



HL Bill 10 of 2023–24

Alternative Investment Fund Designation Bill [HL]

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The [Alternative Investment Fund Designation Bill \[HL\]](#) is a private member's bill introduced by Baroness Altmann (Conservative). The bill was introduced on 22 November 2023 and its second reading is due to take place on 1 March 2024.

The bill would exempt listed investment companies from a series of regulations, including several related to the aggregation and disclosure of certain ongoing costs and charges. Baroness Altmann, supported by figures from the investment industry, argues that these costs are already reflected in the share price of such companies and that this 'double counting' of costs makes them look artificially expensive to investors.

The government and the Financial Conduct Authority (FCA), which regulates the financial services sector, are receptive to industry concerns about this issue. The FCA has introduced temporary measures to mitigate it and the government has committed to pursuing a long-term legislative solution.





I. What is the rationale for bill?

The rationale for the bill is set out in its explanatory notes.¹

The notes state that the EU-level Alternative Investment Fund Managers Directive (AIFMD), which led to the [Alternative Investment Fund Managers Regulations 2013](#), was initially conceived as regulating unlisted entities such as hedge funds.² However, listed investment companies, such as those listed and traded on the London Stock Exchange, were also caught by these regulations, even though they were “already highly regulated”.³ The notes point out that, unlike entities such as hedge funds, listed investment companies are subject to the requirements set out in the FCA’s [Listing Rules](#) and the [Companies Act 2006](#).⁴

Moreover, the notes state that the AIFMD does not account for the “listed company structure” and how it differs from unlisted investment vehicles.⁵ Listed companies have a share price which sets the investment value of the company and all “process costs” are accounted for within that price.⁶ Therefore, the notes argue, requirements to aggregate and report on certain costs and charges effectively results in “double counting” costs that have already been accounted for.⁷ This has the effect of “making listed investment companies look expensive to hold either in their own right or when held in funds”.⁸

The bill’s policy intention is, therefore, to “recognise a company’s share price as having costs included” by removing listed investment companies from the scope of the AIFMD (clause 1) and making “consequential changes” to other regulations (clauses 2 to 4).⁹ Removing listed investment companies from the AIFMD would also remove other “unnecessary reporting requirements” in recognition of the fact that “the listing requirements and requirements in Companies Act 2006 already provide substantial transparency”.¹⁰

¹ [Explanatory notes to the Alternative Investment Fund Designation Bill \[HL\]](#).

² [Explanatory notes](#), p 3.

³ As above.

⁴ As above, p 2.

⁵ As above, p 3.

⁶ As above.

⁷ As above.

⁸ As above.

⁹ As above.

¹⁰ As above.



2. What would the bill do?

The Financial Conduct Authority (FCA) regulates financial services in the UK. The regulations that the FCA enforces include a series introduced through EU directives when the UK was a member state ('assimilated law'). The Alternative Investment Fund Designation Bill [HL] would amend some of these regulations, to remove certain requirements for listed investment companies. In the bill listed investment companies are defined as "closed-ended investment companies whose shares are admitted to trading on any market or venue operated by a United Kingdom recognised investment exchange".¹¹

The bill has five clauses. The effect of each clause is as follows:

- **Clause 1.** The [Alternative Investment Fund Managers Regulations 2013](#) were introduced to regulate investment funds that were not already within the EU regulation's scope ('alternative investment funds'), as required by the [EU Directive on Alternative Investment Funds \('AIMFD'\)](#).¹² Clause 1 would amend these regulations such that listed investment companies would not be classified as alternative investment funds and would not, therefore, be subject to the regulations.
- **Clause 2.** The [Commission Delegated Regulation \(EU\) 2017/565](#) regulates the organisational requirements and operating conditions for investment firms, as required by the [EU Directive on Markets in Financial Instruments \('MiFID'\)](#).¹³ Article 50(2) says that investment firms must aggregate certain information on costs and charges for their clients. This clause would amend this regulation so that investment firms would not be required to aggregate and disclose costs and charges relating to listed investment companies.
- **Clause 3.** The [Commission Delegated Regulation \(EU\) 2017/653](#) regulates the presentation, content, review and revision of the 'key information documents' that are required to accompany packaged retail and insurance-based investment products (PRIIPs), as required by the [EU PRIIPs Regulation](#).¹⁴ This clause would amend the methodology for the calculation of costs laid out in this regulation, so that the costs of listed investment companies would not be included.

¹¹ Closed-ended investment companies have a fixed share offering and, unlike open-ended investment funds, do not cater for individual investors coming in or leaving once they are established.

¹² [Directive 2011/61/EU](#).

¹³ [Directive 2014/65/EU](#).

¹⁴ [Regulation \(EU\) No 1286/2014](#).



- **Clause 4.** The [Commission Regulation \(EU\) No 583/2010](#) regulates the provision of key investor information for ‘undertakings for collective investment in transferable securities’ (UCITS), as required by [EU Directive 2009/65/EC](#). This clause would amend three separate parts of this regulation to make clear that costs and charges related to listed investment companies should not be considered and presented as charges for such undertakings when they provide key information to investors.
- **Clause 5.** This clause states that the bill would extend to England and Wales, Scotland and Northern Ireland and would come into force the day on which it is passed.

3. What is the government’s position on this issue?

3.1 Recent parliamentary debate on the 2013 regulations

On 13 November 2023, Baroness Altmann asked the government about the Alternative Investment Fund Managers Regulations 2013 in the House of Lords chamber.¹⁵ She asked:

[...] what assessment they have made of the impact of disclosure obligations under the Alternative Investment Fund Managers Regulations 2013 on UK-listed investment companies, in terms of competition, consumer duty, exclusion from investor platforms, and funding crisis for such companies investing in UK small growth businesses, renewable energy and infrastructure.

Baroness Penn, then parliamentary secretary at the Treasury, responded as follows:

[...] the government and the Financial Conduct Authority understand industry concerns regarding investment company cost disclosure requirements. The issue sits across multiple areas of legislation and we are working at pace to repeal retained EU law under the smarter regulatory framework, enabling the FCA to deliver UK-tailored rules. On the alternative investment fund managers directive specifically, work has already started on plans for reform, with a [discussion paper](#) issued by the FCA in February.

¹⁵ [HL Hansard, 13 November 2023, cols 263–6.](#)



Baroness Altmann responded by arguing that listed, closed-ended investment companies “support British companies” and “offer particularly suitable vehicles for pension funds and other investors in sustainable growth”. However, she suggested that investors were being deterred by “misleading aggregated costs” and that emergency action might be necessary given the FCA’s failure to act on this issue. In response, Baroness Penn highlighted the FCA’s independence and said she understood that it was considering “what can be done in this area” while the government takes forward a “wider programme of measures to repeal retained EU law and replace it with UK rules that will help to address the issue that she raises”. Baroness Penn said that a programme of reform would be taken forward in a “measured way” that considered the interests of both industry and consumers, and that there would be “proper consultation” in everything the government did.

In response to further questions about the FCA, Baroness Penn sought to reassure members that “the FCA is indeed engaged in this issue” and that she was satisfied that it had the tools and expertise necessary to meet its workload.

On financial services reform more generally, Baroness Penn said that:

There are many problems with inherited EU financial services rules and we have set out a programme of work to look at how we can repeal them and replace them with UK-appropriate measures.

She said that the [Financial Services and Markets Act 2023](#) provides the government with the powers to “repeal and replace retained EU law in a more agile way” and that “we intend to use those powers to solve the issue before us”.

3.2 UK Retail Disclosure Framework

On 22 November 2023, the day of the autumn statement, the government published a draft statutory instrument (SI) to “replace the [EU Packaged Retail and Insurance-based Investment Products \(PRIIPs\) Regulation](#) and create a new UK retail disclosure framework”.¹⁶ The policy note accompanying the draft SI said the government had “noted some stakeholders’ concerns with current cost disclosure requirements” and stated the government’s intention

¹⁶ HM Treasury, ‘[UK Retail Disclosure Framework—draft SI and policy note](#)’, 22 November 2023.



to reform a series of regulations, including those that clauses 2 to 4 of this bill seek to amend.¹⁷

- The proposed statutory instrument “provides the FCA with the appropriate rulemaking powers to reform cost disclosure requirements currently set out in the PRIIPs Regulation”.¹⁸ The ‘PRIIPs Regulation’ is the subject of clause 3 of this bill.
- The government also says it is committed to bringing ‘undertakings for the collective investment in transferable securities’ (UCITSs) into scope of the new UK regime.¹⁹ UCITSs regulation is the subject of clause 4 of the bill.
- Lastly, the policy note also states the government’s intention to bring forward a separate SI “to repeal relevant provisions in MiFID”.²⁰ The ‘MiFID’ regulations are the subject of clause 2 of this bill.

The government said these reforms will “enable the FCA to reform cost disclosure in a holistic way; ensuring it is accurate, does not impact the competitiveness of firms and is not misleading to retail investors”.²¹ Regarding the timeline of these reforms, the government said:

The FCA will set out further detail on their proposed rules for the new retail disclosure framework, including cost disclosure, in due course. Additionally, the FCA is also considering interim solutions to mitigate the impacts on the investment company sector in the short term, as the government acts to implement a long-term legislative solution to the issue.

The government said the proposed SI was a “near-final version” but welcomed “any technical comments” by 10 January 2024.²²

¹⁷ HM Treasury, [‘UK Retail Disclosure Framework—policy note’](#), 22 November 2023, p 13.

¹⁸ As above, p 14.

¹⁹ As above, p 10.

²⁰ As above, p 14.

²¹ As above.

²² As above, p 6.



3.3 FCA forbearance measures

On 30 November 2023, the FCA published “forbearance measures for investment company cost disclosure”.²³ The FCA described these as “temporary measures to give investment companies greater ability to explain their costs and charges to help consumers make better informed investment decisions”. It said that these would enable investment funds to “provide additional context where they are concerned that the aggregate figure currently required by legislation does not accurately reflect ongoing costs”. The FCA said the measures were not intended as a long-term solution, but as a “step towards wider reform”.

4. Industry views

There is broad industry support for cost disclosure requirements being reformed. For example, the Association of Investment Companies (AIC) welcomed Baroness Altmann’s private member’s bill, as did other investment professionals.²⁴ Industry figures also supported the government’s proposal to create a new UK retail disclosure framework, although some expressed concern at the lack of immediate action.²⁵

5. Read more

- Pinset Masons, [‘Regulatory uncertainty persists for listed investment funds in the UK’](#), 11 December 2023
- FT Adviser, [‘Treasury working ‘at pace’ to sort investment trust cost disclosures’](#), 4 December 2023
- Investors Chronicle, [‘Cost disclosure reform could boost investment trusts’](#), 30 November 2023

²³ Financial Conduct Authority, [‘FCA sets out forbearance measures for investment company cost disclosure’](#), 30 November 2023.

²⁴ Association of Investment Companies, [‘AIC welcomes Ros Altmann’s private members’ bill on costs’](#), 16 November 2023, and Portfolio Adviser, [‘The end is almost in sight’: Gravis’s William MacLeod and Baroness Altmann on cost disclosure breakthrough’](#), 14 November 2023.

²⁵ Portfolio Adviser, [‘Treasury’s cost disclosure promise in Autumn Statement ‘welcome’ but pace of change ‘disappointing’](#), 22 November 2023.

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