Where the adoption or the application of one or more of those measures and procedures does not ensure the requisite degree of independence, the AIFM shall adopt such alternative or additional measures and procedures as are necessary and appropriate for those purposes.

**Article 34**

**Managing conflicts of interest**

Where the organisational or administrative arrangements made by the AIFM are not sufficient to ensure, with reasonable confidence, that risks of damage to the interests of the AIF or investors in the AIF are prevented, the senior management or other competent internal body of the AIFM shall be promptly informed in order to take any necessary decision or action to ensure that the AIFM acts in the best interests of the AIF or the investors in that AIF.

**Article 35**

**Monitoring conflicts of interest**

1. The AIFM shall keep and regularly update a record of the types of activities undertaken by or on behalf of the AIFM in which a conflict of interest entailing a material risk of damage to the interests of one or more AIFs or its investors has arisen or, in the case of an ongoing activity, may arise.

2. Senior management shall receive on a frequent basis, and at least annually, written reports on activities referred to in paragraph 1.

**Article 36**

**Disclosure of conflicts of interest**

1. The information to be disclosed to investors in accordance with Article 14(1) and (2) of Directive 2011/61/EU shall be provided to investors in a durable medium or by means of a website.

2. Where information referred to in paragraph 1 is provided by means of a website and is not addressed personally to the investor, the following conditions shall be satisfied:

   (a) the investor has been notified of the address of the website, and the place on the website where the information may be accessed, and has consented to the provision of the information by such means;

   (b) the information must be up to date;

   (c) the information must be accessible continuously by means of that website for such period of time as the investor may reasonably need to inspect it.

**Article 37**

**Strategies for the exercise of voting rights**

1. An AIFM shall develop adequate and effective strategies for determining when and how any voting rights held in the AIF portfolios it manages are to be exercised, to the exclusive benefit of the AIF concerned and its investors.

   2. The strategy referred to in paragraph 1 shall determine measures and procedures for:

      (a) monitoring relevant corporate actions;

      (b) ensuring that the exercise of voting rights is in accordance with the investment objectives and policy of the relevant AIF;

      (c) preventing or managing any conflicts of interest arising from the exercise of voting rights.

3. A summary description of the strategies and details of the actions taken on the basis of those strategies shall be made available to the investors on their request.

**SECTION 3**

**Risk management**

(Article 15 of Directive 2011/61/EU)

**Article 38**

**Risk management systems**

For the purposes of this Section, risk management systems shall be understood as systems comprised of relevant elements of the organisational structure of the AIFM, with a central role for a permanent risk management function, policies and procedures related to the management of risk relevant to each AIF's investment strategy, and arrangements, processes and techniques related to risk measurement and management employed by the AIFM in relation to each AIF it manages.

**Article 39**

**Permanent risk management function**

1. An AIFM shall establish and maintain a permanent risk management function that shall:

   (a) implement effective risk management policies and procedures in order to identify, measure, manage and monitor on an ongoing basis all risks relevant to each AIF's investment strategy to which each AIF is or may be exposed;

   (b) ensure that the risk profile of the AIF disclosed to investors in accordance with point (c) of Article 23(4) of Directive 2011/61/EU is consistent with the risk limits that have been set in accordance with Article 44 of this Regulation;
(c) monitor compliance with the risk limits set in accordance with Article 44 and notify the AIFM's governing body and, where it exists, the AIFM's supervisory function in a timely manner when it considers the AIF's risk profile inconsistent with these limits or sees a material risk that the risk profile will become inconsistent with these limits;

(d) provide the following regular updates to the governing body of the AIFM and where it exists the AIFM's supervisory function at a frequency which is in accordance with the nature, scale and complexity of the AIF or the AIFM's activities:

(i) the consistency between and compliance with the risk limits set in accordance with Article 44 and the risk profile of the AIF as disclosed to investors in accordance with Article 23(4)(c) of Directive 2011/61/EU;

(ii) the adequacy and effectiveness of the risk management process, indicating in particular whether appropriate remedial measures have been or will be taken in the event of any actual or anticipated deficiencies;

(e) provide regular updates to the senior management outlining the current level of risk incurred by each managed AIF and any actual or foreseeable breaches of any risk limits set in accordance with Article 44, so as to ensure that prompt and appropriate action can be taken.

2. The risk management function shall have the necessary authority and access to all relevant information necessary to fulfil the tasks set out in paragraph 1.

Article 40
Risk management policy

1. An AIFM shall establish, implement and maintain an adequate and documented risk management policy which identifies all the relevant risks to which the AIFs it manages are or may be exposed.

2. The risk management policy shall comprise such procedures as are necessary to enable the AIFM to assess for each AIF it manages the exposure of that AIF to market, liquidity and counterparty risks, and the exposure of the AIF to all other relevant risks, including operational risks, which may be material for each AIF it manages.

3. The AIFM shall address at least the following elements in the risk management policy:

(a) the techniques, tools and arrangements that enable it to comply with Article 45;

(b) the techniques, tools and arrangements that enable liquidity risk of the AIF to be assessed and monitored under normal and exceptional liquidity conditions including through the use of regularly conducted stress tests in accordance with Article 48;

(c) the allocation of responsibilities within the AIFM pertaining to risk management;

(d) the limits set in accordance with Article 44 of this Regulation and a justification of how these are aligned with the risk profile of the AIF disclosed to investors in accordance with Article 23(4)(c) of Directive 2011/61/EU;

(e) the terms, contents, frequency and addressees of reporting by the permanent risk management function referred to in Article 39.

4. The risk management policy shall include a description of the safeguards referred to in Article 43, in particular:

(a) the nature of the potential conflicts of interest;

(b) the remedial measures put in place;

(c) the reasons why these measures should be reasonably expected to result in independent performance of the risk management function;

(d) how the AIFM expects to ensure that the safeguards are consistently effective.

5. The risk management policy referred to in paragraph 1 shall be appropriate to the nature, scale and complexity of the business of the AIFM and of the AIF it manages.

Article 41
Assessment, monitoring and review of the risk management systems

1. AIFMs shall assess, monitor and periodically, at least once a year, review:

(a) the adequacy and effectiveness of the risk management policy and of the arrangements, processes and techniques referred to in Article 45;

(b) the degree of compliance by the AIFM with the risk management policy and with the arrangements, processes and techniques referred to in Article 45;
(c) the adequacy and effectiveness of measures taken to address any deficiencies in the performance of the risk management process;

(d) the performance of the risk management function;

(e) the adequacy and effectiveness of measures aiming to ensure the functional and hierarchical separation of the risk management function in accordance with Article 42.

The frequency of the periodic review referred to in the first subparagraph shall be decided by the senior management in accordance with the principle of proportionality given the nature, scale and complexity of the AIFM’s business and the AIF it manages.

2. In addition to the periodic review referred to in paragraph 1, the risk management systems shall be reviewed where:

(a) material changes are made to the risk management policies and procedures and to the arrangements, processes and techniques referred to in Article 45;

(b) internal or external events indicate that an additional review is required;

(c) material changes are made to the investment strategy and objectives of an AIF that the AIFM manages.

3. The AIFM shall update the risk management systems on the basis of the outcome of the review referred to in paragraphs 1 and 2.

4. The AIFM shall notify the competent authority of its home Member State of any material changes to the risk management policy and of the arrangements, processes and techniques referred to in Article 45.

Article 42

Functional and hierarchical separation of the risk management function

1. The risk management function shall be considered as functionally and hierarchically separated from the operating units, including the portfolio management function, only where all the following conditions are satisfied:

(a) persons engaged in the performance of the risk management function are not supervised by those responsible for the performance of the operating units, including the portfolio management function, of the AIFM;

(b) persons engaged in the performance of the risk management function are not engaged in the performance of activities within the operating units, including the portfolio management function;

(c) persons engaged in the performance of the risk management function are compensated in accordance with the achievement of the objectives linked to that function, independently of the performance of the operating units, including the portfolio management function;

(d) the remuneration of senior officers in the risk management function is directly overseen by the remuneration committee, where such a committee has been established.

2. The functional and hierarchical separation of the risk management function in accordance with paragraph 1 shall be ensured throughout the whole hierarchical structure of the AIFM, up to its governing body. It shall be reviewed by the governing body and, where it exists, the supervisory function of the AIFM.

3. The competent authorities of the home Member State of the AIFM shall review the way in which the AIFM has applied paragraphs 1 and 2 on the basis of the criteria laid down in the second subparagraph of Article 15(1) of Directive 2011/61/EU.

Article 43

Safeguards against conflicts of interest

1. The safeguards against conflicts of interest referred to in Article 15(1) of Directive 2011/61/EU shall ensure, at least, that:

(a) decisions taken by the risk management function are based on reliable data, which are subject to an appropriate degree of control by the risk management function;

(b) the remuneration of those engaged in the performance of the risk management function reflects the achievement of the objectives linked to the risk management function, independently of the performance of the business areas in which they are engaged;

(c) the risk management function is subject to an appropriate independent review to ensure that decisions are being arrived at independently;

(d) the risk management function is represented in the governing body or the supervisory function, where it has been established, at least with the same authority as the portfolio management function;

(e) any conflicting duties are properly segregated.

2. Where proportionate, taking into account the nature, scale and complexity of the AIFM, the safeguards referred to in paragraph 1 shall also ensure that:

(a) the performance of the risk management function is reviewed regularly by the internal audit function, or, if the latter has not been established, by an external party appointed by the governing body;

(b) where a risk committee has been established, it is appropriately resourced and its non-independent members do not have undue influence over the performance of the risk management function.
3. The governing body of the AIFM and, where it exists, the supervisory function shall establish the safeguards against conflicts of interest laid down in paragraphs 1 and 2, regularly review their effectiveness and take timely remedial action to address any deficiencies.

Article 44
Risk limits

1. An AIFM shall establish and implement quantitative or qualitative risk limits, or both, for each AIF it manages, taking into account all relevant risks. Where only qualitative limits are set, the AIFM shall be able to justify this approach to the competent authority.

2. The qualitative and quantitative risk limits for each AIF shall, at least, cover the following risks:

(a) market risks;

(b) credit risks;

(c) liquidity risks;

(d) counterparty risks;

(e) operational risks.

3. When setting risk limits, the AIFM shall take into account the strategies and assets employed in respect of each AIF it manages as well as the national rules applicable to each of those AIFs. Those risk limits shall be aligned with the risk profile of the AIF as disclosed to investors in accordance with point (c) of Article 23(4) of Directive 2011/61/EU and approved by the governing body.

Article 45
Risk measurement and management

1. AIFMs shall adopt adequate and effective arrangements, processes and techniques in order to:

(a) identify, measure, manage and monitor at any time the risks to which the AIFs under their management are or might be exposed;

(b) ensure compliance with the limits set in accordance with Article 44.

2. The arrangements, processes and techniques referred to in paragraph 1 shall be proportionate to the nature, scale and complexity of the business of the AIFM and of each AIF it manages and shall be consistent with the AIF’s risk profile as disclosed to investors in accordance with point (c) of Article 23(4) of Directive 2011/61/EU.

3. For the purposes of paragraph 1, the AIFM shall take the following actions for each AIF it manages:

(a) put in place such risk measurement arrangements, processes and techniques as are necessary to ensure that the risks of positions taken and their contribution to the overall risk profile are accurately measured on the basis of sound and reliable data and that the risk measurement arrangements, processes and techniques are adequately documented;

(b) conduct periodic back-tests in order to review the validity of risk measurement arrangements which include model-based forecasts and estimates;

(c) conduct, periodic appropriate stress tests and scenario analyses to address risks arising from potential changes in market conditions that might adversely impact the AIF;

(d) ensure that the current level of risk complies with the risk limits set in accordance with Article 44;

(e) establish, implement and maintain adequate procedures that, in the event of actual or anticipated breaches of the risk limits of the AIF, result in timely remedial actions in the best interest of investors;

(f) ensure that there are appropriate liquidity management systems and procedures for each AIF in line with the requirements laid down in Article 46.

SECTION 4
Liquidity management
(Article 16 of Directive 2011/61/EU)

Article 46
Liquidity management system and procedures

AIFMs shall be able to demonstrate to the competent authorities of their home Member State that an appropriate liquidity management system and effective procedures referred to in Article 16(1) of Directive 2011/61/EU are in place taking into account the investment strategy, the liquidity profile and the redemption policy of each AIF.

Article 47
Monitoring and managing liquidity risk

1. The liquidity management system and procedures referred to in Article 46 shall at least, ensure that:

(a) the AIFM maintains a level of liquidity in the AIF appropriate to its underlying obligations, based on an assessment of the relative liquidity of the AIF’s assets in the market, taking account of the time required for liquidation and the price or value at which those assets can be liquidated, and their sensitivity to other market risks or factors;