Frankfurt am Main
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**BVI position on the Assessment Methodologies for Identifying Non-Bank Non-Insurer Global Systemically Important Financial Institutions**

BVI[1] gladly takes the opportunity to submit its comments on the assessment methodologies for identifying non-bank non-insurer global systemically important financial institutions (NBNI G-SIFIS).

BVI supports the initiative taken by FSB/IOSCO to identify and monitor NBNI G-SIFIS as requested by the G20. The identification of systemically important financial institutions beyond the banking and insurance sector will strengthen the overall stability and resilience of the global financial system. We fully support the assessment that NBNI G-SIFIS vary significantly in their structure and activities and as a consequence need very different treatment. The risk profile of highly regulated and transparent investment funds and respectively their investment fund management companies differs significantly from that of other NBNI G-SIFIS.

A comprehensive framework of the NBNI G-SIFIS requires an in-depth analysis of all relevant (systemic risk) factors/principles and the appropriated transmission mechanisms (e.g. counterparty and market channel) which should be supported by sufficient data. Only when based on such in-depth analysis, a comprehensive and proportional framework of the NBNI G-SIFIS can be carefully calibrated.

However, we are concerned that the assessments of the two systemic risk transmission channels (counterparty and market channel) applicable to regulated investment funds in the EU (under the UCITS/AIFM directives respectively) are not carefully calibrated and are not based on or verified through empirical data. For example, the FSB/IOSCO analysis does not incorporate regulated investment funds legal obligations restricting the counterparty and the market exposure.

A possible determination of the NBNI financial universe, especially for regulated investment funds, which is based on the size as an initial filter does not sufficiently consider other related investment fund factors. For example, very large regulated investment funds that follow conservative, long only active and passive strategies do not present a systemic risk per se. Highly leveraged private equity and hedge funds, especially unregulated ones, will have more effects on other financial entities than highly regulated and transparent investment funds even if they are all rather small in volume.

The assessment to determine highly regulated investment funds as NBNI G-SIFIS based on a materiality threshold as an initial filter does not take into consideration distinct features between the banking sector and the German investment fund industry. Managers of German investment funds act as trustees on behalf of their clients which distinguish them clearly from banks which typically provide principal based activities. The agency business model of an investment fund management company has a different risk profile from that of a bank. The balance sheet totals of German fund managers are generally of no importance in systemic terms. Therefore, we question an initial filter for NBNI G-SIFIS

[1] BVI represents the interests of the German investment fund and asset management industry. Its 79 members currently handle assets of EUR 2.0 trillion in both investment funds and mandates. BVI enforces improvements for fund-investors and promotes equal treatment for all investors in the financial markets. BVI`s investor education programmes support students and citizens to improve their financial knowledge. BVI`s members directly and indirectly manage the capital of 50 million private clients in 21 million households. (BVI's ID number in the EU register of interest representatives is 96816064173-47). For more information, please visit www.bvi.de.

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on the basis of a size for identifying G-SIFIS and G-SIIS as a good starting point in order to quantify the systemic relevance of asset managers.

German investment funds (both UCITS and AIF) provide extensive reporting to the national competent authority, the national central bank and to the public as regards both product features and target investments. Investment funds are subject to the most extensive transparency requirements of any financial product. For example, the new AIFM supervisory reporting regime is mandatory for all AIFs and encompasses details on portfolio composition, principal exposures and most importantly concentrations, risk profile and liquidity management. The AIFM reporting will also provide helpful data for assessing the interconnectedness between banks and other financial institutions as it comprises identification of the top five counterparties to which a fund has the greatest credit exposure and which have the greatest credit exposure to the fund respectively for each individual AIF. UCITS are already under the obligation to submit regular reports to the authorities concerning their use of derivative instruments over the entire reporting period.

Pursuant to EMIR, since 12 February 2014 investment funds as financial counterparties have to report (OTC) derivative contracts to Trade Repositories (TR). In this context, investment funds respectively the investment fund management company can be clearly identified by the Legal Entity Identifier (LEI). BVI strongly supports the initiative taken by the FSB to develop a global aggregation mechanism for (OTC) derivatives which will enable regulators worldwide to identify and mitigate systemic risk in the market. Only data in aggregated and high quality form ensures that competent authorities will obtain a comprehensive and accurate view of the global (OTC) derivative markets in order to meet the financial stability objectives of the G20 calling for a comprehensive use of Trade Repositories. Moreover, the EU Commission published a proposal[2] for the collection of data concerning securities lending and repo transactions. In the future, highly regulated investment funds also have to implement these requirements adding to the complete transparency of risks in the sector.

These extensive reporting obligations for German investment funds illustrate that FSB/IOSCO, regulators and (national) central banks worldwide should have sufficient data available for an in-depth analysis of the NBNI financial universe as it relates to regulated investment funds. Therefore, we do not share FSB/IOSCO´s view that NBNI financial entities, especially regulated investment funds, face limitations in data availability.

In the context of the assessment process, national competent authorities should not be allowed to add on the list “Stage 1” other NBNI financial entities that are below the materiality thresholds in order to streamline the process based on one factor. The possibility to allow national competent authorities to add other NBNI financial entities in their jurisdictions could cause inconsistency in the implementation across jurisdictions and therefore create regulatory arbitrage.

We would like to make the following detailed comments:

**Consultative questions (Please provide any evidence supportive of your response, including studies or other documentation as necessary)**
**Q1-1. In your view, are the three transmission channels identified above most likely to be the ones transmitting financial distress of an NBNI financial entity to other financial firms and markets? Are there additional channels that need to be considered?**

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[2] http://ec.europa.eu/internal_market/finances/docs/shadow-banking/140129_proposal_en.pdf

We agree in principal with the assumptions on the three transmission channels that a financial distress of a NBNI financial entity may be transmitted to other financial firms and to the markets in general.

However, the business models and the characteristics of the sector related categories for the NBNI financial entity as defined by FSB/IOSCO differ significantly within a possible transmission channel caused by a financial distress of a NBNI G-SIFIS to the wider financial markets.

Investment fund managers act as agents on behalf and in the sole interest of their clients. The agency business model of investment fund management companies differs from the principal model in which banks operate.

Investment fund management companies manage the investor assets in accordance with the investment objectives of the fund and within the restrictive requirements of the investment fund law. Fund investments are financed by means collected from investors who bear in full the associated investment risk. The risk diversification rules applicable to German investment funds prohibit undue concentrations of investments at the portfolio level. Asset managers do not engage in any relevant risks on their own account. Therefore, German investment funds do not raise concerns in systemic terms. Managers of German investment funds are not systemically relevant.

In this context, we question if the assumption of the two transmission channels developed by FSB/IOSCO related to (German) regulated investment funds are able to materialize due to the fact that investment funds have to adhere to restrictive investment fund law requirements. Please see our answer to question answer Q6-2.

The counterparty contagion channel may materialize only in the case of substantially leveraged investment funds such as private equity and hedge funds. If a fund suffers large losses compromising its ability to pay off any form of debt it has incurred, there is a risk of direct contagion to the counterparties of the fund. It should be noted, however, that leveraged funds are subject to certain limits in the EU, too (cf. Art. 25 (3) AIFMD (2011/61/EU) and Art. 112 Commission Delegated Regulation (EU) No 231/2013 AIFMD).

The vast majority of German based AIFs, however, are so called Spezial-AIF with low-risk long only equities, bond and balanced fund strategies used by regulated institutional investors, e.g. insurance companies (EUR 421,0 billion in relation to the total German Special fund assets) and retirement savings institutions (EUR 201,0 billion in relation to the total German Special fund assets)[3].

Regarding the non-replacement risk in the substitutability channel, we fully share FSB/IOSCO´s view that this channel is not applicable to investment funds. Indeed, as the Consultation paper rightly mentions[4], investment funds are highly substitutable products and are therefore very unlikely to transmit any systemic risk through this channel.

No empirical analysis or study constrains the linkage between the three channels of a possible financial distress of a NBNI financial entity (e.g. investment funds) which may be transmitted to other financial firms and to the markets in general. The “run” on the US money market fund “Prime Reserve” during the financial crisis cannot be seen as an example for the German investment fund industry. The US

[3] The total German Special fund assets are EUR 1,078 billion (January 2014): Please see BVI webpage: http://www.bvi.de/statistik/

[4] See pages 30 (“*the investment fund industry is highly competitive with numerous substitutes*”) of the Consultative Document.

money market funds are in general structured as constant net asset value funds (CNAV) while the German funds are of the variable net asset value (VNAV) type.

A comprehensive framework of the NBNI G-SIFIS requires an in-depth analysis of all relevant (systemic risk) factors/principles and the appropriated transmission mechanisms (e.g. counterparty and market channel) which should be supported by sufficient data. Only when based on such in-depth analysis, a comprehensive and proportional framework of the NBNI G-SIFIS can be carefully calibrated.

**Q2-1. Does the high-level framework for identifying NBNI G-SIFIs (including the five basic impact factors) adequately capture how failure of NBNI financial entities could cause significant disruption to the wider financial system and economic activity? Are there any other impact factors that should be considered in addition to those currently proposed or should any of them be removed? If so, why?**

We acknowledge the work done by FSB/IOSCO to develop a set of impact factors which should be applied to all NBNI financial entities in general and complemented with detailed indicators by each type/sector. We support the approach to develop detailed indicators for each type/sector. This approach may ensure that a wide range of NBNI financial entities and their different business models are adequately captured. The basic impact factors should not be considered in isolation but rather combined and aggregated.

However, we question whether the chosen impact factors and indicators to be developed for the investment fund industry will adequately reflect the characteristics of each investment fund.

We acknowledge that the impact factor “size” could be an attractive and easy filter for the regulators to identify systemically important investment funds. However, we do not believe that the criteria “size” considered in isolation is appropriate in order to identify potential systemic relevance of investment funds. The regulators have to take into consideration the fact that the scale of financial activity of an investment fund (e.g. leverage) is not directly related to its size. An investment fund cannot be compared with a bank whose leverage ratio is implicitly correlated to its size. It is likely that highly leveraged private equity and hedge funds could have more effects on other financial entities than highly regulated and transparent investment funds of the same size. Therefore, we suggest considering as an initial filter a combination of factors based on the “size” and of a fund and e.g. its level of leverage.

As mentioned above, based on detailed reports of funds to regulators and TRs, FSB/IOSCO, national regulators and the national central banks should have within the foreseeable future the necessary information and data on the investment fund in order to identify and monitor systematic risk.

**Q2-2. Is the initial focus on (i) finance companies, (ii) market intermediaries, and (iii) investment funds in developing sector-specific methodologies appropriate? Are there other NBNI financial entity types that the FSB should focus on? If so, why?**

In general we agree. Highly regulated investment funds (e.g. UCITS/AIF) have to comply with detailed diversification rules and leverage limits and are not a source of systematic risk. Therefore, the sector specific methodologies for funds should be primarily focused on highly leveraged or concentrated investment funds, e.g. unregulated private equity and hedge funds.

We think that Central Counterparties (CCP) should also be included in the list of other NBNI financial entity types. Due to the introduction of the European Market Infrastructure Regulation (EMIR), CCPs will take on board more counterparty risk and therefore are a new potential source of concentration and systemic risk. In this context, we support the initiative taken by the EU parliament[5] to establish a recovery and resolution mechanisms framework for non-banks, including CCPs and Central Securities Depositories (CSDs). It is of utmost importance that no client assets and positions of investment funds are used in order to finance CCPs in a case of a default.

**Q3-1. Is the proposed scope of assessment outlined above appropriate for operationalising the high-level framework for identifying NBNI G-SIFIs? Are there any practical difficulties associated with the proposed scope of assessment?**

We have no comments.

**Q3-2. In your view, are the above proposed materiality thresholds (including the level) for the NBNI financial entity types appropriate for providing an initial filter of the NBNI financial universe and limiting the pool of firms for which more detailed data will be collected and to which the sector-specific methodology will be applied? If not, please provide alternative proposals for a more appropriate initial filter (with quantitative data to back-up such proposals).**

A possible determination of the NBNI financial universe, especially for regulated investment funds, which is based on the size as an initial filter does not consider other related investment fund law factors. It could be possible that comparable small but highly leveraged private equity and hedge funds could have more effects on other financial entities than highly regulated and transparent investment funds such as the German Spezial-AIF which caters to the investment needs of conservative, regulated investor groups such as life insurance and retirement savings institutions (e.g. pension funds). Please see also our comments to question Q2-1.

The assessment to determine highly regulated investment funds as NBNI G-SIFIS according to a materiality threshold as an initial filter does not take into consideration distinct features between the banking and the German investment fund industries. Managers of German investment funds act as agents on behalf of their clients which distinguish them clearly from banks who typically provide principal based activities. The agency business model of an investment fund management company has a different risk profile from that of a bank. German investment fund managers do not perform shadow banking activities. The balance sheet totals of German fund managers are generally of no importance in systemic terms. Therefore, we question if an initial filter for NBNI G-SIFIS designed on the basis of a size for identifying G-SIFIS and G-SIIS is a good starting point in order to quantify the systemic relevance of asset managers.

As mentioned above, the extensive reporting obligations for German investment funds illustrate that FSB/IOSCO, regulators and (national) central banks worldwide should have sufficient data available for an in-depth analysis of the NBNI financial universe. Therefore, we do not share FSB/IOSCO´s view that NBNI financial entities, especially regulated investment funds, face limitations in data availability.

[5] http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2013-0533+0+DOC+XML+V0//EN&language=EN

In the context of the assessment process, national competent authorities should not be allowed to add on the list “Stage 1” other NBNI financial entities that are below the materiality thresholds in order to streamline the process based on one factor. The possibility to allow national competent authorities to add other NBNI financial entities in their jurisdictions could cause inconsistency in the implementation across jurisdictions and therefore create regulatory arbitrage.

**Q3-3. Are there any practical difficulties in applying the materiality thresholds?**

Please see our comments to question Q3-2.

**Q3-4. In your view, what is the appropriate threshold level, taking into account the range given above (USD 400-600 billion in GNE), for hedge funds? Please also provide reasons with data to back it up.**

According to the latest IOSCO Hedge Fund Survey[6], only one qualifying hedge fund is registered in Germany. Due to the implementation of the AIFM Directive in Germany, thousands of (Spezial) AIF are to be registered. These kinds of AIFs are neither private equity nor hedge funds. Therefore, it is of utmost importance to strictly differentiate between regulated AIFs and unregulated hedge funds.

**Q3-5. Do you think that it would be beneficial to set additional materiality thresholds based on “global activity”? If so, please explain the possible indicator and the level on which materiality thresholds should be set (with reasons for selecting such indicator, the level and any practical challenges).**

As the document consults on specific methodologies for the identification of global systemically important financial institutions, a threshold on global activities may be discussed to meet the principle of proportionality when assessing a global systemically important financial institution.

One member suggests as a starting point that the “global activity” threshold could incorporate for instance the number of jurisdictions in which NBNI G-SIFI has business locations. Only a widespread distribution network may indicate that there might be a larger global impact in times of unusual market conditions.

**Sector-specific methodologies (3): Investment funds**

**Q6-1. In your view, does the proposed definition of investment funds provide a practical basis for applying the specific methodology (i.e. indicators) to assess the systemic importance of NBNI financial entities that fall under the definition?**
**Q6-2. Does the above description of systemic importance of asset management entities adequately capture potential systemic risks associated with their financial distress or disorderly failure at the global level?**

No. German highly regulated and transparent investment funds (UCITS/AIF) are not a source of systemic risk. Managers of German investment funds are not systemically relevant. Investment fund management companies manage the investor assets in accordance with investment objectives of the

[6] http://www.iosco.org/library/pubdocs/pdf/IOSCOPD427.pdf

fund and with the restrictive investment fund law requirements. Fund investments are financed by assets collected from investors who bear in full the associated investment risk

We question whether the linkage of the transmission channels is adequately described:

- **Transmission channel "Exposures/Counterparty channel":**

If the potential failure or distress of investment funds could lead to risks for financial institutions such as banks or insurance companies, the question then arises as to whether financial institutions as counterparties should be allowed to build up large exposures against investment funds and under which circumstances (risk management techniques etc.).

The systemic relevance does not arise from the investment fund itself but rather from the counterparties and the regulations governing their behavior. FSB/IOSCO should take into consideration that there are different sets of regulations on EU level which prevent market participants from heavy losses as a result of extended financing to a fund or through direct linkages, e.g. CRR and Solvency II. CRR (Regulation 575/2013/EU, implementing the Basel III accord) is already in place. The CRR contains a maximum leverage ratio of 3 % and rules regarding the liquidity with explicit requirements to adequately address the counterparty risks as well as detailed provisions on large exposures and own fund requirements for EU credit institutions. Solvency II (Directive 2009/138/EC) codifies and harmonises the EU insurance regulation. This concerns the amount of capital that EU insurance companies must hold to reduce the risk of insolvency. It reflects a new risk management practice to define required capital and manage risks.

- **Transmission channel "Asset liquidation/market channel":**

The transmission channel "Asset liquidation/market channel" is described as the indirect impact of a distress or a failure of an investment fund on other market participants. For instance, individual investment funds may be significant investors and/or providers of liquidity in some asset classes.

As mentioned above, EU regulations (e.g. through the UCITS[7] and AIFM[8] directives) already provide stringent requirements for the management of investment fund risks:

**UCITS:** Asset Managers do not have a global systemic relevance due to the fact that they are not permissible to trade on own accounts with investor's capital[9]. The balance sheet is small compared to those of financial institutions.

The European Commission has already stated that UCITS do not cause a systemic risk[10]. In particular there are strict requirements of risk diversification and segregation of assets and protection against insolvency:

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[7] Directive 2009/65/EC
[8] Directive 2011/61/EU
[9] Article 6 para (3) Directive 2009/65/EC
[10] Please see EU Commission Consultation paper on the UCITS Depositary Function and on the UCITS Managers` Remuneration dated 14 December 2010 (Markt/G4D (2010) 950800), section 2.3 where the Commission states: "The UCITS asset management sector was not one of the root causes the financial crises, and the new regulatory framework for UCITS should place significant limits on the degree and nature of risk that a UCITS might take on, thereby also limiting the extent to which misaligned incentives might lead to wider systemic problems."

- Definition of eligible assets, Art. 50
- Determination of issuer concentration limits, Art. 52
- Restrictions concerning borrowing, Art. 83 (2)
- Restrictions referring to the use of derivatives, Art. 51 (3)
- Safekeeping principle to be ensured by depository, Art. 22 ff.
- Segregation of the investor's assets from the management company‘s own assets, Art. 32 ff.
- Protection of the investor's units against insolvency in case of the bankruptcy of the asset management company

**AIF:** Asset Managers in Europe do not have a global systemic relevance. In particular, there are strict requirements of risk diversification and segregation of assets and protection against insolvency.

- Establishment of a separate risk management, Art. 15 (1)
- Establishment of a liquidity management, Art. 16 (1)
- Close collaboration with authorities and restrictions concerning the use of leverage, Art. 25
- Safekeeping principle to be ensured by depository, Art. 21
- Segregation of investor's assets from the management company‘s own assets, Art. 21 (8)
- Protection of the investor's units against insolvency in case of bankruptcy of the asset management company

The description of the systemic importance of investment fund management companies associated with the possibility for a financial distress or disorderly failure does not take into consideration the effects of the regulation for UCITS and AIF managers for financial entities and markets at least in the EU. The business model of asset management companies does not correspond to that of systemically important credit institutions and other types of investment firms.

All asset manager business activities are performed on agency basis: no dealing on own account is permitted. Managers of UCITS and AIFs are limited to the core functions and a limited number of secondary activities as allowed in the UCITS and AIFM Directive. For UCITS managers this comprises the collective investment in transferable securities, management of portfolios of investments, investment advice and safekeeping/administration. For AIFMs this comprises the management of AIFs, the management of portfolios of investments, investment advice and safekeeping and administration and reception and transmission of orders.

Financial instruments which belong to an investment fund need to be segregated from the assets of the management company and the assets of the depositary (legal and physical separation). All fund assets are ring-fenced and held by a separate custodian. Therefore, a possible default incurred on the investment fund management level does not have any impact/effects on the client’s assets belonging to the investment funds.

Asset management companies usually manage the funds on behalf of their clients. Their own balance sheet is comparably small. Therefore market risks related to investing on own account – akin to the trading book for banks – do not apply.

Furthermore, the total size of the German fund industry is not systemically important. The German fund industry EUR 2,2 billion AUM[11] are split between 79 management companies and 11.545 investment funds. This in return ensures a broad range of (unique) tailor made services allowing for a minimization of cluster risks which in return might be present referring to certain banks or non-banks.

**Q6-3. Which of the following four levels of focus is appropriate for assessing the systemic importance of asset management entities: (i) individual investment funds; (ii) family of funds; (iii) asset managers on a stand-alone entity basis; and (iv) asset managers and their funds collectively? Please also explain the reasons why you think the chosen level of focus is more appropriate than others.**

Please see our answers above. We do not think that an investment fund respectively their investment fund management companies are a source of system risk/relevance:

- **Item (i):** As the (German) investment fund industry is subject to fierce competition, it is not appropriate to consider an asset management entity as NBNI G-SIFI solely on the basis of an individual investment fund. Fund administration and portfolio management of a single investment fund can easily be transmitted to another asset management company.

- **Item (ii):** It is not appropriate to consider a single asset management entity as globally systemically important on the basis of an assessment of families of funds it manages according to the same or similar investment strategy. The investment fund industry is subject to fierce competition and fund administration and portfolio management of a family of funds can easily be transmitted to another asset management company.

We do not see a risk of circumventing the materiality threshold for an individual investment fund via creating a family of “similar” funds, either. Fund management activities are governed by a set of requirements, e.g. notification of each single investment funds[12], investment fund`s transparency in periodical reports[13] and sales documents at the level of the funds[14]. A duplication of funds would result in high administration costs which are simply not feasible in today`s highly competitive and low yield environment.

- **Item (iii):** The possible approach to determine the level based on an asset manager stand-alone entity basis is not appropriate. Asset managers are not dealing on their own account and do not pose any systemic risk.

- **Item (iv):** It is not appropriate to consider the asset manager and the investment funds collectively. Neither an asset manager nor investment funds are a source of systemic risk.

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[11] Please see BVI webpage http://www.bvi.de/statistik/

[12] UCITS: each fund must be authorized by the competent authorities, Article 5 para 2 of Directive 2009/65/EC; AIF: each fund must be at least notified to the authorities as part of managers`s authorization and separately, for marketing purposes, Article 7 para 3 (a), (c) and Articles 31, 32 in connection with Annexes III and IV of Directive 2011/61/EU.

[13] UCITS: half-yearly and annual reports according to Article 68 para 1 Directive 2009/65/EC; AIF: annual report according to Article 22 Directive 2011/61/EU.

[14] UCITS: prospectus according to Article 68 para 1 Directive 2009/65/EC and Key information document according Article 78 Directive 2009/65/EC.

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**Q6-4. Should the methodology be designed to focus on whether particular activities or groups of activities pose systemic risks? If so, please explain the reason why and how such a methodology should be designed.**

No. Please see our answers above.

**Q6-5. Are the proposed indicators appropriate for assessing the relevant impact factors? If not, please provide alternative indicators and the reasons why such measures are more appropriate.**

With regard to the proposed indicators, we make the following comments:

- **Size:** Size is not an appropriate indicator in order to assess the possible systemic relevance of NBNI financial entities especially for highly regulated investment funds. Please see our answer to question Q3-2.

- **Interconnectedness:** We agree that the leverage ratio is one of the most important indicators to measure the impact of the systemic relevance of NBNI financial entities. However, it is important to consider already existing regulations on EU level which limit the leverage ratio and therefore minimize global systemic risks of investment funds (see Art. 25 AIFMD 2011/61/EC or Art. 83 (2) UCITS 2009/65/EU). On EU level there are regulations in place to prevent market participants from heavy losses as a result of extended financing to a fund or through direct linkages, e.g. in the CRR for banks and in Solvency II for insurance undertakings.

  The counterparty exposure ratio is also considered as an appropriate indicator to define global systemic risk. As mentioned above, it is important to consider already existing regulations which limit counterparties credit exposure. Counterparty limits are set by investment fund regulation. ESMA published final guidelines on collateral diversification which sets limits for UCITS on EU level[15].

- **Substitutability:** We agree that substitutability could be an appropriate global system risk indicator. The figure trading turnover related to a specific asset seems to be an appropriate one. However, it needs to be considered that on EU level and especially for UCITS there are diversification rules in place which minimize the risk that one single fund invests a too big sum of money into a single asset. Therefore, an investment of one financial instrument by a fund cannot influence the asset’s underlying market no matter how high the turnover of the fund related to this specific asset. The figure on trading activity relative to its peers seems to be an appropriate figure to measure the global system risk. Probably, the most suitable figure of the substitutability indicator is the indicator 3-3 investment strategies with less than 10 market players globally.

- **Complexity:** Complexity is not an appropriate indicator for assessing global systemic risk importance of funds. The use of OTC derivatives does not automatically imply a high systemic risk. UCITS and most AIFs use derivatives for risk hedging and not for speculation. Therefore the risk is relatively low and limited. The indicators described in 6.3.4 are more important for hedge funds (as a sub-group of AIF) but not for already highly regulated UCITS.

[15] http://www.esma.europa.eu/system/files/2014-294_final_report_revision_of_guidelines_etfs_and_other_ucits_issues.pdf

- **Cross jurisdictional activities:** Cross jurisdictional activities may be important to assess the systemic risk of NBNI financial entities. The number of jurisdictions in which NBNI financial entities may invest could have an impact on the systemic risk relevance.

**Q6-6. For "cross-jurisdictional activities", should "the fund's use of service providers in other jurisdictions (e.g. custody assets with service providers in jurisdictions other than where its primary regulator is based)" be used?**

The possibility to extend the cross-jurisdictional activities further to the fund`s use of service providers is not a useful indicator for the assessment of systemic relevance.

Furthermore, the competent authorities should take into consideration whether there are sufficient regulations in place to reduce the risk applicable to the custody service. The UCITS/AIFM directives include such requirements (see our answer to Q 6.2). The UCITS Directive is currently being amended[16] with changes to the UCITS depositaries regime concerning the duties and liability of the depositary. This proposal includes new requirements for delegating depository duties to a third party in and outside the EU.

The AIFM Directive requires a custodian for each AIF. In cases where a sub-custodian is necessary, the custodian is liable for the sub-custodian. Therefore, no systemic risk could materialize for example by a sub custodian located in another jurisdiction in which the AIF is based.

**Q6-7. Is the definition of "net AUM" and "GNE" appropriate for assessing the "size" (indicators 1-1 and 1-2)?**

No, the GNE is not sufficiently calibrated as the exposures are only added with their absolute values which do not properly reflect the (systemic) risk that might result from such funds.

**Q6-8. Is the definition of "investment strategies" sufficiently clear for assessing the "substitutability" (indicator 3-3)?**

This will depend on the interaction with other indicators. If other indicators (e.g. the size) are taken into consideration, the definition could be sufficient. If other indicators are not considered, the single indicator is not sufficient.

**Q6-9. Would collecting or providing any of the information included in the indicators present any practical problems? If so, please clarify which items, the practical problems, and possible proxies that could be collected or provided instead.**

Yes, indeed. Not all of the additional, proposed indicators are readily available. The collection of the necessary data will probably involve substantial additional costs to the investment fund management companies.

[16] EU Commission (COM) published a "Proposal for a Directive of the EP and of the Council amending Directive 2009/65/EC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) as regards depositary functions, remuneration policies and sanctions" on 3 July 2012.

German investment funds already provide numerous reports to the national competent authority, national central bank and to the public concerning both product features and target investments.

Taken together, the existing regulation on reporting of fund holdings, and on reports of transactions to regulators (MiFID, AIFMD) and/or to trade repositories (EMIR, EU Commission proposal on securities lending and repo transactions) as well as the new global repository on reference and hierarchy data (Global Legal Entity Identifier System (GLEIS)) should enable regulators to get a full risk view of each investment fund within the foreseeable future. The extensive reporting obligations for German investment funds illustrate that FSB/IOSCO, regulators and (national) central banks worldwide should have sufficient data available for an in-depth analysis of the NBNI financial universe. In order to minimize these costs, data collection by regulators should be based on already existing fund reporting obligations.

Duplication of existing or future regulatory requirements and inconsistent data standards should be avoided, however, to reduce the administrative burden to the industry and to provide more clarity to the regulators. For example, the Regulation in the Dodd Frank Act for private funds (e.g. Form PF and CFTC Form PQR) in the US and the AIFMD reporting in the EU could be harmonized in order to capture the data in the world´s largest financial markets in a standardized format.

**Q6-10. Are there additional indicators that should be considered for assessing the relevant impact factors? For example, should "the fund's dominance in a particular strategy (as measured by its percentage of net AUM as compared to the total AUM" also be considered for "substitutability"? Similarly, should "leverage" or "structure" of a fund also be considered for assessing "complexity"? Please explain the possible indicators and the reasons why they should be considered.**

No.

**Q6-11. Should certain indicators (or impact factors) be prioritised in assessing the systemic importance of investment funds? If so, please explain which indicator(s) and the reasons for prioritisation.**

As mentioned above, especially unregulated highly leveraged investment funds (e.g. private equity and hedge funds) should be in the scope of potentially systemically important investment funds. At EU-level there are already existing fund regulation requirements which deal with this issue.