

Asset Management Unit
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

By email: AIFMR@hmtreasury.gov.uk

22 October 2026

Dear Asset Management Unit,

RE: Alternative Investment Fund Managers Regulations – Draft SI and Policy Note

UK Private Capital is the association of the UK private capital industry. We represent 600 firms, including the wider ecosystem of professional advisers and investors. Private capital consists of private equity, venture capital and private credit, which make long-term investments to grow British businesses and build a better economy. Our members invested £25bn into the UK economy in 2025, with the industry now backing 13,000 UK businesses, 90% of which are SMEs. These companies together employ 2.5m people and contribute 7% to UK GDP.

Private capital plays an important role in financing the UK economy, providing long-term investment to businesses at every stage of their development. From venture capital supporting innovative start-ups to private equity investing in established businesses and private credit providing alternative sources of finance, the industry helps businesses to grow, innovate and improve productivity. Ensuring that the UK remains an attractive place to establish private capital firms and funds is therefore important to UK competitiveness and economic growth.

We welcome the opportunity to provide comments on the draft Alternative Investment Fund Managers Regulations 2026 (Regulations).

We strongly support HM Treasury's ambition to modernise the regime to encourage growth and innovation. The reform of the UK AIFM regime represents an important opportunity to strengthen the UK's competitiveness as a global centre for private capital, encourage investment and support the Government's wider economic growth ambitions.

We think that it is important that any future regime is flexible, proportionate and removes unnecessary burdens on firms, while providing the legal and regulatory certainty needed to support long-term investment. This will help ensure that the UK remains an attractive jurisdiction for fund managers of all sizes and strategies, from early-stage venture capital to global buyout and credit funds.

We therefore strongly support the removal of statutory liability for external valuers which we think currently inhibits the availability of external valuer services and will allow for greater choice and affordability. We also support the removal of the existing requirements for FCA approval for a delegation of risk or portfolio management and for the marketing of AIFs.

However, we are concerned that the reforms do not go far enough in many respects. To deliver meaningful benefits for the UK economy and its competitiveness, the reforms should go beyond transferring existing

requirements and seek to remove obligations that are unnecessarily prescriptive or provide limited regulatory benefit.

In particular, as we discuss below, we think that there is a missed opportunity to simplify the provisions for AIFs which acquire control of non-listed companies and issuers, by removing notification and asset stripping requirements that add unnecessary complexity and provide no regulatory benefit. We also have significant concerns about the proposals to amend the definition of an AIF, particularly given the potential implications for existing structures, the potential for unnecessary divergence from the position in the EU and the differences between the FCA's commentary in CP26/28 and HM Treasury's stated intention to clarify the existing position.

Any regulatory change project will have costs and resourcing implications for firms as well as potentially requiring changes to their business models and operations. It is therefore important that, where there are changes to a regulatory regime, those changes deliver significant benefits.

Meaning of "AIF"

Regulation 3(1) includes a new definition of AIF:

"AIF" means a collective investment undertaking, including a sub-fund of such an undertaking, which—

(a) raises, has raised or intends to raise capital from a number of investors, with a view to investing it in accordance with a policy as to how the capital is to generate a return or investment outcome or the benefit of these investors, and

(b) is not a UK UCITS,

but does not include an entity or arrangements excluded by paragraph (3) or (6)."

The accompanying Policy Note states that the revised provision "clarifies the definition of an AIF reflecting some of what was previously in FCA guidance". However, the FCA in its consultation in CP26/28 states: "If the definition of an AIF changes as proposed, some current CISs will fall within the revised AIF definition and will be required by law to be re-categorised as AIFs".

While HM Treasury describes the amendment as a clarification, the FCA appears to envisage circumstances in which vehicles that are not currently treated as AIFs would be recategorised as AIFs.

This raises concerns that the proposed changes may be substantive rather than merely clarificatory. The potential implications of the changes include a requirement for some firms to seek authorisation as an AIFM and to comply with the more prescriptive and onerous rules applicable to AIFMs. This is too significant a change to be brought in without a dedicated and detailed separate consultation which, if substantial change is intended, should include the policy rationale and justification for the changes.

We therefore ask HM Treasury to clarify whether the proposed definition is intended to change the scope of the AIF perimeter. If substantive changes are intended, these should be subject to further consultation and a full assessment of their implications before legislation is finalised, to avoid creating regulatory uncertainty, increasing costs and potentially discouraging investment in the UK.

Regulatory certainty is particularly important for private capital, where investment structures are established for the long term and fundraising can take place across international markets. Uncertainty

over established arrangements, or the prospect of additional authorisation or compliance requirements, could increase costs and discourage international firms and investors from operating in the UK.

The consultation should not just be limited to technical comments on the draft legislation but should also consider more broadly the types of vehicles that are expected to fall within the scope of the new definition of AIF and allow industry participants to provide further and more informed representations. Care should also be taken to ensure that the changes do not cut across existing positions such as the FCA guidance on the meaning of investment compartments. It is important that established interpretations concerning co-investment vehicles, single asset structures, carried interest vehicles and other arrangements commonly used in private capital are not inadvertently disturbed.

We therefore ask HM Treasury and the FCA to clarify how existing guidance in PERG 16 will be preserved or amended, and to consult on any change before they take effect. We have made similar comments in our response to CP26/28.

As a drafting point, we also think that the reference to "investment outcome **or** the benefit of these investors" should be amended to "investment outcome **for** the benefit of these investors".

The grandfathering provisions in regulations 74 and 75 of the Alternative Investment Fund Managers Regulations 2013 (2013 Regulations) provide (broadly) that a manager of certain pre-2013 closed-ended AIFs is not required to be authorised as an AIFM in respect of those AIFs or comply with (most of) UK AIFMD. These provisions are not included in the Regulations but there will still be some arrangements for which this will be relevant. Requiring such AIFMs to be authorised in respect of those AIFs would be both a significant burden and serve no real purpose. Therefore, the Regulations should be amended so that the position in the 2013 Regulations is maintained.

As a final point, if substantive changes are intended, an important aspect of the further consultation that we have suggested above will be ensuring that appropriate transition and grandfathering arrangements are introduced for any vehicles brought within the AIF regime for the first time. As noted in our response to CP26/28, firms should be given sufficient time to assess the implications and obtain any necessary permissions, and existing arrangements should not be subjected to abrupt changes in regulatory treatment.

Acquisition of control of non-listed companies and issuers

The draft Regulations remove the obligation to notify the FCA periodically when increasing or reducing holdings in a portfolio company and the requirement to provide information on the financing of the acquisition. However, they do not materially amend or remove the other notification obligations when acquiring large shareholdings. We think that this is a missed opportunity for impactful change.

The notification requirements on the acquisition of certain interests in non-listed companies and issuers provide limited value, particularly in the context of private capital. Instead, they impose an unnecessary regulatory reporting burden on firms without any real corresponding benefit and the FCA has previously indicated that it does not make use of these notifications in practice, further calling into question their continued regulatory value. We therefore encourage HM Treasury to remove these entirely from the Regulations.

The associated asset stripping rules are also unnecessary as there are already significant protections under company law, insolvency frameworks, and directors' fiduciary duties, which should be taken into account when assessing the need for the continuation of these requirements. Private capital firms are

incentivised to enhance long-term value creation rather than extract it and therefore there is necessarily a strong alignment of interests between private capital firms, their investors and the companies in which the relevant funds invest.

Private equity investment plays an important role in supporting the growth and development of UK businesses, providing capital alongside strategic and operational expertise to help companies grow. It supports investment, innovation and improvements in business performance. A regulatory framework that recognises the long-term nature of these investments, while maintaining appropriate existing protections in general law (see above), would better support this contribution to the UK economy.

In practice, these provisions restrict normal commercial activity, such as share redemptions or other distributions within the first two years of investment and create friction in the structuring of transactions. These constraints impose additional costs and complexity without a clear policy benefit.

The restrictions apply specifically to AIFs acquiring control of UK-incorporated companies, which are already subject to the protections of the Companies Act 2006. They therefore impose additional requirements that can be inconsistent with the general company law framework. For example, the AIFM rules require distributions to be assessed by reference to the last audited annual accounts, whereas the Companies Act permits distributions by reference to relevant accounts, including interim accounts where the statutory conditions are met. This can restrict distributions that would otherwise be lawful under UK company law, without a clear additional benefit to investors or other stakeholders.

This is particularly relevant in the context of the Government's wider work on modernising corporate reporting. Any changes to the Companies Act 2006 concerning distributable reserves should be reflected in the AIFM regime to avoid creating further inconsistencies.

Removing these requirements would support a more proportionate and streamlined regulatory environment without compromising investor protection or market integrity while enhancing the climate for investing in the UK.

It is also important to note that the obligations outlined above are specific to AIFs and AIFMs. This puts the private capital industry at a disadvantage compared to other types of investors. We therefore encourage HM Treasury to remove the notification and asset stripping requirements to allow for greater flexibility and to avoid the UK AIFM regime becoming unnecessarily restrictive and uncompetitive.

If HM Treasury decides not to remove the provisions, it should not cross-refer to sections 382 or 465 of the Companies Act 2006 in regulation 28(3)(a). This provision creates an exemption for small and medium-sized enterprises from the requirements on AIFs which acquire control of non-listed companies and issuers. However, the UK threshold for a small and medium-sized enterprise is lower than the EU threshold currently used, as the maximum balance sheet total for a UK company to be a small and medium-sized enterprise is £27 million compared to €43 million under the EU definition, narrowing the scope of the existing exemption. This reduces the number of non-listed companies and issuers in respect of which the exemption can be applied. While we understand HM Treasury's intention to refer to UK, rather than EU, legislation, this should not result in a more onerous regime. If this provision is retained, it should be redrafted so that the current position is maintained.

Depository liability for loss of a financial instrument

One of the exceptions to depositary liability for the loss of an asset applies where the law of a non-UK country requires the asset to be held in custody by a local entity (Condition C). The criteria for Condition C to apply are set out in Regulation 25(5) and include, in subsection (c):

(c) the constitutional instruments and any other binding contractual documents between the AIF and the investors concerned expressly allow for a discharge of the obligation of the depositary under regulation 24

We think that the requirement for the discharge to be included in "*the constitutional instruments and any other binding contractual documents between the AIF and the investors*" is drafted too widely. On a strict reading, it could require the discharge of the depositary obligation to be included in every binding contractual document between the AIF and its investors. This would be an unreasonably high bar, as a single short contractual document that did not refer to the discharge could potentially render it ineffective.

We do not think that this is HM Treasury's intention and therefore suggest amending this wording so that the discharge only needs to be included in "the constitutional documents **or another** binding contractual document".

Authorisation

The provisions requiring the FCA to determine applications for authorisation as an AIFM within three months (with the option to extend in certain circumstances) have been deleted and not replaced. Although we note that the FCA is committed to setting faster targets for authorisations, to promote certainty it is helpful to have a statutory deadline which it is required to meet. We therefore encourage HM Treasury to retain a specific statutory deadline for determining AIFM authorisation applications.

Timely and predictable authorisation is important for firms establishing UK operations or launching new investment strategies. Removing the statutory deadline risks increasing uncertainty and undermining the UK's attractiveness.

Other drafting points

- **Application of Part 5 to third-country AIFMs (regulation 27(b)):** We note that the wording in regulation 34(b) of the existing AIFM Regulations, which limits the application of Part 5 to the AIFs in respect of which the relevant requirements apply, has been removed from regulation 27(b) of the draft Regulations.

While the cross-reference to regulation 49(5) may preserve the existing position, the omission creates uncertainty as to whether Part 5 could apply to other AIFs managed by the same third-country AIFM. We ask HM Treasury to confirm that no substantive change is intended and suggest retaining the existing wording in regulation 27(b) to avoid any unintended expansion of the regime.

- **Regulation 49(4):** There appears to be a typo in the drafting of regulation 49(4) on Marketing of AIFs managed by third country AIFMs. It currently states:

(b) the AIFM complies with the information disclosure, annual reports and reporting rules set out in Part 5 of that AIF in respect of the AIF,

We assume that the words "of that AIF" are unnecessary and can be deleted.

- **Regulation 31(1)(b):** Also, there is a typo in regulation 31(1)(b) which refers to "availble" rather than "available".

Coordination with the FCA's proposed reforms

It is important that changes to the legislative framework and the FCA Handbook are coordinated to avoid unintended differences in scope, interpretation or implementation. We encourage HM Treasury to work closely with the FCA to ensure that existing regulatory concepts and guidance are preserved where no substantive change is intended, and that any consequential changes are subject to appropriate consultation and transitional arrangements.

We encourage HM Treasury and the FCA to deliver a more ambitious package of reforms that meaningfully reduces regulatory burdens, provides certainty for firms and strengthens the UK's position as a global hub for private capital. This would help to support the industry's continued contribution to investment, innovation and economic growth across the UK.

If you have any questions or there are points it would be helpful to discuss further, please contact Nick Chipperfield (nchipperfield@ukprivatecapital.co.uk) and Tom Taylor (ttaylor@ukprivatecapital.co.uk).

Yours faithfully,



Tim Lewis
Chair, UK Private Capital Regulatory Committee