



ASSOGESTIONI

associazione del risparmio gestito

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k.a.
European Banking Authority

Prot. n. 229/18

Via EBA website

Response to consultation paper – EBA Draft Guidelines on Outsourcing Arrangements

We welcome the opportunity to submit our response to your consultation paper regarding EBA Draft Guidelines on Outsourcing Arrangements (the “Guidelines”).

Preliminary remarks. First and foremost, Assogestioni strongly supports the promotion of effective internal governance arrangements, which are actually fundamental if institutions individually and the financial system they form are to operate well, especially in the next future.

Indeed, it is well known the increasing interest of financial institutions to outsource business activities in order to reduce costs and improve their flexibility and efficiency and such result is currently pursued especially through new financial technology (fintech) providers.

1. Scope of application. Sector-specific requirements excluding the application of the Guidelines. In light of the above context, the European legislator has consistently taken care of the matter issuing sector-specific requirements ruling outsourcing practices, also for the asset managers industry.

Therefore, we would specifically draw your attention on the “Scope of application” provision at paragraph 9 of the Guidelines, which does not explicitly exclude the application of the Guidelines to investment management companies already licensed under UCITS Directive or AIFMD.

Indeed, most of our members are investment management companies ruled by UCITS Directive or AIFMD, therefore not falling under the application of CRD.

Nevertheless, the above mentioned “Scope of application” provision could be misinterpreted arguing that it could cover those investment management companies being part of a banking group, with the application of the Guidelines.



Therefore, also considering that the AIFMD and the UCITS Directive already cover in a very specified manner the outsourcing process, we request the EBA to expressly specify in the Guidelines that investment management companies licenced under the UCITS Directive or AIFMD and being part of a banking group are out of the scope of the proposed Guidelines and are not required to implement all these requirements drafted in the Guidelines on solo-level.

2. Responsibility of a parent company to ensure group-wide consistency.

The same rationale would cover the case of the group context and in particular the application of article 109(2) of the CRD, based on which the consolidating institution shall ensure that subsidiaries not subject to the CRD implement arrangements, processes and mechanisms set out in Section II of Chapter 2 of the CRD in a consistent and well integrated manner.

Obviously, this does not mean that such subsidiaries are required to meet the CRD requirements. The rule only seeks to ensure that subsidiaries which themselves are not subject to the CRD implement consistent processes and arrangements relevant to the purpose of supervision.

In light of the above and considering that investment management companies are subject to their own specific requirements under the AIFMD and the UCITS Directive (however consistent with the requirements under the CRD), we request the EBA to expressly clarify that subsidiary undertakings, not themselves subject to CRD, shall comply only with their sector-specific requirements on solo level.

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We remain at your disposal for any further clarification you may need.

Kind regards

Director General