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Barnier hits out at lobbying 'rearguard'

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By Alex Barker in Brussels and Brooke Masters in London



Europe's most senior financial regulator has hit back at "rearguard lobbying" by the hedge fund and private equity industries, saying he "will not be intimidated" by an attempt to undermine a deal to regulate the industry for the first time.

The fightback from Michel Barnier, the European Union commissioner for the single market, comes after the industry publicly raised the alarm over technical standards proposed to implement the alternative

investment fund managers directive (AIFMD).

While the European Commission's 110-page draft of "supplementing rules" relates to highly specialist issues, the proposed legal text has revived the industry's worst fears that the rules will damage business and exclude US and Asian fund managers.

Mr Barnier's angry response flatly rejects the claim that the Commission are trying to roll-back the political compromises that underpinned the AIFMD deal in 2011. Instead he puts the complaints down to the industry "trying to reopen old issues".

"I am not surprised by this rearguard lobbying. Many would like to see the financial markets left unregulated," said Mr Barnier. "Some would like to pretend that there are no lessons to learn from the crisis and advocate a return to self-regulation."

"I will not be intimidated," he added. "Despite the pressure from those trying to reopen old issues, we won't abandon our efforts to ensure that all financial actors, be they banks or hedge funds or other financial institutions are appropriately regulated."

European officials are in particular furious over accusations that they are abandoning advice from the European Securities and Markets Authority in order to pursue an agenda of tighter regulation.

Most Esma advice was accepted but on a few key areas some suggestions were dropped or the language adjusted. EU officials say this is to remove legal uncertainty through ensuring the provisions workable and precise.

The industry argue the Commission text diverges from Esma in three issues that were particularly hard-fought during the political process: the rules for custodian banks; curbs on fund borrowing; and the standards for allowing third-country fund managers to access EU investors.

The detailed rules allegedly hold banks to a much stricter standard than the Esma guidance, which would probably force some institutions out of the custody business and prompt others to charge higher fees.

The commission also dropped Esma's methods for calculating leverage as unworkable, which brings more managers under the tighter rules for high-leverage funds. Mr Barnier said the rules were a "work in progress" and that consultations aimed to ensure "a balance between flexibility and harmonisation".

The industry responded guardedly. Andrew Baker, the chief executive of the Alternative Investment Management Association said: "If the Commission is confirming that it is going to follow Esma's advice then we would fully support that."

One senior London-based bank executive echoed the hope that the Esma advice would prevail. "For the Commission to come out with rules that trump Esma undermines the whole process. It subverts what we thought was a done deal," he said.

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