

# AIFMD: FCA on the use of proportionality in applying Article 15(1) on risk management

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**CATEGORY:**  
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The FCA has updated its webpage on the AIFMD to clarify how alternative investment fund managers (AIFMs) can comply in a proportionate way, with the AIFMD's Article 15 requirement, for hierarchical and functional segregation of a firm's risk management function. In assessing this segregation, the FCA will review compliance with this requirement in accordance with the principle of proportionality set out in Article 15(1) of the AIFMD and Article 42(3) of the AIFMD delegated Regulation.

If a AIFM firm wants to comply with Article 15(1) other than through functional and hierarchical separation, and on the basis of proportionality, then the FCA advises that it should describe briefly in the notes to its AIFM application form (which AIFM application form the FCA expects to be submitted by no later than 22 January 2014) the specific safeguards that achieve the desired objective and if necessary, the FCA will follow up with a request for more information or assurances.

According to the FCA, this principle of proportionality is intended to ensure that regulatory measures go no further than is required to achieve a stated objective. This is to ensure an AIFM has specific safeguards against conflicts of interest, and to allow for the independent performance of risk-management activities. While achieving functional and hierarchical separation may be disproportionate for some firms, taking into account their size, internal organisation and the nature, scale and complexity of their business (or possibly other factors, to the extent the firm regards such factors as relevant) the FCA considers that for the requirements of Article 15 to be satisfied, an AIFM must be able to demonstrate that it has specific safeguards against conflicts of interest that allow for the independent performance of risk-management activities. These safeguards must, as a minimum, comply with Article 43 of the AIFMD delegated Regulation. The FCA will review and assess the safeguards implemented by the firm to ensure that conflicts of interest do not compromise that independence.

Please contact the Withers UK Financial Services team if you need any assistance with the submission of the AIFM application form before the FCA's deadline of 22 January 2014.

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