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9 June 2025

Dear Asset Management and Funds Policy Team,

RE: Call for Input on future regulation of alternative fund managers

The British Private Equity and Venture Capital Association (BVCA) is the industry body and public policy advocate for the private capital industry in the UK. With a membership of over 600 firms, we represent UK-based venture capital, private equity and private credit firms, as well as their professional advisers and investors. There are almost 13,000 UK companies backed by private capital which currently employ over 2.5 million people in the UK. In 2024, £29.4bn was invested by private capital into UK businesses in sectors across the UK economy, ranging from consumer products to emerging technology. This increased investment has fuelled the growth of businesses across the UK, with six in ten (58%) of the businesses backed in 2024 located outside of the capital.

We welcome the opportunity to respond to the FCA's Call for Input (CfI) on the Future Regulation of Alternative Fund Managers. This review is a critical opportunity for the FCA to drive meaningful reform that enhances the UK's attractiveness as a leading global hub for private capital firms and private capital investment. At a time when the government's number one mission is growth and competitiveness, it is essential that the UK's regulatory frameworks actively support those ambitions.

Ensuring the UK's regulatory regime for UK AIFMs is proportionate, flexible, and tailored to the UK market is vital to attracting and retaining private capital firms, along with the highly skilled jobs that they create. Alongside capital investment into UK businesses, private capital firms drive significant demand for legal, accounting, advisory, fund administration, and other professional services, supporting a vibrant investment ecosystem that contributes substantially to the UK's economy. Ultimately, a competitive, well-calibrated regulatory regime will help mobilise more long-term investment into UK businesses, driving innovation, productivity, and growth across the economy.

While we strongly support the FCA's stated goals of simplifying and modernising the regime, we are extremely concerned that the proportionality enhancements proposed in the CfI do not go far enough and, in some areas, risk making the UK less competitive for private capital. In particular, the proposed three-tiered regime and thresholds could introduce new complexities and unintended consequences that may undermine the UK's stated ambitions, particularly in a post-Brexit landscape where the UK must compete more vigorously for capital and investment.

We welcome the FCA's recognition that certain areas of the regulatory framework merit further review and reform, including:

- The remuneration regime, where recent proposals for dual-regulated firms highlight the need for a more proportionate approach to reflect the risk profile of private capital firms.
- The prudential requirements, designed to address risks in a post-2008 environment, which now often result in a substantial quantity of unproductive capital being tied up. This capital could otherwise be

deployed by private capital firms to develop their businesses and support UK businesses with high-growth potential.
- The AIFM business restriction, which currently limits the ability of firms to offer complementary services under a single authorisation, often forcing them into costly and inefficient multi-entity structures.
- The regulatory reporting regime, which has not been substantively reviewed since its introduction and imposes manual, repetitive processes on firms to provide information that may add little supervisory value.

Without meaningful reform, including a fundamental reassessment of thresholds and a more proportionate and risk-based approach to regulation, the UK risks its position as a leading global hub for private capital being undermined. Worse still, it could miss this significant opportunity to enhance its competitiveness and attractiveness to global private capital and to unlock investment into high-growth UK businesses.

For these reasons, we urge the FCA to take a bolder approach to reform that truly aligns with the Government's growth and productivity agenda, reduces regulatory friction, and positions the UK as the leading domicile for private capital for the future.

Our response addresses each question in turn and cross-references related themes where appropriate. We focus, in particular, on the reforms that would enhance proportionality, reduce regulatory friction, and improve the competitiveness of the UK as a home for private capital firms.

Question 1: Do you agree that the areas outlined above are issues with the current regime? If not, please explain why. Are there any issues beyond those that we have identified that we should consider when amending the regime?

We agree that the "cliff-edge effects" identified by the FCA are issues within the current regulatory framework. We support the FCA's objective of enabling firms to grow without being subjected to abrupt and disproportionate increases in regulatory obligations. However, we are extremely concerned that the proposed three-tier framework risks replicating or exacerbating the current issues rather than resolving them, particularly the suggestion that 'mid-sized firms' with as little as £100m NAV be subject to a "comprehensive" regime similar to that for the largest firms (see our responses to Questions 3, 4, and 6).

Transitioning from sub-threshold to full-scope AIFM status currently triggers a steep escalation in regulatory burden, including capital requirements, mandatory appointment of a depositary, and the imposition of business activity restrictions. These changes are both costly and operationally disruptive, and we note the FCA's understanding that some firms deliberately manage their growth to avoid breaching thresholds.

We are concerned that subjecting smaller firms to standards designed for large AIFMs, albeit with reduced procedural requirements, will not solve this problem. Instead, it may worsen it, particularly in terms of the UK's competitiveness relative to other fund management domiciles. Any revised framework must support growth by applying proportionality not only in regulatory outcomes, but also in how those outcomes are implemented in practice.

In particular, we would like to note the following issues that the FCA should consider when amending the regime:

- **AIFM Business Restriction:** The AIFM business restriction creates a particular set of problems in the UK. AIFMD was introduced in the UK by layering the EU AIFM regime on top of existing UK regulatory standards. The AIFM business restriction was never designed to take UK standards into account; it was designed purely at EU level to reflect EU standards in MIFID. The UK clearly addressed the overlap between managing an AIF and other regulated activities through the introduction of Article 72AA of the Regulated Activities Order, which allows an AIFM to perform other regulated activities when performing AIF management activities.

However, this does not clearly address the position where firms manage other vehicles and provide services which are an integral part of running a modern institutional fund management business as an AIF manager. For instance, it does not clearly deal with the position where a firm operates a single asset investment vehicle or co-investment vehicle which is classified as a collective investment scheme rather than an AIF. It leaves firms needing to assess whether to treat such activities as ancillary to AIF management, treat them as additional "MIFID" activities (such as "reception and transmission of orders") requiring additional UK regulated activities and permitted by the AIFM business restriction (as reception and transmission of orders is not a UK regulated activity), as non-MIFID activities (such as operating unregulated collective investment schemes) or some combination. This is without taking into account the UK's client money regime, which operates as an additional layer of regulation outside of the regulated activities order and MiFID. The regulatory permissions regime under UK AIFMD is a mess and we welcome HMT and FCA willingness to fix it.

- **"Top-up" activities:** We also recommend that the UK permits low-risk "top-up" activities by default, particularly those already adjacent to core AIFM functions, to be conducted under a unified AIFM authorisation. These activities could include, for example, investment advice, arranging (bringing about) transactions, making arrangements with a view to transactions, reception and transmission of orders, portfolio management, investment management, operating collective investment schemes, safekeeping and administrative services related to assets, and arranging safekeeping. In a private capital context, these crossover activities are typically provided to professional clients, often involve infrequent trading, and are typically intra-group or directly related to fund management services. These are distinct from higher-risk, retail focused MiFID activities such as dealing on own account or operating multilateral trading facilities.

  Incorporating these functions within the AIFM permission, where they are complementary to fund management and provided to professional clients, would streamline UK firm structures, reduce regulatory duplication, and support a more integrated private capital sector.

  This change would not only improve operational efficiency but also help make the UK a more attractive and competitive jurisdiction for private capital firms, aligning with the FCA's broader objectives for competitiveness, innovation and market growth.

- **Prudential requirements:** the current prudential requirements for AIFMs, particularly the ramp-up in capital from thousands of pounds under the sub-threshold regime to (in many cases) millions under the full-scope regime, represent a significant cliff-edge that can deter growth and innovation. These requirements, designed in the aftermath of the global financial crisis, have not been substantially revisited since AIFMD came into force in 2013. They are rarely proportionate to the risk profile of private capital firms, and do not recognise that it is the fund under management (not the AIFM) which is deploying capital (i.e., the AIFM has a limited exposure to investment and liquidity risk).

  The current regulatory capital requirements trap significant amounts of capital on firms' balance sheets, preventing them from being use more productively, including investment into their business to further invest in UK businesses with high growth potential. In a competitive international environment, this dynamic risks making the UK less attractive as a domicile for private capital firms.

  We therefore welcome the FCA's commitment to review these requirements and recalibrate them to better reflect the size, structure, and systemic profile of different AIFMs. Any review should also consider duplications and inconsistencies between AIFMD capital requirements and those arising under other regulatory regimes, such as the Investment Firm Prudential Regime (IFPR). Addressing these overlaps could significantly reduce unnecessary burdens on firms, lower barriers to entry and scale, and, most importantly, unlock capital to be used to develop businesses which aid investment in the real economy, supporting growth and productivity in the UK. We additionally recommend simplifying the rules for what counts as capital. Applying UK CRR to AIFMs significantly overcomplicates the regulatory capital regime, imposing disproportionate compliance costs compared to the benefits.

- **Depositary requirements:** The current AIFMD depositary requirement imposes substantial and often unnecessary costs for investors. Closed-ended private capital funds do not present the same safekeeping or liquidity risks as open-ended UCITS funds. They operate on a capital call model (where committed funds are drawn from institutional investors shortly prior to investment, rather than held in investments from the outset of the fund), are marketed to professional investors, and invest in non-custodial assets such as unlisted shares or real assets.

  The depositary's role in verifying ownership of such assets largely duplicates work already conducted through legal counsel and due diligence processes, offering minimal additional protection for investors while significantly increasing costs and administrative burdens. Meanwhile, depositaries often perform functions that overlap with other regulated service providers, such as external administrators and auditors, resulting in inefficiency and duplication of effort. Share investments in private companies are regulated by shareholder agreements and in practice if share certificates are issued with errors or lost, the private capital investor simply arranges for replacements to be issued. The risks associated with assets held by the vast majority of private capital funds are completely different to investments held by funds which trade in securities traded on public markets.

  We therefore recommend removing the mandatory depositary requirement for private capital funds, or at minimum introducing flexibility to align with actual risks and investor needs (see our detailed recommendations in response to Question 13).

  For LCICs, which are subject to robust governance, disclosure, and audit requirements under the UK Listing Rules and company law, the case for a mandatory depositary is similarly weak (see our responses to Questions 11 and 12 for more detail).

- **Reporting requirements:** Reporting requirements under UK AIFMD, particularly Annex IV / AIF002, are overly burdensome and not tailored to the specificities of private capital. The manual nature of the AIF002 submission and lack of roll-forward functionality for standing qualitative items all contribute to inefficient reporting that yields limited regulatory value. We welcome the FCA's commitment to considering a more effective reporting regime that is proportionate in its demands of firms.

- **Material change notifications:** The current regime for notifying the FCA of material changes and new AIFs under management is poorly calibrated for private capital. For example, fund documentation evolves iteratively through negotiation with institutional investors during fundraising. The FCA's current expectations result in multiple filings that disrupt and delay commercial transactions, fundraising and investor relations (delaying closings and investor access to investment opportunities), as well as result in significant costs for funds (and therefore investors). We recommend aligning the process with the UK NPPR regime, allowing for notification without a waiting period and reducing the amount of information which must be filed.

- **Private equity notifications and the asset stripping rules:** We welcome HM Treasury's consideration on removing notification requirements on the acquisition or disposal of major holdings and control of non-listed companies. These notifications provide information that is of limited, if any, value to the regulator in a private capital context, has no value to investors and is an unnecessary regulatory reporting burden on firms.

  More broadly, the asset stripping rules derived from AIFMD are unnecessary in the UK context, where strong protections already exist under corporate governance, insolvency, and fiduciary duty frameworks. Private capital firms are incentivised to enhance long-term value, not extract it. Through structures such as carried interest, there is a strong alignment of interests between private capital firms and their investors. This means that fund managers succeed when their portfolio companies grow and thrive over the long term.

  The asset stripping requirements impose unnecessary restrictions on ordinary commercial activity, such as share redemptions and other payments within the first two years of investment and have a negative impact on the structuring of investments into portfolio companies. We understand that these restrictions are reflective of the regimes in a few EU countries which pre-dated AIFMD. They are alien to the UK private law tradition.

Question 2: Do you have any comments on structuring the presentation of our rules thematically based on the product cycle and business activities?

We support the FCA's proposal to restructure the AIFM regime using clearer, thematic categories aligned to the product cycle and business activities. The proposed structure should make the regime easier to understand and navigate, particularly for smaller firms and new entrants.

Currently, overlapping provisions from the FCA Handbook and the AIFMD Level 2 Regulation often create ambiguity, especially where multiple obligations are embedded within a single rule. A thematic presentation has clear potential to:

- Improve clarity around when and to whom specific rules apply.
- Help firms identify relevant obligations more easily across the product lifecycle (e.g. fund formation, management, wind-down).
- Support a more scalable and proportionate regulatory framework, especially for firms focused on long-term, closed-ended, illiquid strategies.

However, better organisation must also be accompanied by substantive simplification. Restructuring should not simply repackage existing burdens, but should aim to eliminate duplication, remove unnecessary prescription, and recalibrate legacy EU-derived requirements that are misaligned with UK market practice.

We encourage the FCA to consult with a broad range of stakeholders, including legal and compliance professionals, and smaller managers, when refining the structure, to ensure practical usability and impact. A clearer, more accessible rulebook, coupled with proportionate regulation, would meaningfully support growth, innovation, and UK competitiveness.

Question 3: Do you agree with the principle of creating three levels of firms based on their size to achieve proportionality? If not, what alternative approach would you suggest?

We support the principle of using firm size in a tiered structure to scale regulatory expectations in a risk-sensitive and proportionate manner. However, the success of this approach will depend entirely on how thresholds are set and how rules are tailored within each tier (see our response to Question 4 and 6). We recommend two key changes to the FCA's proposal:

1. Increase the "lower threshold" entry point into the 'mid-sized firms' category to £1bn NAV.
2. Replace the proposed £5bn NAV "upper threshold" for entry into the 'largest firms' category with optional entry into the full-scope regime.

We are extremely concerned about the proposal to set the threshold for 'mid-sized firms' at £100m NAV. This would impose additional regulation on many firms, rather than lower the regulatory burden. It would capture a lot of firms currently operating under the sub-threshold regime (€500m AUM unleveraged). This contradicts the FCA's objective of enabling growth, reducing burden, and supporting innovation.

As per the BVCA response to DP23/2, we urge the FCA to increase the proposed 'mid-sized firm' threshold to £1bn NAV, which would better reflect the original intent of AIFMD (i.e. increased regulation only for larger firms). The current €500m AUM unleveraged threshold has eroded significantly in real terms since 2013 and no longer reflects the scale at which a comprehensive regime is justified. Extending it would not only reflect the evolution of the market but would also boost UK competitiveness as a private capital investment jurisdiction by providing a longer growth runway for venture capital and growth equity firms that invest in UK innovation and SME growth.

In addition, we propose that instead of the FCA's proposal of mandating firms managing more than £5bn NAV becoming subject to the full-scope regime, entry into that regime should occur solely where firms opt to do so. This would allow firms to choose to comply with the full-scope regime if needed, e.g. to satisfy investor demand or access capital from non-UK investors to deploy in the UK more easily. Implemented carefully, this flexibility for UK firms would allow the UK to retain broad equivalence with EU rules and support cross-border business, without mandating unnecessary burdens on all UK firms. The main commercial benefit for firms of the EU AIFMD full-scope regime is the marketing passport. It is the passport which means many firms choose Luxembourg or Ireland as the location for their AIFM/AIF post-Brexit. That benefit is not available to UK AIFMs.

We would also like to raise with the FCA that HM Treasury's proposal to remove the small registered regime could disproportionately affect seed VC and Venture Capital Trust (VCT) managers. These firms play a vital role in supporting the earliest stages of UK businesses, providing essential capital and expertise to help innovative companies grow. Removing the small registered regime without adequate transitional arrangements or a grandfathering mechanism could risk disrupting this crucial part of the UK investment ecosystem. Given that competitor jurisdictions, most notably within the EU, continue to offer registration regimes under the AIFMD framework, there is a real risk that these firms could relocate and deploy their investment capital elsewhere if faced with higher regulatory burdens in the UK. We will be recommending to HM Treasury that they reconsider their proposal, or at the very least include appropriate grandfathering provisions or transitional mechanisms to ensure that these firms can continue to operate effectively in the UK. We urge the FCA to give this issue careful consideration to ensure that the UK does not lose these important sources of early-stage investment.

Question 4: Do you agree with our approach to rule-making for each level? If not, what alternative approach would you suggest?

We welcome the FCA's commitment to reducing procedural complexity and allowing firms greater flexibility in how they meet regulatory outcomes. However, we are concerned that the proposed approach to the mid-sized tier does not go far enough in delivering true proportionality.

Applying a "comprehensive" regime to all firms above £100 million NAV, even if procedurally lighter, risks replicating many of the challenges associated with full-scope status. Many firms in this category are specialist private capital firms with professional-only investor bases and low systemic risk.

We urge the FCA to ensure that the rules for 'mid-sized firms' are:

- Not just simplified procedurally but substantively reduced in burden.
- Tailored to the specific risks and structures of private capital funds (e.g. closed-ended, illiquid, professional-only).
- Not more onerous than those faced by equivalent firms in the EU or other leading jurisdictions.

We also emphasise the need for smooth transitions between tiers. As the FCA recognises in the CfI, cliff-edge effects discourage growth and introduce regulatory distortions. Transitional periods or grace mechanisms should be built into the regime (please also see our comments on 'NAV thresholds' in response to Question 6).

Question 5: Are there any benefits or costs associated with opting up to a higher threshold regime that we should consider when we draft rules? If you are an AIFM, would you consider opting up to a higher regulatory threshold?

We strongly support the FCA's proposal to allow firms to opt up to a higher threshold regime. This is a pragmatic and flexible approach that would allow firms to satisfy investor demand and reduce complexity for firms managing cross-border products in the EU.

The 'largest firms' full-scope regime should be opt-in only, particularly as UK firms no longer benefit from the EU marketing passport. Without the regulatory "upside" for firms of access to EU investors and in the absence of any imperative for the UK to harmonise rules across 27 different jurisdictions, there is limited justification for requiring firms to meet full-scope obligations (and incurring additional costs as a consequence) unless their investors or business model demand it.

We support the use of a notification-based mechanism to facilitate opting up without requiring a variation of permission. This would avoid unnecessary delays or complexity.

Question 6: Do you agree with the proposed levels of the thresholds? Do you have any other comments on the proposed levels and the metrics used for the thresholds?

We welcome the FCA's commitment to simplifying the regime and reviewing how thresholds are defined and applied. However, while we support the rationale, we do not agree with the proposed tiers and threshold levels set out in the CfI. In our view, both the lower threshold of £100m NAV and the upper threshold of £5bn NAV are misaligned with the FCA's stated objective of enabling firms to grow, innovate, and compete in a proportionate regulatory environment and would have negative consequences for the competitiveness and attractiveness of the UK for private capital firms and investment.

For the reasons set out below, we recommend that the lower threshold be set at £1bn NAV, and that the upper threshold be implemented as an opt-in regime for the largest private capital firms.

<u>The lower threshold is too low</u>

We do not believe that £100m NAV is an appropriate cut-off for defining a "mid-sized firm." Some of the firms that would be captured by this threshold are currently authorised or registered as sub-threshold AIFMs, and £100m is significantly below the level at which a more comprehensive regulatory regime was originally intended to apply under AIFMD.

Under the existing UK and EU AIFMD frameworks, the relevant threshold for full-scope AIFMs managing unleveraged funds without redemption rights was set at €500m AUM. That figure has not been adjusted since AIFMD came into force in 2013. When adjusted for inflation, the equivalent threshold in today's terms is approximately £652m.[1] The European Commission is also currently considering whether in the EU context this threshold should be increased to reflect market evolution and inflation since the framework was implemented. To preserve proportionality and avoid creating barriers to entry or scale, and maintain UK competitiveness for private capital, we recommend raising the lower threshold to £1bn NAV.

This would restore the original intent of distinguishing smaller private capital firms from those that warrant more extensive regulation and would reflect both the growth in assets across the private capital industry and the increasing cost base for fund managers operating in the UK. Many of the firms that would fall below £1bn NAV are early-stage or specialist firms running closed-ended private capital funds for professional investors. These firms do not pose systemic risk, operate with lean internal resources, and already face substantial commercial and operational pressures. They are also vital for UK-wide SME growth, with 90% of the companies backed by private capital firms being SMEs, and 58% being located outside London.

Importantly, bringing such firms into a more expansive mid-sized firm regime, particularly one that may be triggered at levels as low as £100m NAV, risks imposing disproportionate compliance burdens that could materially affect their commercial viability. The FCA itself acknowledges the cliff-edge effects in the current framework, notably the sharp increase in regulatory capital requirements and the mandatory appointment of a depositary once firms exceed the current full-scope threshold. Imposing increased regulatory obligations on firms that are below the original €500m threshold exacerbates the current issue and could deter growth, disincentivise fundraising, and push UK-based firms to consider alternative jurisdictions. Such outcomes would run directly counter to the UK's competitiveness and growth agenda, and the FCA's goals of supporting innovation, competition, and proportionality within the UK alternative fund management landscape.

It is also important to note that a firm could breach the proposed threshold not by growing its operations, investor base, or risk profile, but simply by investing in and holding a highly successful asset. In such cases, a valuation increase in a single portfolio company, for example, a tech or life sciences investment, could push the fund's NAV above the threshold, triggering a significantly higher regulatory burden. Yet nothing would have changed operationally: the team, investor base, and risk profile remain the same. This scenario is not unusual in ultra-high growth sectors favoured by venture capital firms in recent years. Penalising firms for investment success in this way creates unintended consequences and could discourage ambition, innovation, and performance – again contrary to the aims of this review.

We therefore recommend that firms below a £1bn NAV threshold be classified as small firms, subject to core requirements appropriate to their size and activity, as the FCA proposes in the CfI. Setting the threshold at this higher level would provide UK-based private capital firms with the regulatory headroom they need to grow sustainably, scale their operations, and continue channelling long-term investment into the UK economy. It would also signal that the UK is serious about supporting smaller firms, many of whom play a critical role in financing early-stage businesses and driving innovation, as part of a broader competitiveness and growth agenda. By aligning regulatory intensity with actual risk and resource capacity, this approach would ensure that firms are not penalised for success, and would help position the UK as a more attractive jurisdiction in which to establish and grow a private capital firm (and other types of alternative investment fund management businesses).

<u>The upper threshold should be opt-in</u>

We also believe that the top tier of the proposed three-tier framework, corresponding to the current full-scope AIFM regime, should be structured as an opt-in category, rather than a mandatory regime triggered automatically by crossing a specific NAV threshold.

[1] AUM threshold of €500m has been converted into GBP using 31st January 2013 exchange rate. The corresponding GBP figure has been adjusted based on UK CPI index between April 2025 and January 2013 to arrive at a inflation adjusted threshold of £652m.

Under the FCA's current proposal, firms with over £5bn in NAV would be brought within a regime that mirrors the substance of the existing full-scope framework. While some procedural detail would be disapplied, the broader obligations relating to reporting, risk management, remuneration, and governance would remain. In practice, this could recreate the same cliff-edge effects the review aims to address.

Instead, we recommend that:

- Firms with less than £1bn NAV are classified as small AIFMs, subject to proportionate core requirements.
- Firms with £1bn or more NAV are treated as mid-size AIFMs, in line with the FCA's proposed flexible and outcome-based regime for mid-sized firms.
- The largest firms (full-scope equivalent, with disapplication of unnecessarily burdensome rules and removal of detail where prescription is not necessary) AIFM regime should be opt-in only, available to those needing to meet EU equivalence, investor expectations, or broader cross-border compliance objectives.

This opt-in model, first proposed in our response to DP23/2, reflects post-Brexit market conditions and avoids imposing extensive obligations on firms that do not require them. It would also ensure that the most comprehensive regime is reserved for firms whose scale, investor base, or market activity justifies it, thereby improving alignment between regulatory burden and actual risk.

To illustrate these differences more clearly, we have provided the following table mapping the current regime, the FCA's proposal, and the BVCA's recommended framework. The table also highlights the impact the proposed threshold changes would have on the competitiveness of the UK as a place to locate a private capital AIFM. If the EU (including Luxembourg, which has hugely increased its share of private capital AIFMs over the past decade relative to the UK) were to maintain its current full-scope threshold (or, as the European Commission is currently considering, increase it), a concurrent increase in the regulatory burdens for smaller firms in the UK would make the UK considerably less competitive than its neighbours. This would encourage even more smaller venture and growth capital firms, which drive UK innovation and growth, to consider basing their AIFMs in EU jurisdictions such as Luxembourg instead of the UK.

FCA CfI firm categories	Current AIFMD regime, applicable in the EU and the UK	FCA CfI proposal	BVCA recommendation
Small	**Sub-threshold AIFMs:** • < €500m (unleveraged, closed-ended) • Light-touch regime • Lower cost regime	**< £100m NAV:** • Core requirements • Baseline consumer protection and market integrity standards • Lower cost regime	**< £1bn NAV:** • Streamlined, proportionate regime • Baseline rules appropriate to size and activity • Reflects inflation-adjusted €500m • Lower cost regime
Mid-sized		**£100m–£5bn NAV:** • "Comprehensive" regime • Reduced procedural detail • Broad alignment with current full-scope rules • Higher cost regime	**≥ £1bn NAV:** • "Comprehensive" regime • Reduced procedural detail • Broad alignment with current full-scope rules, subject to proportionality enhancements • Higher cost regime

Largest	**Full-scope AIFMs:** • ≥ €500m unleveraged • ≥ €100m with leverage • Higher cost regime	**> £5bn NAV:** • Regime similar to current full-scope AIFMD • Fewer procedural rules, but same substantive obligations • Highest cost regime	**Opt-in only:** • Full-scope regime available for firms requiring EU equivalence or to meet investor demands • Not triggered automatically by AUM/NAV threshold • Highest cost regime

This model would help to ensure that the UK regime delivers on its objectives of being growth-friendly, internationally competitive, and calibrated to risk. By promoting proportionality and avoiding unnecessary complexity for UK-based managers, it would help foster a more diverse and innovative fund management ecosystem.

<u>NAV threshold(s)</u>

The FCA will need to clarify what is included and excluded in the NAV calculations for threshold purposes. Private capital funds often involve complex structures, such as commitments, undrawn capital, co-investments, and carried interest arrangements, that could affect how NAV is measured and reported. A clear and consistent definition of NAV is essential to ensure that firms understand how to classify themselves and avoid unexpected breaches of regulatory thresholds.

We recommend that the FCA consult with industry stakeholders to define NAV in a way that is consistent, transparent, and aligned with market practices.

Another consideration is that NAV can fluctuate due to market movements. As a result, firms could inadvertently breach a regulatory threshold without any change in underlying activity, team size, or investor base.

This could expose firms to abrupt changes in compliance obligations and costs, simply due to temporary movements in NAV. To mitigate this, we recommend that any move towards NAV as the relevant metric should be paired with a transitional mechanism, such as a grace period, rolling average calculation (e.g. over three years), or other smoothing measure. This would help avoid unnecessary disruption to firms and ensure threshold crossings are based on sustained growth, not short-term fluctuations.

Alternatively, the FCA could consider adopting a capital commitment model, measuring the size of a fund by the capital committed by investors rather than current NAV or AUM. Capital commitment would offer a more stable and predictable basis for classification, avoiding regulatory uncertainty.

Question 7: Do you agree that we should make our expectations of risk management by highly leveraged firms clearer? Do you have any comments on the best way to achieve this?

We recognise the importance of ensuring that the use of leverage by AIFMs is well understood, appropriately managed, and subject to clear regulatory expectations, particularly where leverage could amplify risks to investors or market stability.

However, we would take a measured view as to whether further regulatory guidance or clarification is needed in relation to leverage risk management, particularly for firms operating within the private capital sector. Private equity and venture capital funds are typically unleveraged at the fund level. The EU AIFMD approach focuses on fund level leverage, and we think it is important that the UK regime continues to do the same for consistency.

For private credit funds, which may use leverage at the fund level, leverage levels typically remain low (rarely "substantially leveraged" within the meaning of AIFMD) relative to other asset classes and risk management practices are typically embedded in fund structures, backed by asset-level security, and overseen by robust internal governance. The existing AIFMD framework already includes established requirements for monitoring, managing, and disclosing leverage, and these are well understood and integrated into firms' operations.

We would therefore suggest that any decision to clarify or expand regulatory expectations in this area should be carefully targeted and evidence based. It would be important that any further measures:

- Reflect the diversity of fund strategies and structures within the AIFM universe.
- Are proportionate to actual risk, rather than based on size or notional leverage alone.
- Avoid duplicating existing requirements that already cover stress testing, risk limits, and investor disclosure.

If the FCA does decide to update its expectations following the forthcoming recommendations from the Financial Stability Board, we encourage the use of principles-based guidance rather than additional prescriptive rules. This would allow for flexibility in implementation and ensure that firms with different investment strategies and risk profiles can adapt appropriately.

Question 8: Do you see a need for a separate regime for venture capital and growth capital funds? Are there any other areas where we should consider setting up tailored regimes?

We agree there is merit in exploring a tailored regulatory regime for venture capital and growth capital fund managers, given their distinct characteristics and their role in supporting high-growth businesses, innovation, and productivity across the UK economy. However, feedback from our members indicates that the current sub-threshold AIFM regime is, in general, working well for firms in this part of the market. The principal concern raised is not with the current regime itself, but with the cliff-edge risks that arise if a firm crosses the AIFMD threshold (as noted by the FCA in the CfI). The FCA's proposed lower threshold for 'mid-sized firms' exacerbate these concerns.

We believe the most straightforward and effective way to address this, and to better support UK venture capital and growth capital firms, is to raise the lower threshold in the CfI proposals to £1bn NAV, thereby preserving the benefits of the sub-threshold regime for a broader set of venture capital and growth capital firms, while avoiding abrupt regulatory transitions that can disincentivise and act as a barrier to growth (see our response to Question 6 for further detail).

We have previously called for improvements to the RVECA regime in our response to the FCA's 2022 consultation on the UK fund regime. In that submission, we recommended that the FCA:

- Broaden the definition of eligible investments to reflect how UK VC managers invest, particularly by enabling greater use of debt instruments for investment purposes and allowing investment into seed and incubator vehicles.
- Reduce the 70% qualifying asset threshold to 60%, which could go further noting recent EU changes for ELTIFs to 55%, to provide greater flexibility.
- Amend the definition of qualifying portfolio undertakings to avoid excluding fintech companies and incubators, and to allow investment in related vehicles such as carried interest or co-investment structures.
- Align RVECA regulatory capital and compliance obligations with those applicable to small authorised AIFMs, including reducing the high capital thresholds that currently deter smaller managers from using the regime.
- Review marketing restrictions and investor qualification rules to ensure they align with UK financial promotion reforms and reflect the characteristics of sophisticated UK VC investors.
- Streamline disclosures under Article 13 of the RVECA regulation and aligning these with AIFMD Article 23 requirements, to reduce duplication and regulatory friction for managers marketing in both the UK and EU.

To date, take-up of the RVECA regime has been low in part due to its rigidity and misalignment with commercial reality, but mainly because, unlike the EUVECA regime on which it was based, RVECA funds do not benefit from an EU marketing passport. Without the ability to market across the EU under a single regulatory designation, RVECA currently offers no clear advantages relative to the more flexible and better-understood sub-threshold AIFM model.

We therefore support the FCA's commitment to revisit the framework in collaboration with HM Treasury. With targeted reforms, the RVECA regime could serve as a more accessible and commercially viable option for UK VC managers without the need to introduce a new fund type.

However, the FCA should note that if the RVECA regime were to become the sole option for venture capital managers to be subject to a proportionate regulatory framework in the UK, rather than being swept into the proposed mid-sized tier from as little as £100m NAV, these firms could face significant administrative costs and regulatory burdens to re-register their funds under the RVECA regime. This could have the unintended consequence of increasing complexity and cost rather than reducing it, disincentivise smaller or early-stage managers from continuing to operate in the UK and encourage firms to locate or relocate in the EU where both the sub-threshold AIFM model is available and the EUVECA regime allows access to the EU marketing passport. This would be an unfortunate outcome, and underlines the importance of getting the new AIFM regulatory regime right for UK private capital firms of all sizes.

Question 9: Do you have any comments on our planned approach to set different rules for managers of LCICs?

We welcome the FCA's recognition that LCICs have distinct characteristics that set them apart from other types of alternative investment funds, and that their regulatory treatment under the AIFM regime should reflect these differences. The fact that LCICs are closed-ended, publicly listed, subject to significant governance obligations under the UK Listing Rules (UKLRs), and operated within a well-established disclosure and corporate governance framework, supports a differentiated regulatory approach.

The FCA is right to note that many of the investor protection and conduct requirements introduced through AIFMD are already achieved through other parts of the UK regulatory regime, including the UKLRs, Disclosure Guidance and Transparency Rules, the Market Abuse Regulation, and the requirement to report against the UK Corporate Governance Code (or the AIC Code). These frameworks impose high standards on both LCIC boards and managers, particularly in terms of investment policy discipline, board independence, risk oversight, and transparency.

Given this comprehensive backdrop, we support the FCA's intention to consider streamlining AIFMD-derived rules for LCIC managers where these duplicate or add limited value relative to the existing regulatory environment. We agree that removing unnecessary overlaps, particularly in areas such as risk management systems, investor disclosures, and organisational requirements, could reduce costs and improve operational efficiency for LCICs, without undermining investor protection.

We also encourage the FCA to ensure that any retained AIFM requirements for LCIC managers are clearly aligned with the practical role and responsibilities of the external manager, and do not impose additional governance burdens on LCIC boards that are already subject to company law and listing rule requirements.

It may also be helpful to adopt a principles-based or modular approach for LCIC managers, whereby certain requirements can be disapplied or modified where the relevant objectives are already met through other frameworks. For example, investor disclosure obligations or risk policies required under AIFMD might be streamlined where equivalent information is already provided via the LCIC's annual report and financial disclosures.

In summary, we support the FCA's planned approach to treat LCICs and their managers differently by imposing only a sub-set of requirements under the new regime, and we encourage a proportionate calibration that reflects their unique hybrid structure, combining elements of both listed companies and collective investment undertakings, while avoiding unnecessary duplication.

Question 10: Do you have any comments on our proposed approach to applying the thresholds in the same way to LCICs as to other types of AIF?

As noted in our response to Question 6, we recommend raising the lower threshold to £1bn NAV to avoid bringing smaller, lower-risk firms into a more complex regulatory tier, and structuring the regime for the largest firms as an opt-in category rather than a mandatory threshold. These changes would also be appropriate for LCICs and would help improve the competitiveness and attractiveness of the UK regulatory regime (see our response to Question 6 for further detail).

Question 11: Given the role of an LCIC's board of directors, are there any areas that would benefit from us clarifying our expectations of AIFMs and/ or any requirements that should not be retained in so far as they apply to the AIFMs of LCICs?

The interaction between the AIFM regime and the corporate governance framework for LCICs creates areas of potential friction and ambiguity, particularly in respect of obligations that may fall on both the AFIM and the LCIC board of directors.

As a point of principle, it is our view that where the LCIC board is legally responsible for a function (e.g. valuation oversight), the AIFM should not be expected to duplicate or mirror those legal obligations. Doing so risks creating conflicting accountabilities, especially in cases where there might be disagreement between the AIFM and the LCIC board on a matter of judgement, or on the rare occasion where an error occurs and questions of legal liability arise.

To avoid this, we suggest the FCA clarify that, in respect of LCICs, AIFMs are not required to duplicate board-level obligations already governed by UK company law and UK Listing Rules, particularly where the board's oversight role is explicit and legally binding. This would help avoid regulatory duplication, reduce uncertainty and more clearly delineate responsibility between the external manager and the LCIC board.

Question 12: Do you have any comments on our proposed areas of reform for LCICs? Are there any further areas of the regime where different requirements should apply to the AIFMs of LCICs? If so, please explain how the requirements should apply differently and why this is the case.

We welcome the FCA's intention to tailor the AIFM regime for LCICs, recognising their distinct governance and regulatory context. LCICs operate under a well-established framework that includes the UK Listing Rules, Disclosure Guidance and Transparency Rules, the Market Abuse Regulation, UK company law, and the UK Corporate Governance Code. In light of this, it is appropriate to reconsider which AIFMD-derived requirements are necessary and where duplication can be removed.

We support the FCA's proposals to clarify the respective roles of LCIC boards and AIFMs. In practice, LCIC boards, not AIFMs, typically appoint and oversee service providers, and are responsible for key decisions such as setting investment policy and leverage limits. Aligning regulatory expectations with this reality would reduce friction and improve clarity without compromising oversight.

We also support the proposed disapplication of certain requirements, including AIFMD-derived transparency and liquidity rules, where equivalent protections already exist through listing and reporting frameworks. These reforms would enhance proportionality and streamline compliance for LCIC managers.

However, we believe further changes are warranted most notably in relation to the depositary requirement. The value of a depositary in the context of LCICs is limited, given the strong governance, disclosure, and audit standards already in place. The requirement adds unnecessary cost and should be reviewed in line with our recommendations in response to Question 13.

Taken together, these reforms offer a meaningful opportunity to reduce cost and complexity while maintaining high standards of investor protection. We encourage the FCA to adopt a bold and proportionate approach that reflects the hybrid nature of LCICs and improves the overall attractiveness and efficiency of the UK's regime.

Question 13: Do you see a need for changes to the regime's depositary requirements? Should these requirements apply only to specific levels of firm or certain types of fund, such as authorised funds? Should our regime seek to align its depositary rules with those of another jurisdiction or jurisdictions?

We welcome the FCA's recognition that the current depositary regime is not well suited to the structure, asset profile, and investor base of private capital funds. The existing framework was imported from the UCITS regime, which was designed for open-ended, retail-facing vehicles that invest primarily in liquid, custodial assets. Applying the same approach to closed-ended private capital funds imposes disproportionate cost for investors and complexity, without corresponding investor protection benefits.

Private capital funds typically invest in non-custodial assets such as unlisted equity, operate on a capital call model, are not subject to redemption risk, and are often marketed to sophisticated professional investors who are well positioned to negotiate contractual protections and carry out independent diligence. As such, the blanket application of depositary requirements to private capital is difficult to justify and creates unnecessary friction and costs, which is ultimately borne by the fund investors.

Several depositary functions are either duplicative or of limited added value in the context of private capital funds:

- **Cash-flow monitoring** adds minimal value and should be removed. Many private capital funds use independent administrators to process, approve and reconcile payments. Requiring depositaries to repeat these checks increases operational burden with no material uplift in investor protection.
- **Asset verification** by depositaries overlaps with the role already played by fund lawyers and auditors, who confirm portfolio holdings during annual audits. For out-of-scope funds that do not need to appoint a depositary, the audit process continues without issue, suggesting that the additional verification performed by depositaries adds little functional benefit. In addition, it is possible in many structures for the fund manager to require replacement share certificates to be issued by the relevant holding company in the event of a reconciliation error. The risks posed by asset verification in the private capital environment are completely different to the risks involved in providing custody services of securities which are traded on a regulated market.
- **Investment restriction** checks are often conducted ex ante by fund managers and legal counsel as well as the sophisticated investments themselves, who are better placed to interpret the nuances of complex private capital strategies.

More broadly, the AIFMD model assumes a single-depositary structure, which is not always compatible with the operational realities of private capital. Firms may invest across jurisdictions or asset types, and would benefit from being able to appoint multiple specialist custodians on an 'as needed' basis. The current requirement to universally appoint a single depositary and to route all custodial activity through it restricts flexibility and adds cost.

We also believe that the rules should permit other types of authorised financial institutions, not only depositaries, to provide custodianship and asset oversight for professional investor funds. This would support a more open and competitive market for fund services.

That said, we recognise there may be contexts in which a depositary may add value. Certain institutional investors or international regulators, notably Germany, require that a depositary be appointed to enable access to NPPRs. For this reason, it is important that the regime retain an opt-in mechanism, allowing firms to appoint a depositary where commercially necessary.

In summary, we recommend that the FCA:

- Remove the cash monitoring requirement for all private capital funds.
- Permit AIFMs to appoint third-party custodians directly, without requiring them to be affiliated with a depositary.
- Allow depositary services to be provided by a broader set of authorised financial institutions.
- Enable firms to appoint multiple custodians rather than rely on a single-depositary model.
- Retain the option to opt in to depositary appointment/current requirements where needed for market access or investor assurance.
- Focus any ongoing depositary requirements on functions that provide genuine investor protection.

Taken together, these changes would align the depositary framework with the operational realities of private capital, improve efficiency and flexibility, and reduce unnecessary costs borne by fund investors. This would enhance the UK's competitiveness as a private capital fund domicile, attracting associated investment and growth.

Question 14: Could any of the ideas in this Call for Input adversely impact any of the groups with protected characteristics i.e. age, disability, sex, marriage or civil partnership, pregnancy and maternity, race, religion and belief, sexual orientation and gender reassignment?

We have not identified any proposals in the CfI that would directly or intentionally disadvantage groups with protected characteristics. However, we do believe that the current regulatory structure, particularly the sharp increase in requirements triggered by the transition from sub-threshold to full-scope AIFM status, may have unintended consequences for inclusion, opportunity, and social mobility. This issue would be exacerbated if the proposed lower threshold is imposed.

One of the key challenges with the current cliff-edge is the significant increase in regulatory capital requirements, which often fall directly on the executives of AIFMs. These burdens, which can leap from thousands to millions of pounds, act as a real barrier to entry for many talented individuals, particularly those from underrepresented or minority backgrounds, who may not have access to the personal capital or networks required to fund such obligations.

This can have a chilling effect on the ability of firms to bring diverse talent into partnership roles or leadership positions. While some larger or more established firms can offset these costs through internal structures (e.g. senior partners funding junior partners), newer or smaller firms can face disproportionate obstacles. Maintaining or reducing these capital burdens, and ensuring a more proportionate threshold framework, would help address these structural barriers.

As noted in our response to Question 6, we recommend increasing the lower threshold to £1bn NAV. This would allow more firms to remain subject to proportionate rules for longer, supporting a more inclusive and accessible industry. Doing so would help improve opportunities for a broader range of professionals, including those from protected groups, to enter and thrive in the sector.

Question 15: Are there other steps we could take to improve outcomes for fund investors or potential investors with any of these protected characteristics?

As outlined in our response to Question 6, one practical step the FCA could take is to reduce structural barriers to entry by increasing the proposed lower threshold to £1bn NAV. Doing so would reduce the regulatory capital and compliance burdens on smaller firms.

By easing the pathway for these firms to launch and grow, the regime would help create a more inclusive pool of fund managers. In turn, this would diversify the range of investments and products, strategies, and perspectives available to investors.

We also encourage the FCA to consider how more proportionality and flexibility can foster greater diversity in firm leadership and ownership, helping to build a more representative and competitive UK alternative investment industry over time.

Question 16: Do you have any comments on the approach to the risk management rules outlined in annex 1?

We broadly support the FCA's proposed approach to creating a more proportionate and activity-specific framework for risk management rules, as outlined in Annex 1 of the CfI. The direction of travel towards a more nuanced and differentiated rulebook that recognises the diversity of business models across the AIFM market is welcome.

As the FCA rightly notes, the current AIFMD and Level 2 Regulation provisions were developed with managers of diversified, liquid portfolios in mind. Many of these provisions are difficult to apply meaningfully to private capital fund managers which typically operate closed-ended, illiquid funds for professional investors.

In practice, private capital managers already operate robust due diligence, portfolio monitoring, and risk oversight processes tailored to their strategies. Imposing formalised rules designed for liquid trading strategies can be duplicative and burdensome without delivering meaningful improvements in investor protection or risk mitigation.

We would therefore welcome a final framework that:

- Retains a principles-based risk management requirement but allows tailoring based on fund type, leverage, and liquidity profile. For example, we urge the FCA not to be too prescriptive regarding the investment due diligence a firm must take. A principles-based approach would enable firms to implement effective due diligence practices without procedural rigidity, ensuring the requirement is meaningful and proportionate rather than a box ticking exercise.
- Provides explicit carve-outs or alternative standards for private capital funds in relation to risk limits, liquidity monitoring, and leverage-related requirements.
- Ensures that risk management obligations remain aligned with commercial practices and do not require artificial documentation or reporting unrelated to the fund's actual risks.

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

Yours faithfully,

Tim Lewis
Chair, BVCA Regulatory Committee