness in general in measuring operational risk events;
- any specific regulatory requirements that may exist, eg requirements around client monies;
- any specific bespoke arrangements that may exist within an organisation.

Additional operational requirements could also be examined via the controls and governance investment firms will include in their Governance and Controls Framework, whereby the measurement, monitoring, usage and allocation of liquidity could include:-

- Ongoing monitoring of cash positions;
- Forecasting liquidity;
- Stress testing of liquidity requirements;
- Identification of potential liquidity shortfall;
- Contingency funding plan;
- Governance of (i) liquidity usage and (ii) Liquidity Policy.

Question 25.
What are your views on the relevance of large exposures risk to investment firms? Do you consider that a basic reporting scheme for identifying concentration risk would be appropriate for some investment firms, including Class 3 firms?

The use of measures around client monies and trading books may be not relevant to many investment firms such as asset managers. As stated in previous responses, we would support a clear reporting scheme for the identification of concentration risk, given that any investment firms could experience these from a variety of sources. Any firm, regardless of size will naturally review and be aware of their large exposures as part of any normal business activities. The application of any such regime should provide resolution to the key objective of reporting these values.

Question 26.
What are your views on the proposed approach to addressing group risk within investment firm-only groups? Do you have any other suggested treatments that could be applied, and if so, why?

We believe that the existing consolidation rules and the availability of waivers as appropriate are sufficient for these purposes.

In this context, we agree with the views presented in Section 4.4.2.

Question 27.
In the case of an investment firm which is a subsidiary of a banking consolidation group, do you see any difficulty in the implementation of the proposed capital requirements on an individual firm basis? If so, do you have any suggestion on how to address any such difficulties*?*

As we are not a subsidiary of a bank, the above does not impact us.

Question 28.
What other aspects should the competent authorities take into account when addressing the additional prudential measures on an individual firm basis under the prudential regime for investment firms?

Please see our response to question 5.

Question 29.
What examples do you have of any excessive burden for investment firms arising from the current regulatory reporting regime*?*

Whilst we understand and support the reasons for the various outputs currently produced as part of the existing regulatory reporting regime, we would highlight the following points as areas to be considered:-

- CoRep reporting – large elements of the CoRep returns are not relevant to investment firms.
- time spent on understanding legislation – we believe that the burden of understanding legislation would be reduced if rules were more specific to investment firms.
- Regulators time – a more specific set of rules for investment firms should make it easier for regulators to analyse and monitor a firm's activities.
- A more appropriate regime would drive relevant focus on the key issues to investment companies, and further allow refinement to any future changes required to the regime pertinent to those firms.

Question 30.
What are your views on the need for any other prudential tools as part of the new prudential regime for investment firms? And if required, how could they be made more appropriate? In particular, is there a need for requirements on public disclosure of prudential information? And what about recovery and resolution?

We believe that the existing Pillar 3 requirements are appropriate for the disclosure of prudential information.

Question 31
What are your views on the relevance of CRD governance requirements to investment firms, and what evidence do you have to support this?

We believe that good governance requirements should be tailored to the specific nature of a firm's core line of activity. We therefore support a new regime which reflects the nature, scope and complexity of the institution to deliver an appropriate

regime, allowing firms (and regulators) to tailor the approach the reflect the nuances – and legal footprint (e.g. partnerships) – of the entity in question.

We would support a regime that ensures the requirement of a strong compliance function within all investment firms, as stated in paragraph 171 of the discussion paper.

Question 32.
As regards 'systemic and bank-like' investment firms, do you envisage any challenges arising from the full application of the CRD/CRR remuneration requirements, and if so, what evidence do you have to support this? For all other investment firms, what are your views on the type of remuneration requirements that should be applied to them, given their risk profiles, business models and pay structures?

It is important to properly understand the role and activities of investment (or asset) managers to put the application of the CRD IV and UCITS rules in context. These are often misunderstood – and not sufficiently distinguished from the role and activities of banks and other financial institutions. The different business models of asset managers and banks have different implications for systemic risk and, therefore, on appropriate remuneration models.

In particular, the remuneration principles in these directives be applied with a view to creating the right incentives given the fiduciary agent model of investment managers. Ideally, incentives should reinforce positive client investment outcomes as well as appropriate market behaviours and effective risk management. Investment managers' interests should be aligned with those of their clients to underline their fiduciary responsibility to act in the best interests of their clients over the long term.
Investment managers typically manage a portfolio of securities or other assets on behalf of clients.

They manage client assets in two ways, either as a segregated account for a single client or they manage assets collectively in a pooled investment fund (either a UCITS or AIF) on behalf of a number of clients. In either scenario investment managers are neither the owner of client assets under their management, nor are they counterparty to trades or derivative transactions undertaken on behalf of clients. In their manager role, they act as a fiduciary agent making investment decisions for the benefit of their clients (e.g., segregated account clients or investment funds) in accordance with the investment objectives and guidelines set by clients.

They do not have custody of assets which are held for safekeeping for clients and funds by separate depositary banks (custodians) such that client and fund assets are segregated from those of the asset manager. Thus, there is no need to protect their clients'/funds' assets from a complete loss due to the managers' balance sheet risk taken in the ordinary conduct of their business.
The table below captures the key difference between banks and investment managers:-

Banks	Asset Managers
Risk capital creating systemic risk	Do not contribute to systemic risk • Legal and operational risk not balance sheet risk • Segregation of client assets
Act as principals	Act as agents, i.e. legal fiduciary duty to ensure that their and their clients' interests are aligned
Short term transactional culture	Transparency of investment returns
Compensation practices rewards transactions without visibility into longer term performance	Compensation practices where amounts are paid from earned revenues are structure to align with client and shareholder interests

Question 33.

What is your view on a prudential remuneration framework for other than 'systemic and bank-like' investment firms that should mainly aim to counteract against conduct related operational risks and would aim at the protection of consumers?

Based on the comments provided in response to question 32, we do not believe that a remuneration regime applied to the staff employed by an asset management company deserves to be qualified as "prudential". Unlike for other (systemic and bank-like) financial market players, remuneration rules for the agency nature of investment firms should not be employed as a risk-mitigating tool.

Each investment firm, we believe will appraise financial risk in its own context, where risk management emanates as a fiduciary duty towards our investor clients, set out within agreed investment mandates agreed with clients. These mandates apply to individual portfolios built of cash and securities that clients own as ultimate beneficiaries.

We believe the purpose of "prudential" capital requirements regulation with the purpose of conduct rules, are very distinct. Operational risks and their potential detrimental effects on consumers – for us, our own investor clients – are tackled, first and foremost, by a robust set of conduct requirements, among which remuneration principles naturally fall. To ensure the protection of our clients, our organisation's remuneration practices have naturally evolved to guarantee a long-term managerial incentive alignment with the formers' interests. This is best guaranteed, by multi-annual review periods to assess an individual's performance, complemented by the performance of his/her business division, as well as of the entire firm itself. Variable pay-outs, as a component of the total remuneration package, remain flexible for an important reason, i.e. not only are adjustments made to reflect performance over a given period and on the basis of pre-set benchmarks, but also to enable the ongoing costs (fixed overheads) of the asset management firm to better adapt to swings in the economic cycle. Client protection is complete with additional requirements to subject variable pay-outs to lengthy deferrals (even up to 10 years for specific asset management styles like for instance private equity), payments in non-cash instruments (between 40 to 60% under UCITS/AIFMD requirements) and by allowing for malus or even clawback clauses to recoup an individual's remuneration entitlements under

specific circumstances. Ensuring the design and ongoing implementation of these practices are key internal governance functions entrusted to non-executive (supervisory) Board members, remuneration committees, all acting in concourse with additional control functions, i.e. audit, risk management, compliance and human resources.

We observe that over time our industry has been best served via the application of these key conduct tenets, where even the rare but most egregious violations of these rules and of a firm's own internal "culture", have neither provoked harm to clients or markets enough to justify the additional imposition of ad hoc capital requirements. Where such unfortunate events have occurred, the consequential negative fallouts have been heaviest on the firms themselves, tarnishing their reputation and often ending their business prospects altogether against the backdrop of a very competitive global industry.

Question 34.
What are your views on having a separate prudential regime for investment firms? Alternatively, should the CRR be amended instead to take into account a higher degree of proportionality? Which type of investment firms, if any, apart from systemic and bank-like investment firms, would be better suited under a simplified CRR regime?

As stated in previous responses, we welcome and support any review of the current guidelines which looks to differentiate investment firms from those who operate in a bank-like regime, given the vast majority of investment firms typically do not engage in these more bank like activities.

Question 35.
What are the main problems from an investment firm perspective with the current regime? Please list the main problems with the current regime.

As commented on in the responses to previous questions, there are a few key points that we would highlight as perceived issues within the current regime:-

- The rules are primarily designed to be relevant to bank activities and operations and as a result, they are of less relevance to investment firm activities – the application of credit risk process being a case in point;
- The rules have a tendency to be complex and in many cases challenging to understand and implement for investment firms;
- The volume of changes can be time consuming to address: review, understand, implement and undertake; we believe both for investment firms themselves and for regulators to review and implement;
- The rules are not relevant to the agency business model of many investment firms;

Conclusion

We appreciate the opportunity to address and comment on the issues raised by the Discussion Paper and will continue to work with the EBA on any specific issues which may assist in this review.

Appendix A:

Firm and Fund Closures, Large Outflows, and Related Events in the Asset Management Industry over the Past 25 Years

Name	Event	Year	Resolution	AUM year of event (if known)	AUM after event (if known)
Franklin Templeton*	Very large outflows across variety of products, loss of investor appetite for EM funds	2016	• USD 12bn outflows since January 2016, mostly in global bond funds	USD 854.7bn (July 2015)	USD 739.9bn (July 2016)
Brevan Howard Master Fund*	Poor performance over three years. ECB action / market reaction in December 2015	2016	• ~ 3bn outflows in 2016	Data unavailable	USD 17.4bn (March 2016)
Sequoia Fund	Poor performance Key personnel departure	2016	• 7.5% loss in 2015, down 12% in 2016 • > USD300mn withdrawals early 2016 • Shareholders who withdraw > USD 250,000 fund should expect in-kind redemptions as per Sequoia policy	USD 6.7bn (December 2016)	USD 4.8bn (August 2016)
Tudor Investment Corp*	Poor performance over three years	2016	• USD 2bn outflows • Announced 15% cut of 400 strong workforce after losses	USD 21.9bn (December 2014)	USD 11bn (July 2016)
Nevsky Capital	Poor performance	2016	• Fund liquidation - USD 1.5bn fund in January 2016	USD 1.5bn (January 2016)	Fund liquidation
Tiger Global Management*	Large tech stock investment loss in first quarter of year	2016	• Losses estimated at USD 1bn in Q1 2016, but fund is continuing to operate	USD 35bn (Dec 2015)	USD 32.2bn (July 2016)
Pershing Square*	Significant investment losses	2016	• AUM down approx. 40% in one year • Cut 10% of workforce	USD 20,204.7m (August 2015)	USD 11,897m (August 2016)
Visium Asset Management	Insider trading scandal, poor performance	2016	• Visium Global Fund sold to Alliance Bernstein • Liquidating hedge funds	USD 8bn (March 2016)	Fund liquidation
BlackRock UK Property Fund	Redemptions in UK property funds triggered by EU referendum	2016	• Redemption charges increased from 2% to 5.75%	GBP 3.3bn (June 2016)	Data unavailable

Name	Event	Year	Resolution	AUM year of event (if known)	AUM after event (if known)
Legal & General UK Property Fund	Redemptions in UK property funds triggered by EU referendum	2016	• No suspension of redemptions, but discount imposed on cash withdrawals – fair value adjustment of 15%, reduced three weeks later to 10%	GBP 2.4bn (June 2016)	Data unavailable
Aberdeen UK property fund	Redemptions in UK property funds triggered by EU referendum	2016	• Redemptions temporarily suspended, followed by 17% fair value adjustment on cash withdrawals • Exit penalty back to 1.25% by August	GBP 3.2bn (June 2016)	Data unavailable
Aviva Investors Property Trust*	Redemptions in UK property funds triggered by EU referendum	2016	• Redemptions suspended	GBP 1.8bn (June 2016)	Data unavailable
Standard Life UK Real Estate Fund	Redemptions in UK property funds triggered by EU referendum	2016	• Redemptions suspended	GBP 2.67bn (June 2016)	Data unavailable
M&G UK Property Fund	Redemptions in UK property funds triggered by EU referendum	2016	• Redemptions suspended	GBP 4.4bn (June 2016)	Data unavailable
Columbia Threadneedle UK Property Trust*	Redemptions in UK property funds triggered by EU referendum	2016	• Redemptions suspended on UK Property Authorised Investment Fund (and on associated feeder fund, UK Property Authorised Trust). • Fair value adjustment of 5.3% on cash withdrawals	GBP 1.3bn (June 2016)	Data unavailable
Henderson Global Investors UK Property Fund*	Redemptions in UK property funds triggered by EU referendum	2016	• Redemptions suspended on UK Property PAIF (and feeder fund)	GBP 1.4bn (June 2016)	Data unavailable
Kames Property Income Fund*	Redemptions in UK property funds triggered by EU referendum	2016	• Fair value adjustment of 10% on cash redemptions	GBP 409mn (June 2016)	Data unavailable
Comac Capital	8% loss due to CHF move	2015	• Returned capital to outside investors due to CHF loss • Will continue to manage internal capital ~ USD 150mn	USD 1.2bn (January 2015)	Fund liquidation
Tiger Consumer Management	Retirement of fund manager	2015	• Fund liquidation due to retirement of manager	USD 1.4bn (March 2015)	Fund liquidation
Claren Road Asset Management (55% owned by Carlyle Group)*	Poor performance	2015	• Redemptions of USD 7.3bn since September 2014 • Operating a delayed-repayment schedule	USD 8.5bn (September 2014)	USD 1.2bn (January 2016)

Name	Event	Year	Resolution	AUM year of event (if known)	AUM after event (if known)
Fortress Global Macro Hedge Fund	Poor performance	2015	• Liquidation of USD 1.6bn global macro hedge fund following 17% loss in 2015.	USD 1.6bn (October 2015)	Fund liquidation
LionEye Capital Management	Investment loss of 19% in 2015	2015	• Liquidation of USD 1.5bn fund following redemptions from largest investors	USD 1.5bn (December 2015)	Fund liquidation
Renaissance Technologies	Poor performance	2015	• Liquidation of USD 1.3bn underperforming fund	USD 1.3bn (October 2015)	Fund liquidation
Seneca Capital Investments	Investment loss of 6% in 2015	2015	• Liquidation of fund close due to losses – 6% in 2015	USD 500mn (December 2015)	Fund liquidation
TigerShark Management	Poor performance	2015	• Fund liquidation	USD 180mn (March 2014)	Fund liquidation
Diversified Global Asset Management Corp (DGAM), (owned by Carlyle)	Poor performance	2015	Liquidation of Carlyle's hedge-fund-of-funds unit DGAM	USD 6bn (February 2016)	Fund liquidation
Ashmore*	AUM fell by 15 per cent year on year – Emerging market volatility	2015	Met USD 9.8bn in redemptions	USD 58.9bn (June 2015)	USD 52.6bn (July 2016)
Third Avenue Focused Credit Fund	Poor performance	2015	• > USD 1bn redemptions from July-December 2015 • Redemptions frozen, fund liquidation in December 2015	USD 2.1bn (July 2015)	Fund liquidation
Bain Capital Absolute Return Capital Hedge Fund	Three years of investment loss – 13% loss in first half of 2015	2015	• Closure of USD 2.2bn Absolute Return Capital hedge fund	USD 2.2bn (October 2015)	Fund liquidation
BlackRock Global Ascent Fund	Investment losses of 9.4% in 2015	2015	• Closure of USD 1bn Global Ascent fund	USD 1bn (November 2015)	Fund liquidation
Brevan Howard Asset Management*	Investment losses	2015	• USD 3bn fall in assets in first nine months of 2015	USD 40bn (2013)	USD 20bn (May 2016)
Everest Capital	Investment losses - CHF exchange rate cap	2015	• Fund liquidation of 6 out of the firms' 7 remaining hedge funds	USD 3.0bn (December 2014)	Fund liquidation

Name	Event	Year	Resolution	AUM year of event (if known)	AUM after event (if known)
PIMCO*	Key personnel departure	2014	• Management changes • Met $600bn in redemptions including $200bn in flagship Total Return Bond Fund • 3% reduction in workforce	USD 1.97tn (June 2014)	USD 1.5tn (June 2016)
PIMCO Total Return Fund	Key personnel departure	2014	• Management changes • Met redemptions of $200bn	USD 292.9bn (April 2013)	86.8bn (July 2016)
SAC Capital Management	Allegations of insider trading by portfolio managers	2008-2012-	• Converted to family office, renamed Point72, no external assets • USD 1.184bn financial penalty • USD 602mn SEC settlement • USD 10mn payout to resolve shareholder lawsuit	USD 15bn (January 2013)	USD 11bn (2015)
Axa Rosenberg	Concealed model error, fraud alleged	2011	• Founder barred • Management changes • Met redemptions of USD 29bn in 2010, USD 5bn in 2011, and USD 3bn in 2012 • USD 242mn settle with SEC	USD 70bn (July 2009)	USD 26.3bn (September 2014)
Gartmore Group	Key personnel departure	2010	• Sold to Henderson 2011 • Met redemptions of USD 1.29bn in just seven weeks	GBP 22bn (January 2010)	GBP 15.7bn (February 2011)
Galleon Group	Insider trading	2009	• Firm closed • Founder criminally convicted • Funds liquidated 2009	USD 7bn (October 2009)	Fund liquidation
The Reserve Primary Fund	Investment losses in Primary Fund	2008	• Primary Fund in liquidation • The Reserve firm in liquidation	USD 65bn (fund) USD 125bn (total) (August 2008)	Fund and firm liquidation
Absolute Capital Management	Securities fraud	2007	• Founder criminally charged • Multiple enforcement actions • Civil suits	USD 3bn (June 2007)	USD 885mn (June 2008)
Janus Capital Management	Market timing	2003	• Fines • Management changes • Met redemptions of USD 3.2bn in September 2003 alone	USD 147bn (May 2003)	USD 133.6bn (January 2005)

Name	Event	Year	Resolution	AUM year of event (if known)	AUM after event (if known)
Pilgrim Baxter	Market timing	2003	• Principals barred • >20% decline in AUM from September 2003 to end December, 2003. • Old Mutual (owner since 2000) closes some funds; rebrands	USD 7.4bn (September 2003)	USD 5.4bn (January 2004)
Putnam	Market timing	2003	• USD 14bn (5%) decline in first week of November 2003 • Management changes • Fines • Sold to Great West Life in 2007	USD 277bn (October 2003)	USD 141bn (September 2013)
Strong Capital	Market timing	2003	• Principal barred • Met redemptions of USD 4.9bn (USD 1.6bn of that in one month) • Sold to Wells Fargo in 2005	Data unavailable	USD 33bn (March 2004)
Canary Capital Partners	Market timing Late trading	2003	• Fines • Principal receives 10 year bar	USD 500mn (2003)	Data unavailable
Alliance Capital Management	Market timing	2003	• Fines and Disgorgement • Management changes • USD 790m of mutual fund outflows from September to December, 2003, increase in AUM attributed to market appreciation • Renamed Alliance Bernstein in 2006	USD 434bn (February 2002)	USD 489bn (February 2004)
Advanced Investments Management	Breach of client guidelines (all separate accounts)	2002	• Firm closes 2002 • Civil litigation • Regulatory fines	USD 5.5bn (2002)	Firm closes
Long Term Capital Management	Investment losses of USD 4.6bn in four months	1998	• Creditor investments to avoid loss • Firm dissolved 2002 • Creditors make small profits when unwind completed	USD 5bn (Begin 1998)	Firm closes
Community Bankers MMF	Investment losses in structured notes	1994	• Fund liquidated September 1994	USD 82mn (1994)	Fund liquidation
TCW/Term Trusts 2000 & 2003	Investment losses-MBS	1994	• Civil litigation • Regulatory fines for fund marketers • Manager firm ownership change 1996	Two trusts: USD 1.5mn (1994)	Initial drop to USD 1.0mn Trusts liquidate at term end

Name	Event	Year	Resolution	AUM year of event (if known)	AUM after event (if known)
Piper Jaffrey/ Institutional Government Bond Fund	Investment losses-MBS	1994	• Fund closed to new investors - assets run off • Civil litigation. • Parent of manager sells stake to ITT insurance 1997	Fund: USD 750mn (1994)	Initial drop to USD 590mn then run off to zero.
Hyperion (Term Trusts 1997,99,03)	Investment losses-MBS	1993	• Civil litigation • Regulatory fines for fund marketers	USD 1.5bn (1993)	USD 1.2bn
Barlow Clowes	Investment losses Fraud	1988	• Firm closed, funds liquidated, UK government made ex gratis payment to investors • UK Government repaid from trustees GBP120mn of GBP153mn payment-2011	GBP 188mn (1988)	Firm closed, funds liquidated

*Represents large outflows, not fund or manager closures.