



May 3, 2019

The Rt. Hon. Nicky Morgan MP
Chair of the Treasury Committee
Treasury Committee
House of Commons
Committee Office
London
SW1A 0AA

Re: **Treasury Select Committee’s “The future of the UK’s financial services inquiry”**

Dear Chair Morgan:

Managed Funds Association¹ (“MFA”) welcomes the opportunity to respond to the Treasury Select Committee’s (“Committee”) inquiry on “The future of the UK’s financial services.” MFA and its members are deeply committed to London as a current and future center of excellence for asset management, and we look forward to working constructively with the Committee. We wish to assist the efforts by both the United Kingdom and the European Union to design policies that stimulate investment, reduce duplicative regulatory requirements, and promote fair and accessible capital markets to set the stage for economic growth. These goals become even more important in the context of the upcoming UK withdrawal from the EU, as the importance of cross-border regulatory cooperation increases. MFA members have a shared interest with EU and UK policy makers in building strong capital markets that help investors, such as pension funds, to diversify portfolios, manage risk and deliver reliable returns over time. The alternative asset management sector will continue to play an active and dynamic role in UK and EU capital markets, partnering with many institutional investors to help meet their unique investment goals.

We welcome the Committee’s question on what the Government’s financial services priorities should be when it negotiates the future relationship with the EU and third countries, and how the UK’s financial services sector can take advantage of the new environment. In this letter we highlight a number of high-level areas - compliance, access to markets, and data security - on which the UK government could focus during its upcoming internal review process.

¹ MFA represents the global alternative investment industry and its investors by advocating for sound industry practices and public policies that foster efficient, transparent, and fair capital markets. MFA, based in Washington, DC, is an advocacy, education, and communications organization established to enable hedge fund and managed futures firms in the alternative investment industry to participate in public policy discourse, share best practices and learn from peers, and communicate the industry’s contributions to the global economy. MFA members help pension plans, university endowments, charitable organizations, qualified individuals and other institutional investors to diversify their investments, manage risk, and generate attractive returns. MFA has cultivated a global membership and actively engages with regulators and policy makers in Asia, Europe, North and South America, and many other regions where MFA members are market participants.

MFA encourages policy makers in all major jurisdictions to continue to strive towards regulatory convergence where applicable. For the UK and EU, as Chairman Bailey of the Financial Conduct Authority recently highlighted, it is important to ensure that equivalence remains an outcomes-based approach, as opposed to a line-by-line reading.

Asset Management Regulation

Many alternative asset managers have their headquarters, or a subsidiary asset management business, located in the United Kingdom. These firms are a key part of the UK financial services industry and the UK is a key source of talented professionals and service providers for the asset management industry. Given the importance of the UK as a domicile for asset managers, it is critical for the Committee to ensure that the asset management regulatory framework in the UK avoids creating barriers to entry for non-UK firms seeking to do business in the UK while also ensuring the UK firms can market to clients and invest in global capital markets. Examples of asset management rules that are of particular importance to the industry include:

Alternative Investment Fund Managers Directive (AIFMD) – MFA encourages the Committee to consider how important issues in the AIFMD, including costs and uncertainties related to marketing to professional investors, reporting requirements, delegation arrangements, remuneration, and depositaries impact the business decision firms have to make with respect to choosing a domicile. When the EU activates the third country regime, it is crucial that national private placement regimes be allowed to continue to operate alongside the passport.

Systemic Risk Regulation – MFA believes that systemic risk at investment funds is very unlikely for several reasons, including that these funds have no depositors, no access to central bank liquidity, no public bailouts, and generally do not engage in credit underwriting or trading on own account. Regulatory assessment of systemic risk in the UK and elsewhere should, therefore, be done by examining market-wide activities and the broader risk framework that includes risk mitigants, such as the quality of existing regulation and oversight. It is equally important to distinguish investment risk from systemic risk.

Prudential Rules for Investment Firms – As policy and regulatory officials in the United Kingdom implement and refine capital and remuneration rules, it is important to ensure that the rules are truly tailored to asset management firms, and not copied from bank requirements, including appropriate proportionality for those firms. We welcome the Financial Conduct Authority's upcoming consultation on the implementation of the new prudential regime for MiFID investment firms in the second half of 2019.

Sustainable Finance/ESG Rules – MFA supports the increased investor interest in sustainable finance and emphasizes that any regulatory framework should promote an investor-driven approach. MFA cautions against a one-size-fits-all approach that compels asset managers and institutional investors to incorporate ESG factors in all instances, but we believe investors will increasingly express a preference for ESG products where applicable.

Market Access

Asset managers and their investment funds require fair access to capital markets and need the ability to implement a wide range of investment strategies and invest in a wide range of financial instruments. Limiting or restricting the market access of investment funds, such as through unnecessary costs or other barriers to entry impedes the efficient functioning of capital markets, harming investors and business seeking to raise capital. We encourage the Committee to consider the individual and collective impact of regulation on the ability of investors to allocate capital effectively.

Regulation of Short Selling (SSR) – Short selling is a critical component of capital markets and provides an important risk mitigation tool for investors. Certain aspects of the SSR have proved beneficial, such as the prohibition on naked short sales and new mandatory buy-in rules. However, other aspects of the SSR do not function efficiently or beneficially for NCAs. For example, regulators and market participants alike would benefit from a clear, central source of in-scope instruments, a central reporting mechanism, and the removal of incremental reporting thresholds.

Review of Aspects of the MiFID II/MiFIR Regulation – There are continuing concerns regarding the implementation of a number of aspects of the MiFID/MiFIR framework that adversely impact investment activities, including trade and transaction reporting, the rising costs of market data, the cross-border framework, and inducements. MFA looks forward to further consultation on these aspects of MiFID.

Data Security

Asset managers are now subject to robust reporting requirements in many jurisdictions, including rules that require reporting of confidential, proprietary, or other sensitive information. MFA acknowledges that regulators need information from regulated entities to oversee financial markets effectively, but advocates that regulators likewise need to enhance their internal protections for the handling, review and storage of confidential information. To this end, MFA has actively supported efforts to ensure that regulators implement a robust process for assessing the necessity of highly sensitive, confidential information, including valuable intellectual property. The inadvertent disclosure of confidential and proprietary data, whether by leak, hack, or other means, endangers the firm whose data is disclosed, and could impact the ability of those firms to manage risk, including on behalf of their investors. We encourage the Committee to ensure that information reported to UK regulators is subject to robust data protection, and that cross-border exchanges of confidential and proprietary data also is subject to robust protection.

Sophisticated Approach to Regulatory Financial Data Security – MFA advocates for three simple recommendations to protect the confidential and proprietary data of financial entities. First, regulators should tailor reporting requirements to ask for only the data that is necessary to achieve their function. Second, regulators should build protections into their forms and reporting systems, including alphanumeric identifiers rather than names and other identifying information. Third, regulators should tier their protections and security protocols based on the level of sensitivity of the data.

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In conclusion, as your Committee considers the future of financial services outside of the European Union, we remain at your disposal as a constructive partner. Our aim is to provide input into developing or finetuning policies and regulations that will promote continued access to markets, services, and talent among the asset management community. We look forward to working with you.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "M. Pedroni", with a small horizontal line at the end.

Michael N. Pedroni
Executive Vice President & Managing Director,
International Affairs
Managed Funds Association