

Wednesday 29 April 2015

P8_TA(2015)0170

Money market funds ***I

Amendments adopted by the European Parliament on 29 April 2015 on the proposal for a regulation of the European Parliament and of the Council on Money Market Funds (COM(2013)0615 — C7-0263/2013 — 2013/0306(COD)) ⁽¹⁾

(Ordinary legislative procedure: first reading)

(2016/C 346/38)

[Amendment No 1]

AMENDMENTS BY THE EUROPEAN PARLIAMENT (*)

to the Commission proposal

REGULATION (EU) 2015/...

OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on Money Market Funds

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Money market funds (MMF) provide short-term finance to financial institutions, corporates or governments. By providing finance to these entities, money market funds contribute to the financing of the European economy. ***Such entities use their investments in MMFs as an efficient way to spread their credit risk and exposure, rather than relying solely on bank deposits.***
- (2) On the demand side, MMFs are short-term cash management tools that provide a high degree of liquidity, diversification, stability of value of the principal invested combined with a market-based yield. MMFs are **■** used by ***a wide range of entities including charities, housing associations, local authorities and larger professional investors such as corporations and pension funds*** seeking to invest their excess cash for a short time frame. MMFs, therefore, represent a crucial link bringing together demand and offer of short-term money.

⁽¹⁾ The matter was referred back to the committee responsible for reconsideration pursuant to Rule 61(2), second subparagraph (A8-0041/2015).

(*) Amendments: new or amended text is highlighted in bold italics; deletions are indicated by the symbol **■**.

⁽¹⁾ OJ C 170, 5.6.2014, p. 50.

Wednesday 29 April 2015

- (3) Events that occurred during the financial crisis have shed light on several features of MMFs that make them vulnerable when there are difficulties in financial markets and **they may therefore** spread or amplify risks through the financial system. When the prices of the assets in which the MMFs are invested in start to decrease, especially during stressed market situations, the MMF cannot always maintain the promise to redeem immediately and to preserve the principal value of a unit or share issued by the MMF to investors. This situation, **that according to the Financial Stability Board (FSB) and the International Organization of Securities Commissions (IOSCO) can be particularly serious for constant or stable net asset value MMFs**, may trigger **substantial** and sudden redemption requests, potentially **triggering** broader macroeconomic consequences.
- (4) Large redemption requests **may** force MMFs to sell some of their investment assets in a declining market, **potentially** fuelling a liquidity crisis. In these circumstances, money market issuers can face severe funding difficulties if the **markets for commercial paper** and other money market instruments **dry up**. **This could lead to contagion within** the short term funding market **and result in** direct and major difficulties **in** the financing of **■** financial institutions, corporations and governments, **and** thus the economy.
- (5) Asset managers, **backed** by sponsors, may decide to provide discretionary support to maintain the liquidity and the stability of their MMFs. Sponsors are often forced to support their sponsored MMFs **that are** losing value due to reputational risk and fear that panic could spread into **sponsors'** other businesses. Depending on the size of the fund and the extent of **the** redemption pressure, sponsor support may reach proportions that exceed their readily available reserves. Therefore, it is important to provide for a framework of uniform rules in order to prevent the failure of the sponsor and risk contagion to other entities that sponsor MMFs.
- (6) In order to preserve the integrity and stability of the internal market **■**, it is necessary to lay down rules regarding the operation of MMFs, in particular on the composition of the portfolio of MMFs. **This is intended to make MMFs more resilient and limit contagion channels**. Uniform rules across the Union are necessary to ensure that MMFs are able to **honour redemption requests from** investors, especially during stressed market situations. Uniform rules on the portfolio of a money market fund are also required to ensure that MMFs are able to face **substantial** and sudden redemption requests by a large group of investors.
- (7) Uniform rules on MMFs are also necessary to ensure **the** smooth operation of the short term funding market for financial institutions, corporate issuers of short term debt and governments. They are also required to ensure **the** equal treatment **of** MMF investors and to avoid **■** late redeemers **being disadvantaged if** redemptions are temporarily suspended or **if** the MMF is liquidated.
- (8) It is necessary to provide for the harmonisation of prudential requirements related to MMFs by setting out clear rules that impose direct obligations on MMFs and their managers throughout the Union. This would enhance stability of MMFs as a source of short-term finance for government and the corporate sector across the Union. It would also ensure that MMFs remain a reliable tool for the cash management needs of the Union's industry.
- (9) The MMF Guidelines adopted by the Committee of European Securities Regulators (CESR) to create a minimum level playing field for MMFs in the Union were implemented one year after their entry into force only by 12 Member States thus demonstrating the persistence of divergent national rules. Different national approaches fail to address the vulnerabilities of the **Union's** money markets **■** and **fail** to mitigate the contagion risks thereby endangering the functioning and stability of the internal market, **as evidenced during the financial crisis**. These common rules on MMFs should therefore provide for a high level of protection of investors and should prevent and mitigate any potential contagion risks resulting from possible runs **on** MMFs.
- (10) In the absence of a Regulation setting out rules on MMFs, diverging measures might continue to be adopted at national level, which would continue to cause significant distortions of competition resulting from important differences in essential investment protection standards. Diverging requirements on portfolio composition, eligible

Wednesday 29 April 2015

assets, their maturity, liquidity and diversification, as well as on credit quality of issuers of money market instruments lead to different levels of investor protection because of the different levels of risk attached to the investment proposition associated with a money market fund. **It is therefore essential to adopt a uniform set of rules in order to avoid contagion of the short term funding market and of the sponsors of the MMF, which would put at risk the stability of the Union's financial market. In order to mitigate systemic risk, Constant Net Asset Value MMFs (CNAV MMFs) should, from the date of the entry into force of this Regulation, only operate in the Union as a Public debt CNAV MMF, as a Retail CNAV MMF or as a Low Volatility NAV MMF (LVNAV MMF) . All references in this Regulation to CNAV MMFs should be considered to be references to Public Debt Government CNAV MMFs, Retail CNAV MMFs and LVNAV MMFs unless otherwise specified. Existing CNAV MMFs should be able to choose to operate as variable net asset value MMFs (VNAV MMFs) instead.**

- (11) The new rules on MMFs are closely linked to Directive 2009/65/EC ⁽¹⁾ and Directive 2011/61/EU ⁽²⁾ since they form the legal framework governing the establishment, management and marketing of MMFs in the Union.
- (12) In the Union, collective investment undertakings may operate as undertakings for collective investment in transferable securities (UCITS) managed by UCITS managers or investment companies authorised under Directive 2009/65/EC or as alternative investment funds (AIFs) managed by alternative investment fund managers (AIFMs) authorised or registered under Directive 2011/61/EU. The new rules on MMFs supplement the provisions of those Directives. Hence the new uniform rules on MMFs should apply in addition to those laid down in Directives 2009/65/EC and 2011/61/EU. At the same time, a number of rules concerning the investment policies of UCITS laid down in Chapter VII of Directive 2009/65/EC should be explicitly dis-applied and specific product rules should be laid down in these new uniform provisions on MMFs.
- (13) Harmonised rules should apply to collective investment undertakings whose characteristics correspond to those associated with a MMF. For UCITS and AIFs that invest in short term assets such as money market instruments or deposits, or enter reverse repurchase agreements, or certain derivative contracts with the only purpose of hedging risks inherent to other investments of the fund, and that have the objective of offering returns in line with money market rates or of preserving the value of the investment, compliance with the new rules on MMFs should be mandatory.
- (14) The specificity of MMFs results from a combination of the assets in which they invest and the objectives they pursue. The objective to offer a return in line with money market rates and the objective to preserve the value of an investment are not mutually exclusive. A MMF may have either one of these objective or both objectives jointly.
- (15) The objective of offering returns in line with money market rates should be understood in a broad sense. The anticipated return does not need to be perfectly aligned with EONIA, Libor, Euribor or any other relevant money market rate. An objective to outperform the money market rate by a slight margin should not be considered to take a UCITS or AIF outside the scope of the new uniform rules.
- (16) The objective of preserving the value of the investment should not be understood as a capital guarantee promised by the fund. It should be understood as an aim that the UCITS or AIF seeks to pursue. A decrease in value of the investments should not imply that the collective investment undertaking has changed the objective to preserve the value of an investment.
- (17) It is important that UCITS and AIFs that have the characteristics of MMFs be identified as MMFs and that their capacity to comply on an on-going basis with the new uniform rules on MMFs be explicitly verified. For this purpose competent authorities should authorise MMFs. For UCITS the authorisation as MMF should be part of the

⁽¹⁾ Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (OJ L 302, 17.11.2009, p. 32).

⁽²⁾ Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (OJ L 174, 1.7.2011, p. 1).

Wednesday 29 April 2015

authorisation as UCITS in accordance with the harmonised procedures envisaged in Directive 2009/65/EC. For AIFs, as they are not subject to harmonised authorisation and supervision procedures under Directive 2011/61/EU, it is necessary to provide for common basic rules on authorisation that mirror the existing UCITS harmonised rules. Such procedures should ensure that an AIF authorised as a MMF has as manager an alternative investment fund manager (AIFM) authorised in accordance with Directive 2011/61/EU.

- (18) In order to make sure that all collective investment undertakings displaying the characteristics of MMFs are subject to the new common rules on MMFs, it is necessary to prohibit the use of the designation 'MMF' or any other term that suggests that a collective investment undertaking shares the characteristics of MMFs unless this Regulation is complied with. To prevent circumvention of the MMF rules, competent authorities should monitor the market practices of collective investment undertakings established or marketed in their jurisdiction to verify that they do not misuse the MMF designation or suggest that they are a MMF without complying with the new regulatory framework.
- (19) The new rules applicable to MMFs should build on the existing regulatory framework established through Directive 2009/65/EC and Directive 2011/61/EU and the acts adopted for their implementation. Therefore, the product rules concerning MMFs should apply in addition to the product rules laid down in the existing Union legislation unless they are explicitly dis-applied. Furthermore, the management and marketing rules laid down in the existing framework should apply to MMFs taking into account whether they are UCITS or AIFs. Equally, the rules on the cross-border provision of services and freedom of establishment laid down in Directives 2009/65/EC and 2011/61/EU should apply accordingly to the cross-border activities of MMFs.
- (20) Given that UCITS and AIFs may take different legal forms that do not necessarily endow them with legal personality, the provisions requiring MMFs to take action should be understood to refer to the manager of the MMF in cases where the MMF is constituted as a UCITS or an AIF that is not in a position to act by itself because it has no legal personality of its own.
- (21) Rules on the portfolio of MMFs would require a clear identification of the categories of assets that should be eligible for investment by MMFs and of the conditions under which they are eligible. To ensure the integrity of MMFs is also desirable to prohibit a MMF from engaging in certain financial transactions that would endanger its investment strategy and objectives.
- (22) Money market instruments are transferable instruments normally dealt in on the money market, **such** as treasury and local authority bills, certificates of deposits, commercial papers, **high quality liquid asset backed securities**, bankers' acceptances or medium- or short-term notes. They should be eligible for investment by MMFs only insofar as they comply with the maturity limits **or, in the case of asset backed securities, are eligible as high quality assets according to the liquidity rules in Part Six of Regulation (EU) No 575/2013 of the European Parliament and of the Council**⁽¹⁾ and are considered by the MMF to be of high credit quality.
- (23) Asset Backed Commercial Papers (ABCPs) should be considered eligible money market instruments to the extent that they respect additional requirements. Due to the fact that during the crisis certain securitisations were particularly unstable, it is necessary to impose maturity limits and quality criteria on the underlying assets **and also to ensure that the pool of exposures is sufficiently diversified. Yet not** all categories of underlying assets **have proved to be unstable, including in particular those securitisations where the underlying assets were associated with supporting the working capital of manufacturers and the sales of real economy goods and services. Those securitisations have performed well and should be considered to be eligible money market instruments to the extent that they are eligible as high quality liquid assets according to the liquidity rules in Part Six of Regulation (EU) No 575/2013, specified in Commission Delegated Regulation (EU) No ...**⁽²⁾. **This should apply for qualified high quality liquid asset backed securities comprising one of the subcategories of securitised underlying assets**

⁽¹⁾ Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).

⁽²⁾ Commission Delegated Regulation (EU) No ..., supplementing Regulation (EU) 575/2013 with regard to liquidity coverage requirement for Credit Institutions.

Wednesday 29 April 2015

referred to in point (iii) and (iv) of Article 13(2) (g) of Commission Delegated Regulation (EU) No ... , namely, auto loans and auto leases to borrowers or lessees established or resident in a Member State) and commercial loans, leases or credit facilities to undertakings established in a Member State to finance capital expenditures or business operations other than the acquisition or the development of commercial real estate. The reference to certain subcategories of securitised underlying assets in Commission Delegated Regulation (EU) No ... is important in order to ensure a uniform definition of eligible underlying securitised assets for the purpose of the liquidity regulations for credit institutions and also for this Regulation, which in turn is of importance for the liquidity of such instruments to avoid impediments to real economy securitisations.

- (23a) *The power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU) should be delegated to the Commission in respect of specifying the criteria for identifying simple, transparent and standardised securitisation. In doing so, the Commission should ensure consistency with the delegated acts adopted under Article 460 of Regulation (EU) No 575/2013 and Article 135(2) of Directive 2009/138/EC of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II), and should take into account the specific characteristics of securitisations with maturities at issuance of less than 397 days. The power to adopt acts in accordance with Article 290 TFEU should also be delegated to the Commission in respect of specifying the criteria for identifying debt of high credit quality and liquid asset backed commercial papers. The Commission should ensure consistency with and support the respective work streams of the European Banking Authority (EBA).*
- (24) A MMF should be allowed to invest in deposits to the extent that it is able to withdraw the money at any time. The effective possibility of withdrawal would be impaired if the penalties associated with the early withdrawal are so high as to exceed the interest accrued prior to withdrawal. For this reason the MMF should take due care not to make deposits with a credit institution that requires above average penalties or to engage in too long deposits where this results in too high penalties.
- (25) Financial derivative instruments eligible for investment by a MMF should only serve the purpose of hedging interest rate and currency risk and should only have as an underlying instrument interest rates, exchange currencies or indices representing these categories. Any use of derivatives for another purpose or on other underlying assets should be prohibited. Derivatives should only be used as a complement to the fund strategy but not as the main tool for achieving the fund's objectives. Should a MMF invest in assets labelled in another currency than the currency of the fund, it is expected that the MMF manager would hedge the entire currency risk exposure, including via derivatives. **MMFs should be entitled to invest in financial derivative instruments if that instrument is traded on a regulated market referred to in Article 50(1)(a), (b) or (c) of Directive 2009/65/EC or traded over-the-counter (OTC), or on an organised venue as referred to in Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments.**
- (26) Reverse repurchase agreements could be used by MMFs as a means to invest excess cash on a very short-term basis, provided that the position is fully collateralized. In order to protect the interests of the investors it is necessary to ensure that the collateral provided in the framework of reverse repurchase agreements be of high quality. All other efficient portfolio management techniques, including securities lending and borrowing, should not be used by the MMF as they are likely to impinge on achieving the investment objectives of the MMF.
- (27) In order to limit risk-taking by MMFs it is essential to reduce counterparty risk by subjecting the portfolio of MMFs to clear diversification requirements. To this effect it is also necessary that the reverse repurchase agreements be fully collateralized and that, for limiting the operational risk, one reverse repurchase agreement counterparty cannot account for more than 20 % of the MMF's assets. All over-the-counter (OTC) derivatives should be subject to Regulation (EU) No 648/2012 ⁽¹⁾.

⁽¹⁾ Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201, 27.7.2012, p. 1).

Wednesday 29 April 2015

- (28) For prudential reasons and for avoiding the exercise of significant influence over the management of an issuing body by the MMF, it is necessary to avoid excessive concentration by a MMF in investments issued by the same issuing body.
- (29) The MMF should have a responsibility to invest in high quality eligible assets. Therefore, a MMF should have a prudent **credit** assessment procedure for determining the credit quality of the money market instruments in which it intends to invest. In accordance with Union legislation limiting over-reliance on credit ratings, it is important that MMFs avoid **over-reliance** on ratings issued by rating agencies when assessing the quality of eligible assets. ■
- (29a) *Taking note of the work done by international bodies, such as IOSCO and the FSB, as well as in European legislation, such as Regulation (EU) No 462/2013 of the European Parliament and of the Council ⁽¹⁾ and Directive 2013/14/EU of the European Parliament and of the Council ⁽²⁾, on reducing investor overreliance on credit ratings, it is not appropriate to explicitly ban any product, including MMFs, from soliciting or financing an external credit rating.*
- (30) For the purpose of avoiding that MMF managers use different assessment criteria for evaluating the credit **quality** of a money market instrument and thus attribute different risk characteristics to the same instrument, it is essential that managers **establish an internal assessment procedure based on prudent, systematic and continuous assignment methodologies**. Examples of **assessment** criteria are quantitative measures on the issuer of the instrument, such as financial ratios, balance sheet dynamics, profitability guidelines, which are evaluated and compared to those of industry peers and groups; qualitative measures on the issuer of the instrument, such as management effectiveness, corporate strategy, which are analysed with a view to determining that the issuer's overall strategy does not impede on its future credit quality. The highest internal **assessments** should reflect the fact that the creditworthiness of the issuer of the instruments is maintained at all times at the highest possible levels.
- (31) In order to develop a transparent and coherent **credit assessment procedure**, the manager should document the procedures used for the **credit** assessment. This should ensure that the procedure follows a clear set of rules that can be monitored and that the methodologies employed are communicated upon request to the interested stakeholders, **as well as to the competent national authority**.
- (32) To reduce MMF portfolio risk it is important to set maturity limitations, providing for a maximum allowable weighted average maturity (WAM) and weighted average life (WAL).
- (33) WAM is used to measure the sensitivity of a MMF to changing money market interest rates. When determining the WAM, managers should take into account the impact of financial derivative instruments, deposits and reverse repurchase agreements and reflect their effect on the interest rate risk of the MMF. When a MMF enters into a swap transaction in order to gain exposure to a fixed rate instrument instead of a floating rate this should be taken into account for determining the WAM.
- (34) WAL is used to measure the credit risk, as the longer the reimbursement of principal is postponed, the higher is the credit risk. WAL is also used to limit the liquidity risk. Contrary to the calculation of the WAM, the calculation of the WAL for floating rate securities and structured financial instruments does not permit the use of interest rate reset dates and instead only uses a financial instrument's stated final maturity. The maturity used for calculating the WAL is the residual maturity until legal redemption, since this is the only date at which the management company can be assured that the instrument will have been reimbursed. Features of an instrument, such as the possibility to redeem

⁽¹⁾ Regulation (EU) No 462/2013 of the European Parliament and of the Council of 21 May 2013 amending Regulation (EC) No 1060/2009 on credit rating agencies (OJ L 146, 31.5.2013, p. 1)

⁽²⁾ Directive 2013/14/EU of the European Parliament and of the Council of 21 May 2013 amending Directive 2003/41/EC on the activities and supervision of institutions for occupational retirement provision, Directive 2009/65/EC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) and Directive 2011/61/EU on Alternative Investment Funds Managers in respect of over-reliance on credit ratings (OJ L 145, 31.5.2013, p. 1)

Wednesday 29 April 2015

at specific dates, the so-called put options, cannot be taken into account for calculating the WAL.

- (35) In order to strengthen MMFs' ability to face redemptions and prevent MMFs assets from being liquidated at heavily discounted prices, MMFs should hold on an on-going basis a minimum amount of liquid assets that mature daily or weekly. To calculate the proportion of daily and weekly maturing assets, the legal redemption date of the asset should be used. The possibility for the manager to terminate a contract on a short term basis can be taken into consideration. For instance, if a reverse repurchase agreement can be terminated with a one day prior notice, it should count as a daily maturing asset. If the manager has the possibility to withdraw money from a deposit account with a one day prior notice, it can count as a daily maturing asset. **Government securities may be included as daily maturing assets where a MMF manager determines the government securities to be of high credit quality.**
- (36) Given that MMFs may invest in assets with different maturity ranges, investors should be able to distinguish between different categories of MMF. Therefore, MMFs should be classified as either short-term MMF or as standard MMF. Short-term MMFs have the objective of offering money market rate returns while ensuring the highest possible level of safety for the investors. With short WAM and WAL, the duration risk and credit risk of short-term MMFs are kept at low levels.
- (37) Standard MMFs have the objective of offering returns slightly higher than money market returns, and therefore they invest in assets that have an extended maturity. Moreover, to achieve this outperformance, this category of MMFs should be permitted to employ extended limits for the portfolio risk such as weighted average maturity and weighted average life.
- (38) Under the rules laid down in Article 84 of Directive 2009/65/EC, the managers of UCITS MMFs have the possibility to temporarily suspend redemptions in exceptional cases where circumstances so require. Under the rules laid down in Article 16 of Directive 2011/61/EU and in Article 47 of the Commission Delegated Regulation (EU) No 231/2013 ⁽¹⁾, the managers of AIF MMFs may use special arrangements in order to cope with a supervening illiquidity of the funds' assets.
- (39) **To avoid** the risk management of MMFs **being** biased by short-term decisions influenced by the possible rating of the MMF, **where a manager of a MMF seeks an external credit rating, this should be subject to, and carried out in accordance with, Regulation (EU) No 462/2013.** ■ For ensuring appropriate liquidity management it is necessary that the MMFs establish sound policies and procedures to know their investors. The policies that the manager has to put in place should help understanding the MMF's investor base, to the extent that large redemptions could be anticipated. In order to avoid that the MMF faces sudden massive redemptions, particular attention should be paid to large investors representing a substantial portion of the MMF's assets, as with one investor representing more than the proportion of daily maturing assets. In this case the MMF should increase its proportion of daily maturing assets to the proportion of that investor. The manager should whenever possible look at the identity of the investors, even if they are represented by nominee accounts, portals or any other indirect buyer.
- (40) As part of a prudent risk management, MMFs should, **at least quarterly**, conduct stress testing. The managers of MMFs are expected to act in order to strengthen the MMF's robustness whenever the results of stress testing point to vulnerabilities.
- (41) In order to reflect the actual value of assets, the use of mark to market should be the preferred method for valuing the assets of MMFs. A manager should not be allowed to use the mark to model valuation method when marking to market provides a reliable value of the asset, as the mark to model method is prone to provide less accurate valuation. Assets such as treasury and local authority bills, medium- or short-term notes are generally the ones that

⁽¹⁾ Commission Delegated Regulation (EU) No 231/2013 of 19 December 2012 supplementing Directive 2011/61/EU of the European Parliament and of the Council with regard to exemptions, general operating conditions, depositaries, leverage, transparency and supervision (OJ L 83, 22.3.2013, p. 1).

Wednesday 29 April 2015

are expected to have a reliable marking to market. For valuing commercial papers or certificates of deposit, the manager should check if accurate pricing is provided by a secondary market. The buy-back price offered by the issuer should also be considered to represent a good estimate of the value of the commercial paper. **The manager should estimate the value, for example using market data such as yields on comparable issues and comparable issuers *or using the internationally regarded amortised cost accounting method as set out under recognised international accounting standards.***

- (42) CNAV MMFs have the objective of preserving the capital of the investment while ensuring a high degree of liquidity. The majority of CNAV MMFs have a net asset value (NAV) per unit or share set, for example, at 1 €, \$ or £ when they distribute the income to the investors. The others accumulate income in the NAV of the fund while maintaining the intrinsic value of the asset at a constant value.
- (43) To allow for the specificities of CNAV MMFs it is necessary that CNAV MMFs be permitted to use also the amortised cost accounting method for the purpose of determining the constant net asset value (NAV) per unit or share. This notwithstanding, for the purpose of ensuring at all times the monitoring of the difference between the constant NAV per unit or share and the NAV per unit or share, a CNAV MMF should also calculate the value of its assets on the basis of the mark to market or mark to model methods.
- (44) As a MMF should publish a NAV that reflects all movements in the value of its assets, the published NAV should be rounded at maximum to the nearest basis point or its equivalent. As a consequence, when the NAV is published in a specific currency, for example €1, the incremental change in value should be done every €0,0001. In the case of a NAV at €100, the incremental change in value should be done every €0,01. Only if the MMF is a CNAV MMF, the MMF can publish a price that does not follow entirely the movements in the value of its assets. In this case the NAV can be rounded to the nearest cent for a NAV at €1 (every €0,01 move).
- (44a) ***Investors should be clearly informed, before they invest in a MMF, whether the MMF is of a short-term nature or of a standard nature. In order to avoid misplaced expectations from the investor it should also be clearly stated in any marketing document that MMFs are not a guaranteed investment vehicle.***
- (45) In order to be able to ***mitigate potential client redemptions in times of severe market stress, all Public Debt CNAV MMFs, Retail CNAV MMFs and LVNAV MMFs should have in place provisions for liquidity fees and redemption gates to prevent significant redemptions in times of market stress and to prevent other investors being unfairly exposed to prevailing market conditions. The liquidity fee should be equivalent to the actual cost of liquidating assets to meet the client redemption during periods of market stress and not a penalty charge over and above what would offset losses imposed on other investors by the redemption.***
- (46) ***Public Debt CNAV MMFs and Retail CNAV MMFs should cease to be CNAV MMFs where they cannot meet the minimum amount of weekly liquidity requirements within 30 days of having used the liquidity fees or redemption gates. In that case, the Public Debt or Retail CNAV MMF concerned should automatically convert to a VNAV MMF or be liquidated.***
- (46a) ***LVNAV MMFs should only be authorised for a period of five years. The Commission should review the appropriateness of LVNAV MMFs four years after the entry into force of this Regulation. The review should consider the impact and implementation of the provisions concerning LVNAV MMFs including the frequency of safeguard mechanisms referred to in this Regulation. The review should also take into consideration the risk to financial stability of the Union financial system and the costs to the economy including to corporates, the MMF sector and the financial sector more broadly. The review should also examine the possibility of LVNAV MMFs being authorised beyond five years or of LVNAV MMFs being authorised indefinitely, and if so, whether changes are required to the regime for LVNAV MMFs.***

Wednesday 29 April 2015

- (47) External support provided to a MMF **with a view to maintaining** either liquidity or stability **or de facto** having such effects increases the contagion risk between the MMF sector and the rest of the financial sector. Third parties providing such support have an interest in doing so, either because they have an economic interest in the management company managing the MMF or because they want to avoid any reputational damage should their name be associated with the failure of a MMF. Because these third parties do not commit explicitly to providing or guaranteeing the support, there is uncertainty whether such support will be granted when the MMF needs it. In these circumstances, the discretionary nature of sponsor support contributes to uncertainty among market participants about who will bear losses of the MMF when they do occur. This uncertainty likely makes MMFs even more vulnerable to runs during periods of financial instability, when broader financial risks are most pronounced and when concerns arise about the health of the sponsors and their ability to provide support to affiliated MMFs. For these reasons, **external support for MMFs should be prohibited.**
- (48) Investors should be clearly informed, before they invest in a MMF, if the MMF is of a short-term nature or of a standard nature **. In order to avoid misplaced expectations from the investor it must also be clearly stated in any marketing document that MMFs are not a guaranteed investment vehicle.**
- (48a) **Investors should also be informed of sources of access to information on the portfolio of investment and the MMF's levels of liquidity.**
-
- (50) The competent authority of the MMF should verify whether a MMF is able to comply with this Regulation on an ongoing basis. As the competent authorities are already provided with extensive powers under Directives 2009/65/EC and 2011/61/EU, it is necessary that such powers be extended in order to be exercised by reference to the new common rules on MMFs. The competent authorities for the UCITS or AIF should also verify compliance of all collective investment undertakings that display the characteristics of MMFs that are in existence at the time this Regulation enters into force.
- (50a) **During the three years after the entry into force of this Regulation, the Commission should analyse the experience acquired in applying this Regulation and the impact on the different economic aspects attached to MMFs. The debt issued or guaranteed by the Member States represents a distinct category of investment displaying specific credit and liquidity traits. In addition, sovereign debt plays a vital role in financing the Member States. The Commission should evaluate the evolution of the market for sovereign debt issued or guaranteed by the Member States and the possibility of creating a special framework for MMFs that concentrates their investment policy on that type of debt.**
- (51) The Commission should adopt the delegated acts in the area of the internal assessment procedure pursuant to Article 290 of the Treaty on the Functioning of the European Union. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level.
- (52) The Commission should also be empowered to adopt implementing technical standards by means of implementing acts pursuant to Article 291 of the Treaty on the Functioning of the European Union and in accordance with Article 15 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council⁽¹⁾. ESMA should be entrusted with drafting implementing technical standards for submission to the Commission with regard to a reporting template containing information on MMFs for competent authorities.
- (53) ESMA should be able to exercise all the powers conferred under Directives 2009/65/EC and 2011/61/EU with respect to this Regulation. It is also entrusted with developing draft regulatory and implementing technical standards.
- (54) **During the three years after the entry into force of this Regulation, it is essential that the Commission analyses the experience acquired in applying this Regulation and the impacts on the different economic aspects attached to the MMFs. This review should focus on the effect on the real economy and financial stability of the changes required by this Regulation.**

⁽¹⁾ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

Wednesday 29 April 2015

- (55) The new uniform rules on MMFs should comply with the provisions of Directive 95/46/EC of the European Parliament and of the Council ⁽¹⁾ and with Regulation (EC) No 45/2001 of the European Parliament and of the Council ⁽²⁾.
- (56) Since the objectives of this Regulation, namely to ensure uniform prudential requirements that apply to MMFs throughout the Union, while taking full account of the need to balance safety and reliability of MMFs with the efficient operation of the money markets and the cost for its various stakeholders, cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on the European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.
- (57) The new uniform rules on MMFs respect the fundamental rights and observe the principles recognised in particular by the Charter of Fundamental Rights of the European Union and notably consumer protection, the freedom to conduct a business and the protection of personal data. The new uniform rules on MMFs should be applied in accordance with those rights and principles,

HAVE ADOPTED THIS REGULATION:

Chapter I

General provisions

Article 1

Subject matter and scope

1. This Regulation lays down rules concerning the financial instruments eligible for investment by a money market fund (MMF), its portfolio and valuation, and the reporting requirements in relation to a MMF established, managed or marketed in the Union.

This Regulation applies to collective investment undertakings that:

- i. require authorisation as UCITS under Directive 2009/65/EC or are AIFs under Directive 2011/61/EU;
 - ii. invest in short term assets;
 - iii. **have** distinct or cumulative objectives offering returns in line with money market rates or preserving the value of the investment.
2. Member States shall not add any additional requirements in the field covered by this Regulation.

Article 1a

Types of CNAV MMF

As from the date of the entry into force of this Regulation, CNAV MMFs shall operate in the Union only as:

- (a) ***a Public Debt CNAV MMF;***
- (b) ***a Retail CNAV MMF; or***
- (c) ***a LVNAV MMF.***

⁽¹⁾ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).

⁽²⁾ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and of the free movement of such data (OJ L 8, 12.1.2001, p. 1).

Wednesday 29 April 2015

All references in this Regulation to CNAV MMFs are references to Public Debt CNAV MMFs, Retail CNAV MMFs and LVNAV MMFs, unless otherwise specified.

Article 2

Definitions

For the purposes of this Regulation the following definitions apply:

- (1) 'short term assets' means financial assets with a residual maturity not exceeding two years;
- (2) 'money market instruments' means **transferable** instruments **referred to** in Article 2(1)(o) of Directive 2009/65/EC **normally dealt in on the money market, including treasury and local authority bills, certificates of deposits, commercial papers, bankers' acceptances or medium- or short-term notes, and also instruments as referred to in Article 3 of Directive 2007/16/EC;**
- (3) 'transferable securities' means transferable securities as defined in Article 2(1)(n) of Directive 2009/65/EC;
- (4) 'repurchase agreement' means any agreement in which one party transfers securities or any rights related to that title to a counterparty, subject to a commitment to repurchase them at a specified price on a future date specified or to be specified;
- (5) 'reverse repurchase agreement' means any agreement in which one party receives securities, or any rights related to a title or security from a counterparty subject to a commitment to sell them back at a specified price on a future date specified or to be specified;
- (6) 'securities lending' and 'securities borrowing' mean any transaction in which an institution or its counterparty transfers securities subject to a commitment that the borrower will return equivalent securities at some future date or when requested to do so by the transferor, that transaction being securities lending for the institution transferring the securities and being securities borrowing for the institution to which they are transferred;
- (7) 'securitisation' means securitisation as defined in Article 4(1)(61) of Regulation (EU) No 575/2013;
- (7a) **'high quality liquid asset backed security' means a qualified asset-backed security meeting the requirements laid down in Article 13 of Commission Delegated Regulation (EU) No ... supplementing Regulation (EU) No 575/2013 with regard to liquidity coverage requirement for Credit Institutions based on Article 460 of Regulation (EU) No 575/2013 defined for a uniform specification to be eligible transferable assets of high liquidity and credit quality according to Article 416(1)(d) of Regulation (EU) No 575/2013;**
- (8) 'corporate debt' means debt instruments issued by an **undertaking** which is effectively engaged in producing or trading in goods or non-financial services;
- (9) '**mark** to market' means the valuation of positions at readily available close out prices that are sourced independently, including exchange prices, screen prices, or quotes from several independent reputable brokers;
- (10) '**mark** to model' means any valuation which has to be benchmarked, extrapolated or otherwise calculated from one or more market input;
- (11) 'amortised cost method' means a valuation method which takes the acquisition cost of an asset and adjusts this value for amortisation of premiums (or discounts) until maturity;
- (12) 'constant Net Assets Value Money Market Fund' (CNAV MMF) means a money market fund that maintains an unchanging value NAV per unit or share; where income in the fund is accrued daily or can either be paid out to the investor, and where assets are generally valued according to the amortised cost method or the NAV is rounded to the nearest percentage point or its equivalent in currency term;

Wednesday 29 April 2015

- (12a) ***‘Retail Constant Net Asset Value Money Market Fund’ (Retail CNAV MMF) means a CNAV MMF that is available for subscription only to charities, non-profit organisations, public authorities and public foundations;***
- (12b) ***‘Low Volatility Net Asset Value Money Market Fund’ (LVNAV MMF) means a MMF that complies with the requirements laid down in Article 27(1) to (4);***
- (13) ‘Short-term MMF’ means a money market fund that invests in eligible money market instruments referred to in Article 9(1);
- (14) ‘Standard MMF’ means a money market fund that invests in eligible money market instruments referred to in Article 9(1) and (2);
- (15) ‘credit institutions’ means credit institution as defined in Article 4(1)(1) of Regulation (EU) No 575/2013;
- (16) ‘competent authority of the MMF’ means:
- (a) for UCITS the competent authority of the UCITS home Member State designated in accordance with Article 97 of Directive 2009/65/EC;
 - (b) for EU AIF the competent authority of the home Member State of the AIF as defined in Article 4(1)(p) of Directive 2011/61/EU;
 - (c) for non-EU AIF ***any of the following:***
 - (i) the competent authority of the Member State where the non-EU AIF is marketed in the Union without a passport;
 - (ii) the competent authority of the EU AIFM managing the non-EU AIF, where the non-EU AIF is marketed in the Union with a passport or is not marketed in the Union;
 - (iii) the competent authority of the Member State of reference if the non-EU AIF is not managed by an EU AIFM and is marketed in the Union with a passport;
- (17) ‘MMF home Member State’ means the Member State where the MMF is authorised;
- (18) ‘weighted average maturity (WAM)’ means the average length of time to the legal maturity or, if shorter, to the next interest rate reset to a money market rate, of all the underlying assets in the fund reflecting the relative holdings in each asset;
- (19) ‘weighted average life (WAL)’ means the average length of time to the legal maturity of all the underlying assets in the fund reflecting the relative holdings in each asset;
- (20) ‘legal maturity’ means the date when the principal of a security is to be repaid in full and which is not subject to any optionality;
- (21) ‘residual maturity’ means the length of time to the legal maturity;
- (22) ‘short selling’ means the uncovered sale of money market instruments;
- (22a) ***‘public debt CNAV MMF’ means a CNAV MMF which invests 99,5 % of its assets in public debt instruments and, by 2020, at least 80 % of its assets in EU public debt instruments, public debt CNAV MMFs should build up this investment in public debt gradually;***

Wednesday 29 April 2015

(22b) ‘External support’ means direct or indirect support offered by a third party, including the sponsor of the MMF, that is intended for, or would result in, guaranteeing the liquidity of the MMF or stabilising the NAV per unit or share of the MMF and shall include:

- (a) cash from a third party;**
- (b) the purchase by a third party of assets of the MMF at an inflated price;**
- (c) the purchase by a third party of units or shares of the MMF in order to provide liquidity to the fund;**
- (d) the issuance by a third party of any kind of explicit or implicit guarantee, warranty or letter of support for the benefit of the MMF;**
- (e) any action by a third party the direct or indirect objective of which is to maintain the liquidity profile and the NAV per unit or share of the MMF;**

(22c) ‘EU public debt instruments’ means public debt instruments that are cash or government assets of the Member States, or reverse repurchase agreements secured with public debt of the institutions of the Union or its bodies, offices or agencies, including among others the European Central Bank, the European stability mechanism, the European Investment Bank, the European Investment Fund and the European Fund for Strategic Investments;

(22d) ‘Public Debt instruments’ means cash, government assets or reverse repurchase agreements secured with government debt of any eligible sovereign, as determined by the manager of the MMF.

Article 3

Authorisation of MMFs

1. No collective investment undertaking shall be established, marketed or managed in the Union as MMF unless it has been authorised in accordance with this Regulation.

Such authorisation shall be valid for all Member States.

2. A collective investment undertaking that requires authorisation as a UCITS under Directive 2009/65/EC shall be authorised as a MMF as part of the authorisation procedure pursuant to Directive 2009/65/EC.

3. A collective investment undertaking that is an AIF shall be authorised as a MMF pursuant to the authorisation procedure laid down in Article 4.

4. No collective investment undertaking shall be authorised as a MMF unless the competent authority of the MMF is satisfied that the MMF will be able to meet all the requirements of this Regulation.

5. For the purposes of authorisation, the MMF shall submit to its competent authority the following documents:

- (a) the fund rules or instruments of incorporation;
- (b) identification of the manager;
- (c) identification of the depositary;
- (d) a description of, or any information on the MMF available to investors;
- (e) a description of, or any information on, the arrangements and procedures needed to comply with the requirements referred to in Chapters II to VII;
- (f) any other information or document requested by the competent authority of the MMF to verify compliance with the requirements of this Regulation.

Wednesday 29 April 2015

6. The competent authorities shall, on a quarterly basis, inform ESMA of authorisations granted or withdrawn pursuant to this Regulation.

7. ESMA shall keep a central public register identifying each MMF authorised under this Regulation, its typology, its manager and the competent authority of the MMF. The register shall be made available in electronic format.

Article 4

Procedure for authorising AIF MMFs

1. An AIF shall be authorised as a MMF only if its competent authority has approved the application of an AIFM authorised under Directive 2011/61/EU to manage the AIF, the fund rules and the choice of the depositary.

2. When submitting the application for managing the AIF the authorised AIFM shall provide the competent authority of the MMF with:

- (a) the written agreement with the depositary;
- (b) information on delegation arrangements regarding portfolio and risk management and administration with regard to the AIF;
- (c) information about the investment strategies, the risk profile and other characteristics of AIFs that the AIFM is authorised to manage.

The competent authority of the MMF may ask the competent authority of the AIFM for clarification and information as regards the documentation referred to in the previous subparagraph or an attestation as to whether MMFs fall within the scope of the AIFM's management authorisation. The competent authority of the AIFM shall respond within 10 working days of the request by the MMF competent authority.

3. Any subsequent modifications of the documentation referred to in paragraph 2 shall be immediately notified by the AIFM to the competent authority of the MMF.

4. The competent authority of the MMF may refuse the application of the AIFM only if:

- (a) the AIFM does not comply with this Regulation;
- (b) the AIFM does not comply with Directive 2011/61/EU;
- (c) the AIFM is not authorised by its competent authority to manage MMFs;
- (d) the AIFM has not provided the documentation referred to in paragraph 2.

Before refusing an application the competent authority of the MMF shall consult the competent authority of the AIFM.

5. Authorisation of the AIF as a MMF shall not be subject either to a requirement that the AIF be managed by an AIFM authorised in the AIF home Member State or that the AIFM pursue or delegate any activities in the AIF home Member State.

6. The AIFM shall be informed within two months of the submission of a complete application, whether or not authorisation of the AIF as MMF has been granted.

7. The competent authority of the MMF shall not grant authorisation if the AIF is legally prevented from marketing its units or shares in its home Member State.

Article 5

Use of designation as MMF

1. A UCITS or AIF shall use the designation 'money market fund' or 'MMF' in relation to itself or the units or shares it issues only where the UCITS or AIF has been authorised in accordance with this Regulation.

Wednesday 29 April 2015

A UCITS or AIF shall use a designation that suggests a money market fund or use terms such as 'cash', 'liquid', 'money', 'ready assets', 'deposit-like' or similar words only where they have been authorised in accordance with this Regulation.

2. The use of the designation 'money market fund', 'MMF' or of a designation that suggests a MMF or the use of terms referred to in paragraph 1 shall comprise its use in any external or internal documents, reports, statements, advertisements, communications, letters or any other material addressed to or intended for distribution to prospective investors, unit-holders, shareholders or competent authorities in written, oral, electronic or any other form.

Article 6

Applicable rules

1. A MMF shall comply at all times with the provisions of this Regulation.
2. A MMF which is a UCITS and its manager shall comply at all times with the requirements of Directive 2009/65/EC, unless otherwise specified in this Regulation.
3. A MMF which is an AIF and its manager shall comply at all times with the requirements of Directive 2011/61/EU, unless otherwise specified in this Regulation.
4. The manager of the MMF shall be responsible for ensuring compliance with this Regulation. The manager shall be liable for any loss or damage resulting from non-compliance with this Regulation.
5. This Regulation shall not prevent MMFs from applying investment limits that are stricter than those required by this Regulation.

Chapter II

Obligations concerning the investment policies of MMFs

Section I

General rules and eligible assets

Article 7

General principles

1. Where a MMF comprises more than one investment compartment, each compartment shall be regarded as a separate MMF for the purposes of Chapters II to VII.
2. MMFs authorised as UCITS shall not be subject to the obligations concerning investment policies of UCITS laid down in Articles 49, 50, 50a, 51(2), and 52 to 57 of Directive 2009/65/EC, unless explicitly specified otherwise in this Regulation.

Article 8

Eligible assets

1. A MMF shall invest only in one or more of the following categories of financial assets and only under the conditions specified in this Regulation:
 - (a) money market instruments;
 - (aa) ***financial instruments issued or guaranteed separately or jointly by the national, regional and local administrations of the Member States or their central banks, by the institutions, bodies, offices or agencies of the Union, including among others the European Central Bank, or by the European Investment Bank, the European Investment Fund, the new European Fund for Strategic Investments or the European stability mechanism, the International Monetary Fund, the International Bank for Reconstruction and Development, the Council of Europe Development Bank and the European Bank for Reconstruction and Development;***

Wednesday 29 April 2015

- (b) deposits with credit institutions;
 - (c) **eligible** derivative instruments **used exclusively for hedging purposes**;
 - (d) reverse repurchase agreements **or repurchase agreements provided that all the following conditions are fulfilled**:
 - (i) **assets used as collateral are not sold, re-invested or pledged**;
 - (ii) **the repurchase agreement is used on a temporary basis and not for investment purposes**;
 - (iii) **the MMF has the right to terminate the agreement at any time upon giving notice of no more than two working days**;
 - (iv) **the cash received by the MMF as part of repurchase agreements does not exceed 10 % of its assets and is not transferred, re-invested or otherwise reused**;
2. A MMF shall not undertake any of the following activities:
- (a) investing in assets other than those referred to in paragraph 1;
 - (b) short-selling money market instruments;
 - (c) taking direct or indirect exposure to **exchange-traded funds (ETFs), equities** or commodities, including via derivatives, certificates representing them, indices based on them or any other **means** or **instruments** that would give an exposure to them;
 - (d) entering into securities lending agreements or securities borrowing agreements, **■** or any other agreement that would encumber the assets of the MMF;
 - (e) borrowing and lending cash;
 - (ea) **investing in other MMFs**.

Article 9

Eligible money market instruments

1. A money market instrument shall be eligible for investment by a MMF provided that it fulfils all of the following requirements:
- (a) it falls within one of the categories of money market instruments referred to in Article 50(1)(a), (b), (c) or (h) of Directive 2009/65/EC.
 - (b) it displays one of the following alternative characteristics:
 - (i) it has a legal maturity at issuance of 397 days or less;
 - (ii) it has a residual maturity of 397 days or less; **or**
 - (iii) **it is eligible as high quality liquid asset backed security as referred to in Article 2(7a)**.
 - (c) the issuer of the money market instrument has been awarded one of the two highest internal rating grades according to the rules laid down in **Article 18** of this Regulation.

Wednesday 29 April 2015

(d) Where it takes exposure to a securitisation, it shall be subject to the additional requirements laid down in Article 10.

2. Standard MMFs shall be allowed to invest in a money market instrument that undergoes regular yield adjustments in line with money market conditions every 397 days or on a more frequent basis while not having a residual maturity exceeding **two** years.

3. Paragraph 1(c) shall not apply to money market instruments issued or guaranteed by a central authority or central bank of a Member State, the European Central Bank, the Union, the European stability mechanism or the European Investment Bank.

Article 10

Eligible securitisations

1. A securitisation shall be **eligible** provided that all of the following conditions are met:

(a) the underlying exposure or pool of exposures consists exclusively of **eligible** debt **and is sufficiently diversified**;

(b) the underlying **eligible** debt is of high credit quality and liquid;

(c) the underlying **eligible** debt has a legal maturity at issuance of 397 days or less; or has a residual maturity of 397 days or less.

1a. High quality liquid asset backed securities referred to in Article 2(7a) shall be considered to be eligible securitisations.

1b. Asset Backed Commercial Papers shall be considered to be eligible securitisations provided that they are liquid as referred to in Regulation (EU) No 575/2013 and that the underlying exposures are of high credit quality.

2. **The Commission shall, by [6 months following publication of this Regulation] adopt delegated acts in accordance with Article 44 concerning the specification of the criteria for identifying simple, transparent and standardised securitisation with regard to each of the following aspects:**

(a) the conditions and circumstances under which the underlying exposure or pool of exposures is considered to exclusively consist of **eligible** debt **and whether it is considered to be sufficiently diversified**;

(b) conditions and numerical thresholds determining when **the underlying** debt is of high credit quality and liquid;

(ba) **the transparency requirements of the securitisation and its underlying assets.**

In doing so, the Commission shall ensure consistency with the delegated acts adopted under Article 460 of Regulation (EU) No 575/2013 and Article 135(2) of Directive 2009/138/EC of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II), and shall take into account the specific characteristics of securitisations with maturities at issuance of less than 397 days.

In addition, the Commission shall by [6 months following publication of this Regulation] adopt delegated acts specifying the criteria for identifying debt of high credit quality and liquid asset backed commercial papers with regard to paragraph 1a. In doing so, the Commission shall ensure consistency with and support the respective work streams of the EBA.

Wednesday 29 April 2015

Article 11

Eligible deposits with credit institutions

A deposit with a credit institution shall be eligible for investment by a MMF provided that all of the following conditions are fulfilled:

- (a) the deposit is repayable on demand or may be withdrawn at any time;
- (b) the deposit matures in no more than 12 months;
- (c) the credit institution has its registered office in a Member State or, where the credit institution has its registered office in a third country it is subject to prudential rules considered equivalent to those laid down in Union law in accordance with the procedure laid down in Article 107(4) of Regulation (EU) No 575/2013.

Article 12

Eligible financial derivative instruments

A financial derivative instrument shall be eligible for investment by a MMF if it is dealt in on a regulated market referred to in Article 50(1)(a), (b) or (c) of Directive 2009/65/EC **or is subject to the clearing obligation provided for by Regulation (EU) No 648/2012**, provided that all of the following conditions are fulfilled:

- (a) the underlying of the derivative instrument consists of interest rates, foreign exchange rates, currencies or indices representing one of these categories;
- (b) the derivative instrument serves only the purpose of hedging the duration and exchange risks inherent to other investments of the MMF;
- (c) the counterparties to derivative **instruments** are institutions subject to prudential regulation and supervision and belonging to the categories approved by the competent authorities of the MMF's home Member State;
- (d) the derivatives are subject to reliable and verifiable valuation on a daily basis and can be sold, liquidated or closed by an offsetting transaction at any time at their fair value at the MMF's initiative.

Article 13

Eligible reverse repurchase agreements

1. A reverse repurchase agreement shall be eligible to be entered into by a MMF provided that all of the following conditions are fulfilled:

- (a) the MMF has the right to terminate the agreement at any time upon **giving** notice of **no more than** two working days;
- (b) the market value of the assets received as part of the reverse repurchase agreement is at all times at least equal to the value of the cash **distributed**.

2. The assets received by the MMF as part of a reverse repurchase agreement shall be money market instruments **as set out in** Article 9.

3. Securitisations as defined in Article 10 shall not be received by the MMF as part of a reverse repurchase agreement. ■

4. The assets received by the MMF as part of a reverse repurchase agreement shall be included for the purpose of calculating the limits on diversification and concentration laid down in this Regulation. **These assets shall not be sold, reinvested, pledged or otherwise transferred.**

Wednesday 29 April 2015

5. By way of derogation from paragraph 2, a MMF may receive as part of a reverse repurchase agreement liquid transferable securities or money market instruments other than those **set out in** Article 9 provided that those assets comply with one of the following conditions:

- (a) they are of high credit quality and they are issued or guaranteed by a central authority or central bank of a Member State, the European Central Bank, the Union, the European stability mechanism, the European Investment Bank;
- (b) they are issued or guaranteed by a central authority or central bank of a third country, provided that the third country issuer of the asset **passes the** internal **assessment** according to the rules laid down in Articles 16 to 19.

The assets received as part of a reverse repurchase agreement according to the first subparagraph shall be disclosed to the MMF investors.

The assets received as part of a reverse repurchase agreement according to the first subparagraph shall be subject to the rules laid down in Article 14(6).

5a. A MMF may borrow or enter into repurchase agreements, provided that all of the following conditions are met:

- (a) **the repurchase agreement is used on a temporary basis, for a maximum of seven working days, and is not used for investment purposes;**
- (b) **the sum of repurchase agreements shall not exceed 10 % of the assets of the MMF concerned and shall not be invested in eligible assets;**
- (c) **the MMF shall have the right to terminate the agreement at any time upon giving notice of no more than two working days;**
- (d) **cash collateral received shall only be:**
 - **placed on deposit with entities prescribed in Article 50(f) of the UCITS Directive;**
 - **invested in high-quality government bonds;**
 - **used for the purpose of reverse repurchase transactions, provided the transactions are with credit institutions subject to prudential supervision and the UCITS is able to recall at any time the full amount of cash on accrued basis;**
 - **invested in short-term money market funds as defined in the Guidelines on a Common Definition of European Money Market Funds.**

Re-invested cash collateral shall be diversified in accordance with the diversification requirements applicable to non-cash collateral. The prospectus shall clearly inform investors of the collateral policy of the UCITS, including, in the case of cash collateral, the re-investment policy of the UCITS and the risks arising therefrom.

I

Section II

Provisions on Investment Policies

Article 14

Diversification

1. A MMF shall invest no more than 5 % of its assets in any of the following:

- (a) money market instruments issued by the same body;

Wednesday 29 April 2015

(b) deposits made with the same credit institution;

2. The aggregate of all exposures to securitisations shall not exceed 10 % of the assets of a MMF.

3. The aggregate risk exposure to the same counterparty of the MMF stemming from **■** derivative transactions shall not exceed 5 % of its assets.

4. The aggregate amount of cash provided to the same counterparty of a MMF in reverse repurchase agreements shall not exceed **10 %** of its assets.

5. Notwithstanding the individual limits laid down in paragraphs 1 and 3, neither **a public debt** MMF nor **a standard MMF** shall combine, where this would lead to investment of more than **8 %** of its assets in a single body, any of the following:

(a) investments in money market instruments issued by that body;

(b) deposits made with that body;

(c) **■** financial derivative instruments giving counterparty risk exposure to that body.

6. By way of derogation from paragraph 1(a), a competent authority may authorise a MMF to invest in accordance with the principle of risk-spreading up to 100 % of its assets in different money market instruments issued or guaranteed by a central, regional or local authority or central bank of a Member State, the European Central Bank, the Union, the European stability mechanism or the European Investment Bank, a central authority or central bank of a third country, or by a public international body to which one or more Member States belong.

The first subparagraph shall only apply where all of the following requirements are met:

(a) the MMF holds money market instruments from at least six different issues by the respective issuer;

(b) the MMF limits the investment in money market instruments from the same issue to maximum 30 % of its assets;

(c) the MMF makes express mention in the fund rules or instruments of incorporation of the central, regional or local **authorities** or central **banks** of **■** Member **States**, the European Central Bank, the Union, the European stability mechanism or the European Investment Bank, **the European Investment Fund, the European Fund for Strategic Investments**, a central authority or central bank of a third country, **public debt instruments, the International Monetary Fund, the International Bank for Reconstruction and Development, the Bank for International Settlements, the Council of Europe Development Bank, the European Bank for Reconstruction and Development or any other international organisation** to which one or more Member States belong issuing or guaranteeing money market instruments in which it intends to invest more than 5 % of its assets;

(d) the MMF includes a prominent statement in its prospectus and marketing communications drawing attention to the use of this derogation and indicating the central, regional or local authorities or **central banks** of Member **States**, the European Central Bank, the Union, the European stability mechanism, the European Investment Bank, **the European Investment Fund, the European Fund for Strategic Investments**, a central authority or central bank of a third country, **the International Monetary Fund, the International Bank for Reconstruction and Development, the Bank for International Settlements or any other international organisation** to which one or more Member States belong issuing or guaranteeing money market instruments in which it intends to invest more than 5 % of its assets.

7. Companies which are included in the same group for the purposes of consolidated accounts, as regulated by Council Directive 83/349/EEC ⁽¹⁾ or in accordance with recognised international accounting rules, shall be regarded as a single body for the purpose of calculating the limits referred to in paragraphs 1 to 5.

⁽¹⁾ Seventh Council Directive 83/349/EEC of 13 June 1983 based on the Article 54 (3) (g) of the Treaty on consolidated accounts (OJ L 193, 18.7.1983, p. 1).

Wednesday 29 April 2015

Article 15

Concentration

1. A MMF may not hold more than **5 %** of the money market instruments issued by a single body.
2. The limit laid down in paragraph 1 shall not apply in respect of holdings of money market instruments issued or guaranteed by a central, regional or local authority or central bank of a Member State, the European Central Bank, the Union, the European stability mechanism or the European Investment Bank, a central authority or central bank of a third country, or the public international body to which one or more Member States belongs.

SECTION III

CREDIT QUALITY OF MONEY MARKET INSTRUMENTS

Article 16

Internal assessment procedure

1. A manager of a MMF shall establish, implement and **■** apply a prudent **■** internal assessment procedure for determining the credit quality of money market instruments, taking into account the issuer of the instrument and the characteristics of the instrument itself.

1a. A manager of a MMF shall ensure that the information used in applying the internal assessment procedure is of sufficient quality, up-to-date and from reliable sources.

2. The internal assessment procedure shall be based on **■** prudent, **■** systematic and continuous assignment methodologies. The **■** methodologies **used** shall be subject to validation by the manager **of the MMF** based on historical experience and empirical evidence, including back testing.

3. The internal assessment procedure shall comply with the following **general principles**:

- (a) **it shall establish** an effective process to obtain and update relevant information on issuer characteristics;
- (b) a manager of a MMF shall adopt and implement adequate measures to ensure that the **credit assessment** is based on a thorough analysis of **■** the information that is available and pertinent, and includes all relevant driving factors that influence the creditworthiness of the issuer;
- (c) a manager of a MMF shall monitor its **internal assessment procedure** on an ongoing basis and review all **credit assessments every six months**. That manager shall **reconsider its internal assessment** every time there is a material change that could have an impact on **its credit assessment of the issuer**;
- (d) **in applying its internal assessment procedure, a manager of a MMF shall do so subject to, and in accordance with, Regulation (EU) No 462/2013**;
- (e) **credit assessment** methodologies shall be reviewed **by the manager of a MMF** at least **every six months** to determine whether they remain appropriate for the current portfolio and external conditions **and the review shall be transmitted to competent authorities**;
- (f) when methodologies, models or key rating assumptions used in the internal assessment procedures are changed, the manager of a MMF shall review all affected internal credit **assessments** as soon as possible **■** ;

Wednesday 29 April 2015

- (g) **internal credit assessments** and their periodic reviews by the manager of a MMF shall not be performed by persons performing or responsible for the portfolio management of the MMF.

Article 17

Internal **credit assessment procedure**

1. Each issuer of a money market instrument in which a MMF intends to invest shall be **issued a credit assessment** pursuant to the **credit assessment procedure, established in conformity with the** internal assessment procedure.
2. The structure of the **credit assessment procedure** shall comply with ■ the following **general principles**:
 - (a) **the procedure shall consider** quantification of the credit risk of the issuer **taking into account the relative risk of default**;
 - (b) **the procedure shall consider** the credit risk of an issuer and **document the** criteria used to **determine the** level of credit risk;
 - (c) the **procedure** shall take into account the short-term nature of money market instruments.
3. The **credit assessment** referred to in **paragraph 1 shall be based upon criteria fulfilling** the following requirements:
 - (a) comprise at least quantitative and qualitative indicators on the issuer of the instrument, and the macro-economic and financial market situation;
 - (b) refer to the common numerical and qualitative reference values used to assess the quantitative and qualitative indicators;
 - (c) be adequate for the particular type of issuer. At least the following types of issuers shall be distinguished: sovereign, regional or local public authority, financial corporations, and non-financial corporations;
 - (d) in case of exposure to securitisations, take into account the credit risk of the issuer, the structure of the securitisation and the credit risk of the underlying assets.

Article 18

Documentation

1. A manager of a MMF shall document its internal assessment procedure and the internal rating system. Documentation shall include:
 - (a) the design and operational details of its internal assessment procedures and internal rating systems in a manner that allows competent authorities to understand the assignment to specific grades and to evaluate the appropriateness of an assignment to a grade;
 - (b) the rationale for and the analysis supporting the manager's choice of the rating criteria and of its frequency of review. This analysis shall include the parameters, the model and the limits of the model used to choose the rating criteria;
 - (c) all major changes in the internal assessment procedure, including identification of the triggers of changes;
 - (d) the organisation of the internal assessment procedure, including the rating assignment process and the internal control structure;
 - (e) complete internal rating histories on issuers and recognised guarantors;
 - (f) the dates of assignment of internal ratings;

Wednesday 29 April 2015

- (g) the key data and methodology used to derive the internal rating, including key rating assumptions;
- (h) the person or persons responsible for the internal rating assignment.

2. The internal assessment procedure shall be detailed in the fund rules or rules of incorporation of the MMF and all documents referred to in paragraph 1 shall be made available upon request by the competent authorities of the MMF and the competent authorities of the manager of the MMF.

Article 19

Delegated acts

The power to adopt delegated acts is conferred on the Commission in accordance with Article 44 specifying the following points:

- (a) the conditions under which the assignment methodologies are deemed to be prudent, systematic and continuous and the conditions of the validation, referred to in Article 16(2);
- (b) the definitions of each grade with respect to the quantification of the credit risk of an issuer referred to in Article 17(2) (a), and the criteria to determine the quantification of the credit risk referred to in Article 17(2)(b);
- (c) the precise reference values for each qualitative indicator and the numerical reference values for each quantitative indicator. These reference values of the indicators shall be specified for each rating grade taking into account the criteria in Article 17(3);
- (d) the meaning of material change as referred to in Article 16(3)(c).

Article 20

Governance of the credit quality assessment

1. The internal assessment procedures shall be approved by the senior management, the governing body, and, where it exists, the supervisory function of the manager of the MMF.

These parties shall have a good understanding of the internal assessment procedures, the internal rating systems and the assignment methodologies of the manager and detailed comprehension of the associated reports.

2. Internal ratings-based analysis of the MMF's credit risk profile shall be an essential part of the reporting to the parties referred to in paragraph 1. Reporting shall include at least the risk profile by grade, migration across grades, estimation of the relevant parameters per grade, and comparison of realised default rates. Reporting frequencies shall depend on the significance and type of information and shall be at least annual.

3. Senior management shall ensure, on an on-going basis that the internal assessment procedure is operating properly.

Senior management shall be regularly informed about the performance of the internal assessment process, the areas where deficiencies were identified, and the status of efforts and actions taken to improve previously identified deficiencies.

Chapter III

Obligations concerning the risk management of MMFs

Article 21

Portfolio rules for short-term MMFs

A short-term MMF shall comply at all times with all of the following portfolio requirements:

- (a) its portfolio shall have a WAM of no more than 60 days;

Wednesday 29 April 2015

- (b) its portfolio shall have a WAL of no more than 120 days;
- (c) at least 10 % of its assets shall be comprised of daily maturing assets. A short-term MMF shall not acquire any asset other than a daily maturing asset when such acquisition would result in the short-term MMF investing less than 10 % of its portfolio in daily maturing assets;
- (d) at least 20 % of its assets shall be comprised of weekly maturing assets. A short-term MMF shall not acquire any asset other than a weekly maturing asset when such acquisition would result in the short-term MMF investing less than 20 % of its portfolio in weekly maturing assets. **For the purpose of this calculation, money market instruments may be included within the weekly maturing assets up to 5 % providing they may be sold for settlement within the next five working days.**
- (da) *The daily and weekly liquidity requirements referred to in paragraph (c) and (d) shall be increased respectively by:*
 - *5 % of the assets of the MMF valued using amortized cost accounting;*
 - *10 % of the assets of the MMF valued using amortized cost accounting.*

Article 22

Portfolio rules for standard MMFs

1. A standard MMF shall comply with all of the following requirements:
 - (a) its portfolio shall have at all times a WAM of no more than 6 months;
 - (b) its portfolio shall have at all times a WAL of no more than 12 months;
 - (c) at least 10 % of its assets shall be comprised of daily maturing assets. A standard MMF shall not acquire any asset other than a daily maturing asset when such acquisition would result in the standard MMF investing less than 10 % of its portfolio in daily maturing assets;
 - (d) at least 20 % of its assets shall be comprised of weekly maturing assets. A standard MMF shall not acquire any asset other than a weekly maturing asset when such acquisition would result in the standard MMF investing less than 20 % of its portfolio in weekly maturing assets. **For the purpose of this calculation, money market instruments may be included within the weekly maturing assets up to 5 % providing they may be sold for settlement within the next five working days.**
 - (da) *The daily and weekly liquidity requirements referred to in paragraph (c) and (d) shall be increased respectively by:*
 - *5 % of the assets of the MMF valued using amortized cost accounting;*
 - *10 % of the assets of the MMF valued using amortized cost accounting.*
2. A standard MMF may invest up to 10 % of its assets in money market instruments issued by a single body.

Wednesday 29 April 2015

3. Notwithstanding the individual limit laid down in paragraph 2 **and by way of derogation**, a standard MMF may combine, where this would lead to investment of up to 15 % of its assets in a single body, any of the following:

- (a) investments in money market instruments issued by that body;
- (b) deposits made with that body;
- (c) **■** financial derivative instruments giving counterparty risk exposure to that body.

4. All portfolio assets that a standard MMF invests in according to paragraphs 2 and 5 shall be disclosed to MMF investors.

5. A standard MMF shall not take the form of a CNAV MMF.

Article 23

MMF credit ratings

Where a MMF seeks an external credit rating, this shall be subject to, and carried out in accordance with, Regulation (EU) No 462/2013.

Article 24

'Know your customer' policy

1. The manager of the MMF shall establish, implement and apply procedures and exercise all due diligence to identify the number of investors in a MMF, their needs and behaviour, the amount of their holdings with a view to correctly anticipate the effect of concurrent redemptions by several investors, **taking into account at least the type of investor, the number of shares in the fund owned by a single investor and the evolution of inflows and outflows**. To this effect the manager of the MMF shall consider at least the following factors:

- (a) identifiable patterns in investor cash needs;
- (b) the **investor type**;
- (c) the risk aversion of the different investors;
- (d) the degree of correlation or close links between different investors in the MMF;
- (da) **the cyclical evolution of the number of shares in the MMF.**

1a. Where the MMF investors route their investments via an intermediary, the MMF manager shall seek, and the intermediary shall provide, data allowing the manager of the MMF to manage appropriately the liquidity and investor concentration of the MMF.

2. The manager of the MMF shall ensure that:

- (a) the value of the units or shares held by a single investor does not exceed at any time the value of daily maturing assets;
- (b) redemption by an investor does not materially impact the liquidity profile of the MMF.

Article 25

Stress testing

1. For each MMF there shall be in place sound stress testing processes that allow identifying possible events or future changes in economic conditions that could have unfavourable effects on the MMF. The manager of a MMF shall regularly conduct stress testing and develop action plans for different possible scenarios. **In addition, in the case of LVNAV MMFs, the stress tests shall estimate for different scenarios the difference between the constant NAV per unit or share and the actual NAV per unit or share.**

Wednesday 29 April 2015

The stress tests shall be based on objective criteria and consider the effects of severe plausible scenarios. The stress test scenarios shall at least take into consideration reference parameters **that include** the following factors:

- (a) hypothetical changes in the level of liquidity of the assets held in the portfolio of the MMF;
- (b) hypothetical changes in the level of credit risk of the assets held in the portfolio of the MMF, including credit events and rating events;
- (c) hypothetical movements of the interest rates;
- (d) hypothetical levels of redemption;
- (da) **hypothetical widening or narrowing of spreads among indexes to which interest rates of portfolio securities are tied;**
- (db) **hypothetical macro systemic shocks affecting the economy as a whole.**

2. In addition, in the case of **Public debt CNAV MMFs and Retail CNAV MMFs**, the stress tests shall estimate for different scenarios the difference between the constant NAV per unit or share and the NAV per unit or share. **Based on the outcomes of the stress test, the manager of the MMF shall develop recovery plans for different possible scenarios. The recovery plans shall be approved by the competent authorities.**

4. Stress tests shall be conducted at a frequency determined by the board of directors of the MMF, after considering what an appropriate and reasonable interval in light of the market conditions is and after considering any envisaged changes in the portfolio of the MMF. Such frequency shall be at least **quarterly**.

4a. Where the stress test reveals any vulnerability of the MMF, the manager of the MMF shall take action to strengthen the robustness of the MMF, including actions that reinforce the liquidity or the quality of the assets of the MMF and shall immediately inform the competent authority of the measures taken.

5. An extensive report with the results of the stress testing **and a proposed action plan** shall be submitted for examination to the board of directors of the MMF. The board of directors shall amend the proposed action plan if necessary and approve the final action plan. **The report shall be maintained for a period of at least five years.**

6. The report **referred to in paragraph 5** shall be submitted to the competent **authority** of the MMF. The competent authorities shall send the report to ESMA.

Chapter IV

Valuation rules and Accounting Treatment

Article 26

Valuation of MMF's assets

1. The assets of a MMF shall be valued at least on a daily basis. **The result of this valuation shall be published daily on the website of the MMF. Without prejudice to Article 27(4)(a) and (b) the valuation shall be undertaken by an independent third party using the mark-to-market or the mark-to-model methods. It shall not be undertaken by the MMF itself, its related asset manager or its sponsor.**

Wednesday 29 April 2015

2. **Without prejudice to Article 27(4)(b) the** assets of a MMF shall be valued by using mark-to-market whenever possible.

3. When **using the mark-to-market valuation method**, the assets shall be valued at the more prudent side of bid and offer unless the institution can close out at mid-market. When **using the mark-to-market valuation method**, only quality market data **provided by recognised independent pricing vendors** shall be used **provided it does not unduly prejudice same day settlement**. The quality of the market data shall be assessed on the basis of all of the following factors:

- (a) the number and quality of the counterparties;
- (b) the volume and turnover in the market of that asset;
- (c) the issue size and the portion of the issue that the MMF plans to buy or sell.

4. Where **use of the mark-to-market valuation method** is not possible or **the** market data **is** not of sufficient quality, an asset of a MMF shall be valued conservatively by using **the mark-to-model valuation method**. The model shall accurately estimate the intrinsic value of the asset, based on the following up to date key factors:

- (a) the volume and turnover in the market of that asset;
- (b) the issue size and the portion of the issue that the MMF plans to buy or sell;
- (c) market risk, interest rate risk, credit risk attached to the asset.

When **using the mark-to-model valuation method**, the **amortised cost** valuation **method** shall **not** be used.

When using the mark-to-model valuation method, only pricing data provided by recognised independent pricing vendors may be used and the model's pricing methodology shall be subject to approval by the competent authority of the MMF.

5. **By way of derogation from paragraphs 1 to 4** the assets of a **Public Debt CNAV MMF and a Retail CNAV MMF** may **be valued using the amortised cost method for valuation of assets.**

Article 27

Calculation of NAV per unit or share

1. **Without prejudice to Article 2(13b), the actual NAV** per unit or **share** shall be calculated as the difference between the sum of all assets of a MMF and the sum of all liabilities of the MMF **and shall be** valued in accordance with the **mark-to-market or mark-to-model** methods, divided by the number of outstanding units or shares of the MMF.

The first sub paragraph shall apply to all MMFs including LVNAV MMFs, public debt CNAV MMFs and retail CNAV MMFs.

2. The **actual** NAV per unit or share shall be rounded to the nearest basis point or its equivalent when the NAV is published in a currency unit.

3. The **actual** NAV per unit or share of a MMF shall be calculated at least daily.

4. **In addition to calculating the actual NAV per unit or share in accordance with paragraphs 1 to 3, a LVNAV MMF may also display a constant NAV per unit or share providing that all of the following conditions are fulfilled:**

Wednesday 29 April 2015

- (a) *use of the amortised cost method for valuation for assets with a residual maturity below 90 days; all assets with a residual maturity exceeding 90 days shall be priced using mark-to-market or mark-to-model prices;*
- (b) *for valuation purposes the assets are rounded to two decimal places provided that the constant NAV per unit or share does not deviate from its actual NAV by more than 20 basis points and to four decimal places thereafter;*
- (c) *redeem or subscribe at the constant NAV per unit or share providing that the constant NAV per unit or share does not deviate from its actual NAV by more than 20 basis points;*
- (d) *redeem or subscribe at the actual NAV per unit or share which shall be rounded to 4 decimal places, or less where the constant NAV deviates from the actual NAV by more than 20 basis points;*
- (e) *potential investors are clearly warned in writing prior to the conclusion of the contract of the circumstances in which the fund will no longer redeem or subscribe at a constant NAV;*
- (f) *the difference between the constant NAV per unit or share and the actual NAV per unit or share is continuously monitored and published daily on the website of the MMF.*

5. *Four years after the entry into force of this Regulation, the Commission shall undertake a review of the impact and implementation of this Regulation including the frequency of safeguard mechanisms employed as referred to in Article 27 (4)(d) and present it to the European Parliament and Council.*

Authorisations granted to LVNAVs within the scope of this Regulation shall lapse, five years after the date of the entry into force of this Regulation.

The Commission shall examine whether or not systemic risk as well as any threat to the financial stability of the whole or part of the Union financial system has been properly addressed by the LVNAV MMF. In line with the findings of this review and the impact on financial stability, the Commission shall make legislative proposals according to the first subparagraph, including examining the possibility of deleting the second sub-paragraph.

■

Article 28

Issue and redemption price

1. The units or shares of a MMF, **except for a LVNAV MMF which shall be subject to Article 27(4)**, shall be issued or redeemed at a price that is equal to the MMF's NAV per unit or share.
2. By way of derogation from paragraph 1, the units or shares of a **Retail CNAV MMF and a Public Debt CNAV MMF** shall be issued or redeemed at a price that is equal to the MMF's constant NAV per unit or share.

■

Chapter Va

Specific requirements for Public Debt CNAV MMFs, Retail CNAV MMFs and LVNAV MMFs

Article 34a

Additional requirements for Public Debt CNAV MMFs and Retail CNAV MMFs

A MMF shall not use the amortised cost method for valuation, or advertise a constant NAV per unit or share, or round the constant NAV per unit or share to the nearest percentage point or its equivalent when the NAV is published in a currency unit unless it has been explicitly authorised as a public debt or retail CNAV MMF or unless it is a LVNAV MMF subject to Article 27(4).

Wednesday 29 April 2015

Article 34b

Liquidity Fees and Redemption Gates for Public Debt CNAV MMFs, Retail CNAV MMFs and LVNAV MMFs

1. *The manager of a Public Debt CNAV MMF or a Retail CNAV MMF or LVNAV MMF shall establish, implement and consistently apply a prudent, rigorous, systematic and continuous internal assessment procedure for determining the weekly liquidity thresholds applicable to the MMFs. In managing the weekly liquidity thresholds, the following procedures shall apply:*
- (a) *Whenever the proportion of weekly maturing assets falls below 30 % of the total assets of the MMF, the manager and the board of the MMF shall comply with the following:*
- (i) *The Manager shall immediately inform the board of the MMF. The board of the MMF shall undertake a documented assessment of the situation to determine the appropriate course of action taking into account the interests of the investors in the MMF and shall decide whether to apply one or more of the following measures:*
- liquidity fees on redemptions that adequately reflect the cost to the MMF of achieving liquidity and ensure that investors who remain in the fund are not unfairly disadvantaged when other investors redeem their units or shares during the period;*
 - redemption gates which limit the amount of shares or units to be redeemed on any one working day to 10 % of the shares or units in the MMF for any period up to 15 working days;*
 - suspension of redemptions for any period up to 15 working days; or*
 - take no immediate action.*
- (b) *Whenever the proportion of weekly maturing assets falls below 10 % of the total assets of the MMF, the manager and the board of the MMF shall comply with the following:*
- (i) *The manager shall immediately inform the board of the MMF. The board of the MMF shall undertake a documented assessment of the situation to determine the appropriate course of action taking into account the interests of the investors in the MMF and shall decide whether to apply one or more of the following measures:*
- liquidity fees on redemptions that adequately reflect the cost to the MMF of achieving liquidity and ensure that investors who remain in the fund are not unfairly disadvantaged when other investors redeem their units or shares during the period;*
 - a suspension of redemptions for a period of up to 15 days;*
- (c) *After the board of the MMF has determined its course of action in each of (a) and (b) above, it shall promptly provide details of its decision to the competent authority of the MMF.*

Chapter VI

External support

Article 35

External support

1. A ■ MMF **shall** not receive external support ■ .

Wednesday 29 April 2015

3. External support shall mean a direct or indirect support offered by a third party, **including the sponsor of the MMF**, that is intended for or in effect would result in guaranteeing the liquidity of the MMF or stabilising the NAV per unit or share of the MMF.

External support shall include:

- (a) cash injections from a third party;
- (b) purchase by a third party of assets of the MMF at an inflated price;
- (c) purchase by a third party of units or shares of the MMF in order to provide liquidity to the fund;
- (d) issuance by a third party of any kind of explicit or implicit guarantee, warranty or letter of support for the benefit of the MMF;
- (e) any action by a third party the direct or indirect objective of which is to maintain the liquidity profile and the NAV per unit or share of the MMF.

Chapter VII

Transparency requirements

Article 37

Transparency

1. **Investors in a MMF shall, at least weekly, receive the following information:**

- (a) **the liquidity profile of the MMF including the cumulative percentage of investments maturing overnight and within one week and how that liquidity is achieved;**
- (b) **the credit profile and portfolio composition;**
- (c) **the WAM and WAL of the MMF;**
- (d) **the cumulative concentration of the top five investors in the MMF.**

2. **In addition to complying with the requirements of paragraph 1, Public Debt CNAV MMFs, Retail CNAV MMFs and LVNAV shall also make the following information available to their investors:**

- (a) **the total value of assets;**
- (b) **the WAM and the WAL;**
- (c) **the maturity breakdown;**
- (d) **the proportion of assets in the portfolio reaching maturity in one day;**
- (e) **the proportion of assets in the portfolio reaching maturity in one week;**
- (f) **the net yield;**
- (g) **the daily indicative value at the market rate to four decimal places;**
- (h) **details of the assets held in the MMF's portfolio, such as the name, country, maturity and asset type (including details on the counterparty in the case of resale agreements);**

Wednesday 29 April 2015

(i) *the NAV as published on its website.*

3. *An MMF shall make available on a regular basis information on the proportion of its overall portfolio that consists of:*

(a) *money market instruments issued by the MMF sponsor;*

(b) *if applicable, securitisations issued by the MMF sponsor;*

(c) *if the sponsor is a credit institution, cash deposits with the MMF sponsor; and*

(d) *exposure to the MMF sponsor as a counterparty to OTC derivative transactions.*

4. *In the event that a MMF sponsor invests in the shares or units of the MMF, the fund shall disclose to the other investors in the MMF the total amount the sponsor has invested in the MMF, and shall subsequently notify the other investors of any change to the total shares or units held.*

■

Article 38

Reporting to competent authorities

1. For each MMF managed, the manager of the MMF shall report information to the competent authority of the MMF, at least on a quarterly basis. The manager shall upon request provide the information also to the competent authority of the manager if different from the competent authority of the MMF.

2. The information reported pursuant to paragraph 1 shall comprise the following points:

(a) the type and characteristics of the MMF;

(b) portfolio indicators such as the total value of assets, NAV, WAM, WAL, maturity breakdown, liquidity and yield;

■

(d) the results of stress tests;

(e) information on the assets held in the portfolio of the MMF:

(i) the characteristics of each asset, such as name, country, issuer category, risk or maturity, and internal ratings assigned;

(ii) the type of asset, including details of the counterpart in case of derivatives or reverse repurchase agreements;

(f) information on the liabilities of the MMF that includes the following points:

(i) the country where the investor is established;

(ii) the investor category;

(iii) subscription and redemption activity.

If necessary and duly justified, competent authorities may solicit additional information.

3. ESMA shall develop draft implementing technical standards to establish a reporting template that shall contain all the information listed in paragraph 2.

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1095/2010.

Wednesday 29 April 2015

4. Competent authorities shall transmit to ESMA all information received pursuant to this Article, and any other notification or information exchanged with the MMF or its manager by virtue of this Regulation. Such information shall be transmitted to ESMA no later than 30 days after the end of the reporting quarter.

ESMA shall collect the information to create a central database of all MMFs established, managed or marketed in the Union. The European Central Bank shall have right to access this database for statistical purposes only.

Chapter VIII

Supervision

Article 39

Supervision by the competent authorities

1. The competent authorities shall supervise compliance with this Regulation on an on-going basis. ***Authorisation of a MMF shall be withdrawn in the event of a breach of the ban on sponsor support.***
2. The competent authority of the MMF shall be responsible for ***ensuring*** compliance with the rules laid down in Chapters II to VII.
3. The competent authority of the MMF shall be responsible for supervising compliance with the obligations set out in the fund rules or in the instruments of incorporation, and the obligations set out in the prospectus, which shall be consistent with this Regulation.
4. The competent authority of the manager shall be responsible for supervising the adequacy of the arrangements and organisation of the manager so that the manager of the MMF is in a position to comply with the obligations and rules which relate to the constitution and functioning of all the MMFs it manages.
5. Competent authorities shall monitor UCITS or AIFs established or marketed in their territories to verify that they do not use the MMF designation or suggest that they are a MMF unless they comply with this Regulation.

Article 40

Powers of competent authorities

1. Competent authorities shall have all supervisory and investigatory powers that are necessary for the exercise of their functions pursuant to this Regulation.
2. The powers conferred on competent authorities in accordance with Directive 2009/65/EC and Directive 2011/61/EU shall be exercised also with respect to this Regulation.

Article 41

Powers and competences of ESMA

1. ESMA shall have the powers necessary to carry out the tasks attributed to it by this Regulation.
2. ESMA's powers in accordance with Directive 2009/65/EC and Directive 2011/61/EU shall be exercised also with respect to this Regulation and in compliance with Regulation (EC) No 45/2001.
3. For the purpose of Regulation (EU) No 1095/2010, this Regulation shall be included under any further legally binding Union act which confers tasks on the Authority referred to in Article 1(2) of Regulation (EU) 1095/2010.

Article 42

Cooperation between authorities

1. The competent authority of the MMF and the competent authority of the manager, if different shall cooperate with each other and exchange information for the purpose of carrying out their duties under this Regulation.

Wednesday 29 April 2015

2. Competent authorities, **including authorities designated by a Member State in accordance with Regulation (EU) No 575/2013 and Directive 2013/36/EU of the European Parliament and the Council ⁽¹⁾ for credit institutions in the MMF's home Member State, SSM and ECB**, and ESMA shall cooperate with each other for the purpose of carrying out their respective duties under this Regulation in accordance with Regulation (EU) No 1095/2010.

3. Competent authorities, **including authorities designated by a Member State in accordance with Regulation (EU) No 575/2013 and Directive 2013/36/EU for credit institutions in the MMF's home Member State, SSM and ECB**, and ESMA shall exchange all information and documentation necessary to carry out their respective duties under this Regulation in accordance with Regulation (EU) No 1095/2010, in particular to identify and remedy breaches of this Regulation.

Chapter IX

Final provisions

Article 43

Treatment of existing UCITS and AIFs

1. **By nine months after** the date of entry into force of this Regulation, an existing UCITS or AIF that invests in short term assets and has as distinct or cumulative objectives offering returns in line with money market rates or preserving the value of the investment shall submit an application to its competent authority together with all documents and evidence necessary to demonstrate the compliance with this Regulation.

I

Article 44

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Articles 13 and 19 shall be conferred on the Commission for an indeterminate period of time from the date of entry into force of this Regulation.
3. The delegation of power referred to in Articles 13 and 19 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. The delegated acts adopted pursuant to Articles 13 and 19 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

⁽¹⁾ Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

Wednesday 29 April 2015

Article 45

Review

By *[three years after the entry into force of this Regulation]*, the Commission shall review the adequacy of this Regulation from a prudential and economic point of view. In particular the review shall consider ***whether changes should be made to the regime for Retail CNVA MMFs, Public Debt CNAV MMFs and LVNAV MMFs***. The review shall ***also***:

- (a) analyse the experience acquired in applying this Regulation, the impact on investors, MMFs and the managers of MMFs in the Union;
- (b) assess the role that MMFs play in purchasing debt issued or guaranteed by the Member States;
- (c) take into account the specific characteristics of the debt issued or guaranteed by the Member States and the role this debt plays in financing the Member States;
- (d) take into account the report referred to in Article 509(3) of Regulation (EU) No 575/2013;
- (e) take into account the regulatory developments at international level.

The results of the review shall be communicated to the European Parliament and the Council accompanied, where necessary, by appropriate proposals for amendments.

Article 46

Entry into force

This Regulation shall enter into force on the twentieth day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at

For the European Parliament
The President

For the Council
The President
