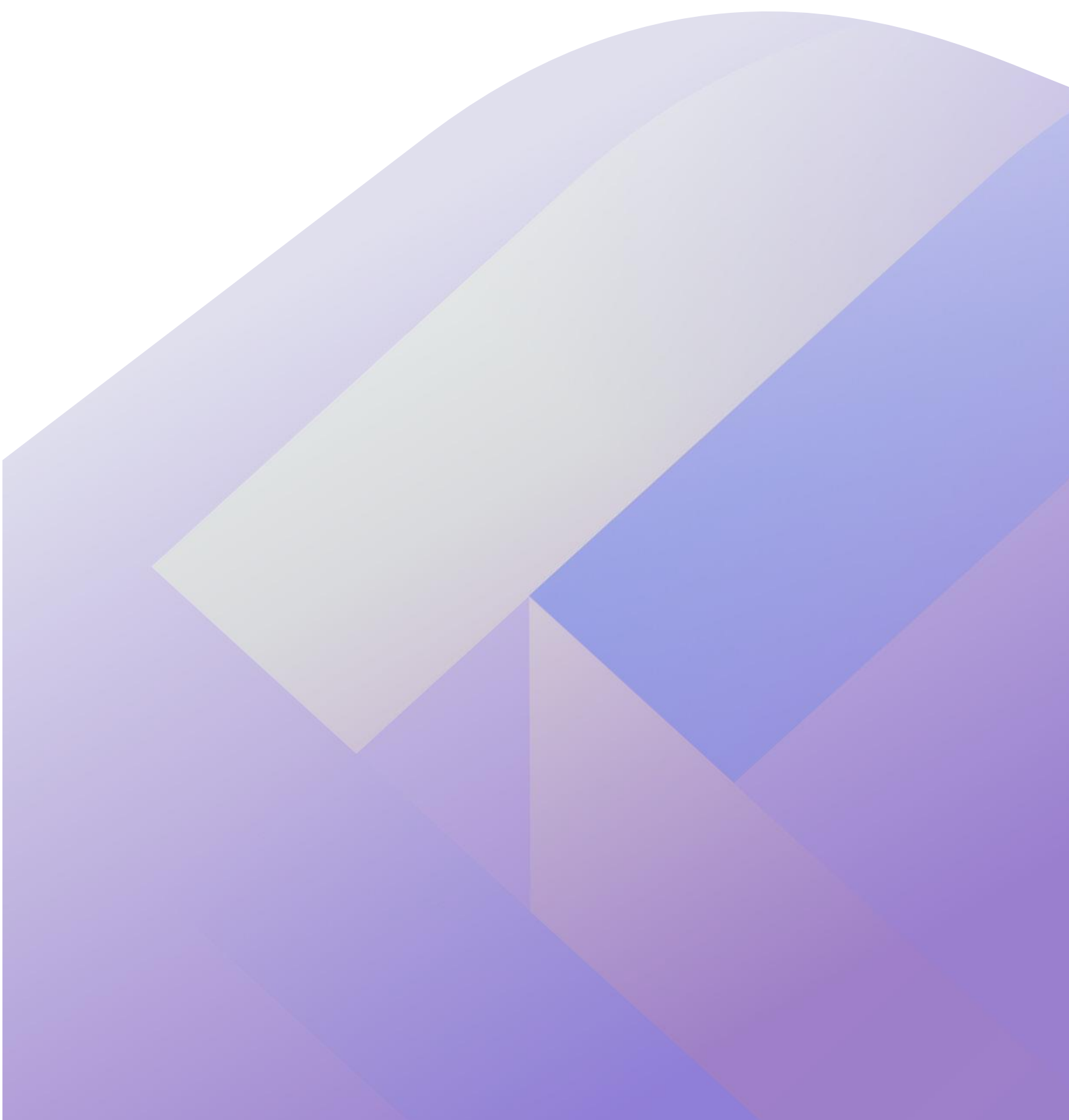


Reply form

On the Guidelines on Liquidity Management Tools of UCITS and open-ended AIFs



Responding to this paper

ESMA invites comments on all matters in this paper and in particular on the specific questions summarised in Annex 1. Comments are most helpful if they:

- respond to the question stated;
- indicate the specific question to which the comment relates;
- contain a clear rationale; and
- describe any alternatives ESMA should consider.

ESMA will consider all comments received by **8 October 2024**.

All contributions should be submitted online at www.esma.europa.eu under the heading 'Your input - Consultations'.

Instructions

In order to facilitate analysis of responses to the Call for Evidence, respondents are requested to follow the below steps when preparing and submitting their response:

- Insert your responses to the questions in the Call for Evidence in this reply form.
- Please do not remove tags of the type < ESMA_QUESTION_GLMT_0>. Your response to each question has to be framed by the two tags corresponding to the question.
- If you do not wish to respond to a given question, please do not delete it but simply leave the text "TYPE YOUR TEXT HERE" between the tags.
- When you have drafted your responses, save the reply form according to the following convention: ESMA_CP1_GLMT_nameofrespondent.

For example, for a respondent named ABCD, the reply form would be saved with the following name: ESMA_CP1_GLMT_ABCD.

- Upload the Word reply form containing your responses to ESMA's website (**pdf documents will not be considered except for annexes**). All contributions should be submitted online at <https://www.esma.europa.eu/press-news/consultations/consultation-liquidity-management-tools-funds> under the heading 'Your input - Consultations'.

Publication of responses

All contributions received will be published following the close of the consultation, unless you request otherwise. Please clearly and prominently indicate in your submission any part you do not wish to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with ESMA's rules on access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by ESMA's Board of Appeal and the European Ombudsman.

Data protection

Information on data protection can be found at www.esma.europa.eu under the heading '[Data protection](#)'.

Who should read this paper?

This document will be of interest to alternative investment fund managers, AIFs, management companies, UCITS, and their trade associations, depositories and their trade associations, as well as professional and retail investors investing into UCITS and AIFs and their associations.

1 General information about respondent

Name of the company / organisation	The Alternative Investment Management Association (AIMA) and the Bundesverband Alternative Investments (BAI)
Activity	Trade association
Country / Region	International

2 Questions

Q1 Do you agree with the list of elements included under paragraph 17 of Section 6.5.1 of the draft guidelines that the manager should consider in the selection of LMTs? Are there any other elements that should be considered?

<ESMA_QUESTION_GLMT_1>

The Alternative Investment Management Associations (“AIMA”)¹ and the Bundesverband Alternative Investments² (“BAI”, and together with AIMA, “we” or “our”) welcome the

¹ The Alternative Investment Management Association (AIMA) is the global representative of the alternative investment industry, with around 2,100 corporate members in over 60 countries. AIMA’s fund manager members collectively manage more than US\$3 trillion in hedge fund and private credit assets. AIMA draws upon the expertise and diversity of its membership to provide leadership in industry initiatives such as advocacy, policy and regulatory engagement, educational programmes and sound practice guides. AIMA works to raise media and public awareness of the value of the industry. AIMA set up the Alternative Credit Council (ACC) to help firms focused in the private credit and direct lending space. The ACC currently represents over 250 members that manage over US\$1 trillion of private credit assets globally. AIMA is committed to developing skills and education standards and is a co-founder of the Chartered Alternative Investment Analyst designation (CAIA) – the first and only specialised educational standard for alternative investment specialists. AIMA is governed by its Council (Board of Directors).

² BAI is the cross-asset and cross-product lobby association for the alternative investment industry in Germany and we consider ourselves as a catalyzer between professional German investors and suppliers of Alternative Investment products worldwide. The overarching goal is that German institutional and professional investors must be able to diversify their investment with regard to Alternatives better and more easily. The BAI is promoting a broad diversification which includes Alternative Investments as indispensable, in particular in terms of safeguarding long-term retirement pensions and the provision of money for construction, maintenance, and development of public infrastructure and renewable energies. BAI-members are recruited from all areas of the Alternative Investments’ industry, e.g. AIF managers and banks as well as service providers. At present, the BAI counts more than 300 national and international member companies and is growing continuously.

opportunity to respond to ESMA's consultation on the draft guidelines on liquidity management tools under the AIFMD and UCITS Directive.

We agree with the list of elements included under paragraph 17 of Section 6.5.1 of the draft guidelines with regard to the selection of liquidity management tools ("LMTs") by fund managers. The elements listed in paragraph 17 underline the fact that investment fund structures, investment strategies and investor bases all vary from fund to fund, and as such, it is important to maintain flexibility and discretion for the fund manager to utilise LMTs in the manner they identify as most suitable. It follows therefore that the guidelines generally should be principles-based and not unduly prescriptive.

We believe the guidelines should make clear that the list of elements in paragraph 17 is not exhaustive but indicative of the main considerations of a fund manager in the selection of LMTs. In this light, we endorse the clarity provided in paragraph 12 that "[t]he primary responsibility for liquidity risk management, as well as for the selection, calibration, activation and deactivation of LMTs is of the manager." Additional considerations that a fund manager will take on board will depend on the particular fund being managed.

We note that in paragraph 13 of the draft guidelines, it is stated that "[w]ithout prejudice to the use of tools to mitigate against the dilution of investor interests, managers should not solely rely on LMTs to manage a fund's liquidity risk." We agree with this statement and the following points in paragraph 13 regarding the importance of a fund's structure, investment strategy and operational processes as all being relevant to manage liquidity. Fund structuring (including fund strategy and regular redemption terms), investment decisions, general risk management and operational processes and procedures (including, but not limited to, matters such as best execution, asset eligibility, valuation and fair treatment of investors) are also key to liquidity risk management.

It would also be correct to state that LMTs do not strictly manage liquidity *risk per se*, but rather manage liquidity in itself. LMTs as such can be regarded as a safety mechanism at the very end of the liquidity risk management chain of a fund. Again, this underlines the importance of looking at the fund structure, investment strategy and operational process as being relevant when considering appropriate LMTs for a particular fund.

As a general point and consistent with our feedback on the draft RTS, it would appear that the draft guidelines are written mainly with retail investors under the UCITS regime in mind. The draft guidelines in several places do not take proper account of the full range of AIFs and their investors, especially AIFs with significantly different liquidity profiles from UCITS.

The draft guidelines often seem to assume that there is a uniformity in fund structures and investor bases that is not the case in reality. This makes such prescriptive rules unworkable in practice. We call for a more principles-based approach where proper discretion is given to the fund manager to decide on the best course of action given prevailing circumstances, based on the best interests of the investors in the fund. We submit that the draft guidelines (and RTS) should treat AIFs and UCITS differently and be more flexible for professional investor products as the contractual freedom for professional investors should not be unduly restricted. Professional investors should not be subject to the same level of restrictions as retail investors. This approach is fully consistent with currently applicable European regulation (e.g. the ELTIF Regulation including concentration limits and investment restrictions only for those ELTIFs marketed to retail investors).

Limited Liquidity AIFs

There are also types of AIFs in the market that while technically fall within the definition of being “open-ended” (as investors may be able to redeem their investments during the lifetime of the fund), liquidity for investors is only available at the discretion of the fund. There is not necessarily an obligation on these AIFs to offer liquidity in normal circumstances (for example, it can be subject to sufficiently available “liquid” assets, or commercially reasonable efforts of the fund manager), and this is a much stronger LMT for a fund manager. Only if liquidity exists in the portfolio, considered on a case by case basis, would liquidity be provided at a future date following due notice. We invite ESMA to consider excluding such funds from the scope of application of the RTS.

Such funds could be defined as “limited liquidity AIFs”. There is precedent for this under Irish regulation, where such an AIF is defined as a fund that offers redemption and/or settlement facilities on a less than quarterly basis; or provides for a period of greater than 90 days between the dealing deadline and the payment of redemption proceeds. Such funds are not subject to any requirements on dealing frequency, minimum redemption quotas or timeframe for settlement, but instead must disclose that they are “open-ended **with limited liquidity**” (emphasis added).

Alternatively, we think it is possible to incorporate a concept of “AIFs offering discretionary liquidity only”, along the lines of AIFs operating a subscription queue mechanism, where

units are issued incrementally at the point of funding fund manager-led capital calls rather than immediately at the point of subscription.³

AIFs with Semi-Liquid Strategies

As we highlight throughout this consultation response, it is important to bear in mind the characteristics of the semi-liquid market in Europe. We are currently in a key period for the development of the semi-liquid market and it is therefore important to avoid having an inflexible set of requirements that damage its development. In particular, we are enthusiastic and hopeful that the new ELTIF regime will be a success and such unsuitable requirements for semi-liquid funds could impact the development of ELTIF products at a time when many fund sponsors are considering semi-liquid ELTIFs.

Grandfathering Existing Funds

Lastly, we believe that grandfathering provisions for existing funds should be considered. This is necessary at a minimum to avoid any material impact to existing investors (who may not agree with such changes).

<ESMA_QUESTION_GLMT_1>

Q2 Should the distribution policy of the fund be considered in the selection of the LMTs? What are the current practices in relation to the application of anti-dilution levies by third party distributors (e.g.: whether the third party corrects the price by adding the anti-dilution levy to the fund NAV)?

<ESMA_QUESTION_GLMT_2>

We believe the distribution policy of the fund should be considered in the selection of the LMTs where this is a relevant consideration, but it should not be a mandatory consideration as it is not always relevant. In those cases where it is relevant, it may not be the most important factor.

³ While these types of fund do offer the potential for liquidity, they often do it through different LMTs which are not currently considered in the existing scope (such as investor votes on fund dissolution should redemption requests remain elevated over an extended period of time; ability to conduct a secondary market sale, etc.). A cash liquidity buffer is not generally maintained within the fund for this type of structure.

When third-party distributors are involved, they often incorporate the ADL into the transaction price. This means that the price quoted to investors already includes the levy, ensuring transparency and fairness.

As we explain in our response to the RTS consultation,⁴ there is not a strictly linear relationship between the combination of LMTs and how they relate to each other. The starting point for the fund manager is to look at the different factors at play, noting that LMTs cannot be looked at in isolation. Key factors include the underlying investor base and how the typical cash flows of a fund will look over the lifetime of the fund. By undertaking that analysis, managers can assess how offering liquidity facilities may impact the cash position of the fund under different scenarios. Similarly understanding the liquidity needs of the investors - whether it is driven by a wish to trade or receive distributions- is important. This is the starting point to understand the case for how different LMTs might be used. And the particular approach will differ depending on whether the fund in question is investing in liquid, semi-liquid or illiquid assets.

<ESMA_QUESTION_GLMT_2>

Q3 Do you agree that among the two minimum LMTs managers should consider the merit of selecting of at least one quantitative LMT and at least one ADT, in light of the investment strategy, redemption policy and liquidity profile of the fund?

<ESMA_QUESTION_GLMT_3>

We disagree with the concept that managers should be required to *consider the merit* of selecting at least one quantitative LMT and at least one ADT and we definitely do not believe they should be required to select one of each.

While we note that the current draft only specifies that fund managers consider the merit of choosing two different LMTs, we are concerned that this suggestion may encourage national competent authorities (“NCAs”) to implement these guidelines in a manner which requires choosing one of each as a binding requirement. If this were to occur, it would not be workable for some types of funds (e.g. semi-liquid funds).

⁴ Please see our response to the accompanying RTS consultation.

We submit that it should be perfectly acceptable for fund managers to choose two of the same type of LMT (e.g. two quantitative LMTs), provided that it is appropriate to the circumstances of the particular fund. Moreover, any suggestion that could lead to a requirement that managers pick one of each type overlooks the fact that redemptions in kind are deemed a valid LMT to be one of the two required LMTs in the Level 1 but are neither quantitative nor qualitative in the proposed guidelines and draft RTS. To implement the Level 1 text appropriately, redemptions in kind must be a viable option and for this reason we believe the suggestion that managers must consider the merit of selecting at least one quantitative LMT and at least one ADT should be removed.

In addition, we note that the draft guidelines are clear that redemption in kind could (where appropriate) be one of the fund's two mandatory LMTs – but it is not quantitative or an ADT (according to section 2.2 in the draft guidelines, redemption in kind is in the "other" bucket). This would appear to be inconsistent with the suggestion that funds should have one quantitative and one ADT. Without the clarification above, it could mean in practice that redemption in kind can only be an additional LMT to a fund's two mandatory LMTs.

As we have highlighted above and also in our response to the accompanying draft RTS, the most important guiding principle needs to be flexibility and discretion for the fund manager to determine the most appropriate way in which to manage the liquidity of the fund. Depending on the investor base and on whether a fund is investing in assets which are liquid, illiquid or semi-liquid, managers need flexibility to use tools best suited to the liquidity profile of the fund. Adopting a starting point of having one quantitative LMT and at least one ADT may result in an inappropriate toolbox of LMTs if they are not suited to the fund in question. Rather, this will need to be assessed by the fund manager based on the specific circumstances of each fund. The selection of the tools is a result of analysis of the liquidity needs of the investors, the redemption conditions under normal circumstances, the liquidity profile of the assets, the liquidity of the strategy as well as any relevant financing arrangements. An ADT will not be appropriate in all circumstances.

If we take the example of suitable LMTs for semi-liquid, private market fund strategies, it would be practically difficult for a manager of illiquid funds to come up with a predetermined range for redemption fees, as it would be challenging to estimate the cost of liquidity in stressed market conditions for illiquid investments and the range may vary widely depending on asset type.

As a result, the list of LMTs for semi-liquid funds to practically choose from is shorter and we believe AIFMs of semi-liquid funds may prefer two quantitative LMTs.

We propose to remove the suggestion that fund managers should consider the merit of selecting at least one quantitative LMT and one ADT (referenced in the draft guideline 6.5.1). If that suggestion is not removed, it must be clarified that:

1. The suggestion to consider the merit of selecting at least one quantitative LMT and one ADT should not be read as a requirement to do so;
2. Choosing redemption in kind and either a quantitative LMT or an ADT would comply; and
3. Choosing two LMTs of the same type would comply, except in the case of swing pricing and anti-dilution levies which the Level 1 text specifically prohibits from being chosen as the only two LMTs.

Each fund has unique characteristics, including its investment strategy, liquidity profile, investor base and redemption policy. Managers should have the flexibility to select LMTs that best address these specific needs, even if that means choosing two of the same type.

In some cases, two similar LMTs might be more effective in managing liquidity risks than a combination of different types. As long as the selected LMTs comply with regulatory requirements and are disclosed transparently to investors, there should be no issue with using two of the same type.

<ESMA_QUESTION_GLMT_3>

Q4 Do you see merit in developing further specific guidance on the depositaries' duties, including on verification procedures, with regards to LMTs?

<ESMA_QUESTION_GLMT_4>

We acknowledge that depositaries have a role in verifying the correct implementation of LMTs. However, if the LMTs are to be included in the fund rules and instruments of incorporation and disclosed in the offering documents, we question whether adding them to depositaries' duties would add tangible value. As such, we do not see merit in developing further specific guidance on depositaries' duties.

<ESMA_QUESTION_GLMT_4>

Q5 Do you agree with the list of elements included under paragraph 28 of Section 6.5.2 of the draft guidelines to be included in the LMT policy? Are there any other elements that, in your view, should be included in the LMT policy?

<ESMA_QUESTION_GLMT_5>

While we agree with the relevance of most of the elements in paragraph 28 to be included in an LMT policy, we believe that care should be taken in laying down criteria, sequencing and methodologies for activating LMT in too much detail. Most LMTs will typically be activated under extraordinary circumstances, which require a sufficient level of flexibility to ensure that one can act in the best interest of investors depending on then current circumstances. By their very nature, such exceptional circumstances are difficult, if not impossible to predict. This makes it imperative that sufficient flexibility is provided in the guidelines for fund managers to determine the best use and combination of LMTs.

Paragraph 28(b) for example refers to the LMT policy including provisions on “sequencing and interdependencies of selected and available LMTs.” As noted above, there is not a linear or fixed interplay between the different LMTs but rather a fund manager will decide on the most appropriate and suitable deployment of LMTs given the circumstances in question.

For these reasons, we suggest that paragraph 28 be changed to read as follows: “The LMT policy *should may* include provisions on *at least* the following aspects:”

In this light, we would like to underscore paragraph 18 which reads as follows:

While the UCITSD and AIFMD require the selection of at least two appropriate LMTs from the list provided in Annex V (for AIFMD) and Annex IIA (for UCITS Directive), managers have the discretion to select more LMTs, as well as additional liquidity measures, according to the criteria set out in the previous paragraph, in order to ensure the fund’s overall resilience and ability to manage its liquidity during both normal and stressed market conditions.⁵

It is important to underline the use of LMTs under normal market conditions and the use of LMTs under exceptional circumstances. As we explain in our response to the RTS

⁵ Similarly, Paragraph 15 of the RTS consultation states: “In addition to the two LMTs (only one for MMFs) that fund managers shall at least select under Article 16(2)(b) of the AIFMD and Article 18a(2) of the UCITS Directive, fund managers may also decide to use other tools than the ones referred to in the AIFMD and UCITS Directive to manage the liquidity of the fund they manage. However, when doing so, these other tools shall not be considered as LMTs for the purpose of complying with Article 16(2)(b) of AIFMD and Article 18a(2) of the UCITS Directive.”

consultation, the tools which fund managers routinely use already to manage liquidity under normal market conditions - which are included in the fund documentation and which are not listed among the LMTs in the Annex - should continue to be used in the ordinary course of business, without affecting the operation of these LMTs outlined in the consultation, which in the case of redemption gates and side pockets in particular, appear to have been established with activation solely in extraordinary circumstances in mind. In contrast, the requirements for redemption fees, swing pricing, dual pricing, anti-dilution levies and redemptions in kind appear to have been developed with business-as-usual activation as the default state.

We believe sufficient flexibility and discretion should be given to the fund manager to utilize the combination of LMTs including not impeding the continuing use of appropriate tools in the ordinary course of business to manage fund liquidity. As a result, we believe that the guidelines should avoid laying down criteria, sequencing and methodologies for activating LMT in too much detail.

<ESMA_QUESTION_GLMT_5>

Q6 In your view, what are the elements of the LMT policy that should be disclosed to investors and what are the ones that should not be disclosed? Please provide reasons for your answer.

<ESMA_QUESTION_GLMT_6>

We believe that while some information should be disclosed to investors (e.g. the LMTs that can be used, type of circumstances in which they might be deployed (without being exhaustive), related risks for investors and conflicts of interest), information allowing investors to predict when an LMT could be used should be treated with care as such knowledge could increase the risk of runs as those conditions start to materialize. Information that allows investors to predict the use of an LMT could be ex ante or ex post depending on the circumstances. Paragraph 94 acknowledges this by stating “[d]isclosure of detailed calibration of LMTs and the activation thresholds may allow some investors to game the mechanism to the detriment of other investors, which will circumvent the objective of LMTs and should therefore be avoided.”

Consistent with our point above concerning the need for differentiation in the treatment between AIFs and UCITS, the information that is disclosed would need to be simplified for UCITS investors. For example, providing an overview of the tools selected and how they will

be activated and deactivated would appear to be sufficient. Providing an overview of complex and technical arrangements for how they operate mechanically would not appear to be of benefit to retail investors.

Information to be disclosed:

Investors should know which LMTs are being employed, such as swing pricing, redemption gates, anti-dilution levies, etc. This transparency helps investors understand how the fund manages liquidity risks.

Disclosure to investors should also clearly outline the general conditions under which each LMT will be activated. This includes thresholds for large transactions or market stress scenarios. This information helps investors anticipate how their investments might be affected during different market conditions.

Information should provide details on the governance framework for implementing and monitoring LMTs. This includes the roles and responsibilities of the fund manager, depositary, and other relevant parties. Transparency in governance builds investor trust.

Information not to disclose to investors:

Specific internal procedures and operational details for implementing LMTs should not be disclosed to investors. This information is often too technical and could overwhelm or confuse investors. It is sufficient to assure investors that robust procedures are in place. Similarly, the exact models and algorithms used to assess liquidity risk and determine the activation of LMTs should not be disclosed to investors, nor should any information that could be used to predict the fund's trading strategies or market positions or the behaviour of other investors. Moreover, too much information about the activation of LMTs could have the effect of encouraging a run on a fund as the disclosed technical conditions for activation are approached.

<ESMA_QUESTION_GLMT_6>

Q7 Do you agree with the above definition of “exceptional circumstances”? Can you provide examples of additional exceptional circumstances, not included under paragraph 30 of Section 6.5.3.1 of the draft guidelines, that would require the manager to consider the activation of suspension of subscriptions, repurchases and redemptions, having regard to the interests of the fund’s investors?

<ESMA_QUESTION_GLMT_7>

As we explain in our answer to Question 5 above, by their very nature, such exceptional circumstances are difficult, if not impossible to predict. By extension, we think that having a definition of exceptional circumstances that could account for all possible scenarios is very difficult. This makes it imperative that sufficient flexibility is provided in the guidelines for fund managers to determine the best use and combination of LMTs.

<ESMA_QUESTION_GLMT_7>

Q8 Do you agree with the elements of the LMT plan included under paragraph 32 of Section 6.5.3.1 of the draft guidelines to be included in the LMT plan? Is there any other element that should be considered?

<ESMA_QUESTION_GLMT_8>

No comment.

<ESMA_QUESTION_GLMT_8>

Q9 Do you agree with the above list of elements to calibrate the suspensions of subscriptions, repurchases and redemptions? Is there any other element that should be considered?

<ESMA_QUESTION_GLMT_9>

No comment.

<ESMA_QUESTION_GLMT_9>

Q10 Do you agree with the proposed criteria for the selection of redemption gates? Is there any other criteria that should be considered?

<ESMA_QUESTION_GLMT_10>

We agree with the consideration in paragraph 52 that redemption gates should be considered by fund managers whose funds invest in illiquid assets. Indeed this is current

market practice. It is important to consider the interaction of the guidelines with the RTS in relation to redemption gates and their potential operation on current market practice.

In line with our answer to Question 1 above, redemption gates provide a good example of how such difference in treatment between AIFs and UCITS is necessary to protect investors and safeguard the investment strategy of the fund. Investment strategies vary to a large extent between AIFs and UCITS. The latter framework is designed to offer high levels of liquidity to investors whereas levels of liquidity largely vary among AIFs and many types of AIFs – such as private credit funds – are specifically designed to hold illiquid assets and naturally their operation is different for redemptions.

AIFs with semi-liquid investment strategies will generally need different redemption gates compared with UCITS or AIFs with a highly liquid investment strategy. In fact, redemption gates are the most frequently employed LMT among AIFMs employing a semi-liquid investment strategy. While we believe the guidelines (and RTS) do not intend to disallow the use of redemption gates that do not meet their requirements, we are concerned that the approach of not allowing appropriately calibrated and disclosed redemption gates that do not meet the specific guidelines (and RTS) requirements to count toward the two required LMTs under Section 16 of the AIFMD unnecessarily disadvantages semi-liquid strategies for which a redemption gate (albeit with different characteristics to those in the draft RTS and guidelines) is far and away the most appropriate LMT on both a business-as-usual basis and under extraordinary circumstances.

AIFMs running semi-liquid strategies are aware that there is a substantial risk that at any given time one or more assets in the portfolio could become entirely illiquid or become harder than usual to value. It is for precisely the reason that the business-as-usual state for such semi-liquid funds is so potentially close to the extraordinary circumstances state for funds like UCITS that the AIFMs choose to structure the AIFs with the redemption gates in place. In this fashion investors are fully aware of the redemption limits before going into the investment. If the AIFM is now required to add two other ill-fitting LMTs in addition to the redemption gate which happens not to align with the restrictions placed on their use with UCITS in mind, the investors in the semi-liquid AIF are not being better served than they would be if the types of redemption gates were not in place.

Allowing the rules on redemption gates to differ based on the nature of the fund and its investor base will allow for more appropriate rules in each case.

Paragraph 37 of the draft guidelines also states:

For funds marketed to retail investors, redemption gates should not be systematically activated to manage the fund's liquidity on a day-to-day basis, but should be activated in specific circumstances and carefully calibrated, for instance, to address severe liquidity stresses or stressed market conditions where executing the sale of underlying assets could worsen liquidity issues for the fund. (emphasis added)

The lead-in modifier limiting this statement to funds marketed to retail investors implies that by extension it could be appropriate for a fund not marketed to retail investors to have a redemption gate that is systematically activated (i.e., always on) to manage the fund's liquidity on a day-to-day basis. We believe this is appropriate and the principle should be applied throughout the discussion of redemption gates.

In addition, and as we outline in our answer to Question 7 of the RTS consultation, we emphasise that semi-liquid fund's existing redemption programmes will fit within the definition of a "redemption gate" under the Level 1 text. A "redemption programme" is a type of redemption gate (i.e. a mechanism, which is a permanent feature of the fund, like any redemption gate, to restrict redemptions above a certain NAV threshold in a particular dealing period) and is a very effective LMT. This is a key feature of semi-liquid private market funds and a very useful tool to enable them to manage liquidity.

This is supported by paragraph 38 of the draft guidelines which suggest that managers should set and disclose activation thresholds in the fund's documents – this is exactly what already happens in the case of redemption programmes and demonstrates how a redemption programme is a suitable form of redemption gate under the rules.

As we outline on several occasions throughout this document, it is imperative that semi-liquid funds and their characteristics are taken into account. Such funds should be able to use their current redemption programmes as one of the two required LMTs. We believe ESMA should clarify in the RTS that this is the case.

Additionally, if these funds are forced to engineer two other LMTs into their documents this will be futile as those LMTs will seldom be used and will not have a meaningful impact on the liquidity management of the fund.

<ESMA_QUESTION_GLMT_10>

Q11 What methodology should be used and which elements should be taken into account when setting the activation threshold of redemption gates?

<ESMA_QUESTION_GLMT_11>

There should not be a one size fits all methodology for activating a gate nor should there be an exclusive set of elements that must be taken into account. As we set out in our answer to Question 9 of the RTS consultation, we believe it is important to maintain fund manager discretion here. This is also relevant due to the potentially detrimental effect on fund liquidity and possibility for deviation in local implementation if this is not stipulated clearly in the RTS.

The size of the gate and the time of its activation will depend on different factors such as how liquid the underlying fund is (e.g., a semi liquid credit fund with a 20% liquidity sleeve will operate differently from a real estate fund with a 10% liquidity sleeve).

Setting the activation threshold for redemption gates involves a careful balance of various factors to ensure the fund's liquidity is managed effectively while protecting investors' interests. A non-exhaustive list of things that managers could consider, if relevant, include the following:

- Reviewing historical redemption patterns to identify typical and extreme redemption scenarios. This helps in setting a threshold that can handle normal market conditions and stress events.
- Conducting stress tests to simulate different market conditions and redemption scenarios. This helps in understanding the fund's liquidity under various stress levels and setting an appropriate threshold.
- Using scenario analysis to evaluate the impact of different threshold levels on the fund's liquidity and investor behavior. This helps in selecting a threshold that balances liquidity management with investor needs.
- Assessing the liquidity of the fund's underlying assets. Funds with less liquid assets may need a lower threshold to ensure sufficient liquidity during redemptions.
- Considering the frequency of redemption opportunities offered to investors. Funds with more frequent redemption opportunities may require a higher threshold to manage liquidity effectively.
- Analysing the composition of the investor base, including the proportion of retail versus institutional investors. Institutional investors may have larger and more unpredictable redemption patterns.

- Taking into account current and anticipated market conditions. During periods of market stress, a lower threshold may be necessary to protect the fund's liquidity.

Aligning the threshold with the fund's investment strategy and objectives. For example, a fund with a long-term investment horizon may set a higher threshold to discourage short-term redemptions.

More generally, the guidelines, as currently drafted, narrow the definition of Annex V of Level 1 AIFMD, and appear to go beyond the mandate given to ESMA. Annex V of Level 1 AIFMD is silent on whether a redemption gate could operate as a day-to-day tool for managing the liquidity of a fund.

If ESMA proceeds with guidance on when a redemption gate ought to be activated, we think the current guidelines are contradictory and should be refined. For example, paragraph 53 contemplates an automatic activation of a redemption gate when a set threshold NAV of redemptions is reached for a dealing date (regardless of whether the fund is experiencing liquidity stresses or market conditions are stressed). This applies to professional and retail investors whereas paragraph 54 contemplates that for a fund marketed to retail investors, a redemption gate should only be activated in specific circumstances to address severe liquidity stresses or stressed marketing conditions where executing the sale of the underlying asset could worsen liquidity issues of the fund.

<ESMA_QUESTION_GLMT_11>

Q12 Do you agree that the use of redemption gates should not be restricted in terms of the maximum period over which they can be used? Do you think that any differentiation should be made for funds marketed to retail investors? Please provide concrete cases and examples in your response.

<ESMA_QUESTION_GLMT_12>

We agree that redemption gates should not be restricted in terms of the maximum period over which they can be used and that redemption gates used by AIFM should be accorded maximum flexibility. For semi-liquid funds (e.g. real estate, private equity), redemption gates are a key business as usual day-to-day liquidity management tool. Without maximum flexibility many of the gates currently employed by these types of funds will not qualify as one of the two required LMTs despite the redemption gate being by far the one of the most effective tools that AIFMs can use on these types of funds.

As we have noted elsewhere, redemption gates used by AIFM for AIFs not marketed to retail investors should be permitted to be always in place as an appropriate tool for managing day to day liquidity in a fund. We encourage ESMA to take a broad view of what it means for a gate to be temporary in this regard.

We propose to amend the section 6.5.3.2 of the guidelines at paragraph 40 as follows:

The use of redemption gates should not be restricted in terms of the maximum period over which they can be used (maximum duration of redemption gates), or the maximum number of times that redemption gates can be activated (maximum use of redemption gates), as long as ***it [the activation of the gate triggered under the activation criteria]*** remains temporary in nature. These matters should be determined by the manager on a case-by-case basis."

We suggest that the drafting (which is not entirely clear) could be clarified with the amendments we have proposed in bold.⁶

We also cross-refer to our responses to questions 7 and 14 in the RTS consultation where we discuss these matters more fully.

<ESMA_QUESTION_GLMT_12>

Q13 What is the methodology that managers should use to calibrate the activation threshold of redemption gates to ensure that the calibration is effective so that the gate can be activated when it is needed? Do you think that activation thresholds should be calibrated based on historical redemption requests and the results of LSTs?

<ESMA_QUESTION_GLMT_13>

As a general point, we believe that the RTS/guidelines should not specify the methodology used to calibrate the activation threshold. Investment managers should have discretion to operate an appropriate trigger (to be detailed in the fund documentation) for the redemption gate, which reflects the operational model and liquidity of the fund.

When it concerns the type of methodology that is most appropriate for managers to consider, we believe that the methodology should be based on an asset-liability mismatch.

⁶ Similarly, we suggest that Article 2 of the RTS should clarify that the reference to a redemption gate being a "temporary restriction" is referring to the activation being temporary, rather than the mechanism itself.

Managers may also make use of redemption coverage ratios, where for example a manager is stress-testing a large redemption (either based on the average historic redemption, worst historical redemption or for example top 2 investors redeeming at the same time) versus the liquid portion of the fund. This essentially examines cash conversion capabilities over the redemption notice period.

<ESMA_QUESTION_GLMT_13>

Q14 In order to ensure more harmonisation on the use of redemption gates, a fixed minimum activation threshold, above which managers could have the option to activate the redemption gate, could be recommended. Do you think that a fixed minimum threshold would be appropriate, or do you think that this choice should be left to the manager?

<ESMA_QUESTION_GLMT_14>

We believe that this choice should be left to the manager. Maximum flexibility should be retained as regards setting the appropriate activation threshold under the circumstances and the choice should always be left to the investment manager.

<ESMA_QUESTION_GLMT_14>

Q15 If you think that a fixed minimum threshold should be recommended, do you agree that for daily dealing funds (except ETFs and MMFs) it should be set as follows:

<ESMA_QUESTION_GLMT_15>

We strongly disagree that a fixed threshold should be set. If ESMA nevertheless determines to pursue this, looking at redemptions in isolation can be misleading. One must also look at the liquidity of the underlying assets at the same time, which is a less binary proposition. Net redemptions of 10% in a fund of blue-chip stocks should not be an issue. These percentages need to link liability (redemptions) with the liquidity of the underlying assets and, as we have said before, maximum flexibility needs to be retained by the fund manager.

<ESMA_QUESTION_GLMT_15>

a) at 5% for daily net redemptions; and

<ESMA_QUESTION_GLMT_0>

[TYPE YOUR TEXT HERE]

<ESMA_QUESTION_GLMT_0>

b) at 10% for cumulative net redemptions received during a week?

<ESMA_QUESTION_GLMT_0>

[TYPE YOUR TEXT HERE]

<ESMA_QUESTION_GLMT_0>

Q16 Do you agree with the proposed criteria for the selection of the extension of notice period? Are there any other criteria that should be considered?

<ESMA_QUESTION_GLMT_16>

No comment.

<ESMA_QUESTION_GLMT_16>

Q17 According to the revised AIFMD and UCITS Directive, the extension of notice periods means extending the period of notice that unit-holders or shareholders must give to fund managers, beyond a minimum period which is appropriate to the fund. In your view, for RE and PE funds: i) what would be an appropriate minimum notice period; and ii) would the extension of notice period be an appropriate LMT to select?

<ESMA_QUESTION_GLMT_17>

The fund manager will have set an initial minimum notice period in the fund rules and instruments of incorporation and disclosed it in the offering document. That should be the minimum notice period, not some arbitrary one-size-fits-all minimum imposed by the guidelines. Anything beyond that would be an extension of the notice period and would

be an appropriate LMT to select for real estate and private equity funds as well as other fund types.

<ESMA_QUESTION_GLMT_17>

Q18 Do you think the length of the extension of notice periods should be proportionate to the length of the notice period of the fund? Do you think a standard/ maximum extended notice period should be set for UCITS?

<ESMA_QUESTION_GLMT_18>

We do not think these types of restrictions should be imposed.

<ESMA_QUESTION_GLMT_18>

Q19 Do you agree with the above criteria for the activation of the extension of notice period? Are there any other criteria that should be considered?

<ESMA_QUESTION_GLMT_19>

No comment.

<ESMA_QUESTION_GLMT_19>

Q20 Do you have any comments on the guidance on the calibration of the extension of notice periods?

<ESMA_QUESTION_GLMT_20>

No comment.

<ESMA_QUESTION_GLMT_20>

Q21 Do you agree with the above criteria for the selection of redemptions in kind? Are there any other criteria that should be considered?

<ESMA_QUESTION_GLMT_21>

In line with our answer to Question 36 of the RTS, we recall that the choice of LMTs for semi-liquid funds is very limited. Semi-liquid funds often have a mix of retail and professional investors, and while the guidance suggests redemptions in kind can be used for funds that target both professional and retail investors, redemptions in kind can only be used for professional investors which narrows the scope of one of the two required LMTs.

Furthermore, as redemptions in kind are not categorised as either a quantitative LMT or anti-dilution tool (ADT), it may not be possible for funds to select redemptions in kind as one of their two mandatory LMTs in light of the guidance that suggests that funds should have one quantitative and one ADT. The RTS need to clarify that AIFMs may choose any two LMTs from the list in Annex V Level 1, (2) – (8), as appropriate for the fund to ensure redemptions in kind could be one of the two required LMTs, which accords with the Level 1 text.

We therefore call on ESMA to clarify that redemptions in kind can be selected as one of the two minimum required LMTs for funds that are marketed to both professional and retail investors, where it is considered appropriate to do so by the fund manager.

<ESMA_QUESTION_GLMT_21>

Q22 Do you agree with the above criteria for the activation of redemptions in kind? Are there any other criteria that should be considered?

<ESMA_QUESTION_GLMT_22>

The draft guidelines propose certain further limits regarding redemptions in kind in paragraph 6.5.3.4. If redemptions in kind is activated, an independent third party (e.g. the fund auditor, depositary) should perform the valuation of the asset(s).

We are not in favour of having a mandatory (depositary or auditor) valuation report. We do not believe there is a justification to require the external audit generally, especially if all investors are professional.

Professional only funds:

There should be no obligation to subject the valuation of redeemed assets to an external audit because in many cases the redemption in kind is done on a pro-rata basis in respect to all redeeming investors – the value retained for the redemption is then less important because it cannot have an impact on the fair treatment of the redeeming investors. Also, in the ordinary course of business for some funds, the NAV (at which investors are redeemed) is calculated and units are redeemed based on the valuation of the AIFM/external valuer (not depositary or auditor) and we do not see why such valuation should not be sufficient.

For those cases, where the redemption in kind is done for some investors, while other investors are redeemed in cash, or in other cases where the context would justify this given the type of assets the fund invests in, we believe that the professional investors should:

- Either be able to request an audit report if justified; or
- At least, be able to waive the requirement of audit report and waive any possible ex post claims if it happens that the value retained for the redemption in kind was over or undervalued.

Retail funds:

It could be beneficial to require such audit for retail investors to protect:

- The investors who would not necessarily be able to assess whether an audit report could be beneficial or not; and
- The fund board from any subsequent claims, especially because it would not be possible to obtain a waiver due to a large number of investors in the retail fund.

We also do not think that increasing the depositaries' oversight duties in relation to redemptions in kind would add any value in comparison with the cost of such valuation/audit which would need to be supported by the fund.

<ESMA_QUESTION_GLMT_22>

Q23 Do you think that redemptions in kind should only be activated on the NAV calculation dates?

<ESMA_QUESTION_GLMT_23>

No comment.

<ESMA_QUESTION_GLMT_23>

Q24 What are the criteria to be followed by the managers for the selection of the assets to be redeemed in kind in order to ensure fair treatment of investors?

<ESMA_QUESTION_GLMT_24>

We would suggest to link the portion of the redemption that is to be paid in kind to the portion of the assets that cannot be redeemed during the redemption notice period.

<ESMA_QUESTION_GLMT_24>

Q25 How should redemptions in kind be calibrated?

<ESMA_QUESTION_GLMT_25>

No comment.

<ESMA_QUESTION_GLMT_25>

Q26 Do you agree that managers should consider the merit of avoiding the simultaneous activation of certain ADTs (e.g.: swing pricing and anti-dilution levies)? Please provide examples when illustrating your answer.

<ESMA_QUESTION_GLMT_26>

As outlined in our response to the RTS consultation, we agree with this consideration and believes that careful calibration of ADTs is necessary to ensure they function effectively without overburdening investors or distorting fund performance.

We believe that the activation of ADTs should be calibrated based on the specific market conditions and the liquidity needs of the fund. In some cases, one tool may be sufficient to address the liquidity challenge, making the simultaneous use of another unnecessary.

At the same time, we believe that fund managers should retain the discretion to activate ADTs based on their judgment of the market conditions and the specific needs of their fund. While avoiding simultaneous activation is generally advisable, there may be cases where using multiple tools is justified.

Fund managers should evaluate the specific liquidity needs and transaction patterns of their funds to determine the most appropriate ADT to activate. This evaluation should consider factors such as market conditions, investor behaviour and the fund's liquidity profile.

While both swing pricing and anti-dilution levies are effective tools for managing liquidity and transaction costs, their simultaneous activation should be carefully considered to avoid duplicative impacts (leading to excessive costs for investors), investor confusion (making it difficult for them to understand the true cost of their transactions and the overall impact on their investments) and operational complexity (managing and implementing multiple ADTs simultaneously can increase operational complexity).

<ESMA_QUESTION_GLMT_26>

Q27 Do you agree with the list of elements provided under paragraph 56 of Section 6.5.4 of the draft guidelines? Is there any other element that should be included in the estimated cost of liquidity?

<ESMA_QUESTION_GLMT_27>

We do not agree with the proposed guidance around implicit transaction costs to be included, particularly the last point concerning implicit transaction costs. According to the draft guidelines, implicit transaction costs are those which are "incurred indirectly upon acquisition or disposal of assets by a fund (with the bid-ask spread and market impact being the key components)..." They "may vary depending on, among other things, the type of underlying asset and the market conditions. A reasonable input for the estimation of the market impact could be to analyse previous transactions under similar market conditions to compare the difference between the price when the order was placed and the final executed price."

This is similar to the approach taken under the Packaged Retail and Insurance-based Investment Products (PRIIPs) approach, which is not always an appropriate approach to

calculate transaction costs, particularly in case of limit orders where in most cases the method will lead to negative transaction costs.

Concerning section 6.5.4 of the guidelines, we suggest that the LMT guidelines should also allow other methodologies to determine implicit transaction costs, for example the difference between the traded price and the settlement price.

Lastly, as we explain our answer to Question 25 of the RTS, we would add that this estimation should be done on a best-efforts basis in recognition of the fact that to properly estimate the cost of liquidity relies on the ability of the manager to assess the expected costs of transacting and accessing liquidity, which is not always possible.

<ESMA_QUESTION_GLMT_27>

Q28 Do you have any other comments on the proposed general guidance on ADTs?

<ESMA_QUESTION_GLMT_28>

In line with our answer to Question 1, we suggest that the guidance should make clear that there are different types of funds - such as those with less liquid assets, those catering to retail versus professional investors, or those with varying levels of investor concentration - and as a result there will be differences in the application of the guidance on ADTs.

<ESMA_QUESTION_GLMT_28>

Q29 Do you agree with the above criteria for the selection of redemption fees? Is there any other criteria that should be considered?

<ESMA_QUESTION_GLMT_29>

No comment.

<ESMA_QUESTION_GLMT_29>

Q30 Do you have any views on how to set the activation thresholds for redemption fees?

<ESMA_QUESTION_GLMT_30>

No comment.

<ESMA_QUESTION_GLMT_30>

Q31 Do you have any comments the calibration of redemption fees?

<ESMA_QUESTION_GLMT_31>

No comment.

<ESMA_QUESTION_GLMT_31>

Q32 Do you agree with the above criteria for the selection of swing pricing? Is there any other criteria that should be considered?

<ESMA_QUESTION_GLMT_32>

No comment.

<ESMA_QUESTION_GLMT_32>

Q33 Under which circumstances should the manager consider the activation of swing pricing?

<ESMA_QUESTION_GLMT_33>

No comment.

<ESMA_QUESTION_GLMT_33>

Q34 Do you agree with the above principles that a manager should follow in order to recalibrate the swing factor? Is there any other criteria that should be considered?

<ESMA_QUESTION_GLMT_34>

No comment.

<ESMA_QUESTION_GLMT_34>

Q35 Do you have any comments on the proposed guidance on the calibration of swing pricing?

<ESMA_QUESTION_GLMT_35>

No comment.

<ESMA_QUESTION_GLMT_35>

Q36 As dual pricing is a LMT which is not particularly used in most Member States, stakeholders' feedback on the selection, activation and calibration of this LMT is especially sought from those jurisdictions where this is used.

<ESMA_QUESTION_GLMT_36>

No comment.

<ESMA_QUESTION_GLMT_36>

Q37 Do you agree with the above criteria for the selection of ADL? Is there any other criteria that should be considered?

<ESMA_QUESTION_GLMT_37>

No comment.

<ESMA_QUESTION_GLMT_37>

Q38 Do you agree with the above criteria for the activation of ADL? Is there any other criteria that should be considered?

<ESMA_QUESTION_GLMT_38>

No comment.

<ESMA_QUESTION_GLMT_38>

Q39 Do you agree that ADL should be calibrated based on the same factor used to calibrate swing factors?

<ESMA_QUESTION_GLMT_39>

No comment.

<ESMA_QUESTION_GLMT_39>

Q40 Do you have any comments on the selection, activation and calibration of ADL?

<ESMA_QUESTION_GLMT_40>

No comment.

<ESMA_QUESTION_GLMT_40>

Q41 Do you agree with the above definition of “exceptional circumstances”? Can you provide examples of additional exceptional circumstances, not included under the above paragraph?

<ESMA_QUESTION_GLMT_41>

In line with our answers to Questions 5 and 7 above, by their very nature, such exceptional circumstances are difficult, if not impossible to predict. This makes it imperative that sufficient flexibility is provided in the guidelines for fund managers to determine the best use and combination of LMTs.

<ESMA_QUESTION_GLMT_41>

Q42 In your view, how the different types of side pockets (physical segregation vs. accounting segregation) should be calibrated and in which circumstances one

should be chosen over the other? Please provide examples including on whether the guidance should be different for UCITS and AIFs.

<ESMA_QUESTION_GLMT_42>

Paragraphs 32 and 48 of the guidelines suggest that once created, side pockets should be managed with a view to liquidate the assets in the side pocket. It is useful to clarify that the manager should be permitted to make follow-on investments in relation to a side-pocketed assets to the extent that this is considered useful in the manager's discretion (i.e. if the manager believes such additional investment would increase the liquidity of the asset or not making the additional investment will damage the value of fund's holding). This would be fully in line with the use of side pockets in practice and consistent with the liquidity management goals of the current consultation.

We recognise that while the primary purpose of side pockets is to manage illiquid or distressed assets such that the fund's assets are protected, there could be circumstances where reintegration of side-pocketed assets may be in the fund's best interests, taking into account developments in the market, access to different jurisdictions or other factors.

<ESMA_QUESTION_GLMT_42>

Q43 Do you have any comments on the calibration of side pockets?

<ESMA_QUESTION_GLMT_43>

As we explain in our response to the RTS, the longstanding practice of using LMTs such as side pockets should continue to be allowed unimpeded in the ordinary course of business, regardless of the specific characteristics of side pockets to be used in exceptional circumstances.

In line with our answer to Question 5 above, redemption terms that are structural (i.e., agreed in the fund documentation) and are not one of the two chosen LMTs (side pockets are not allowed to be one of the two chosen LMTs) will still be permitted going forward, but there may be confusion regarding the description of such a tool.

We would like to clarify that side pockets are different to ordinary "tracking classes" which we discuss in our response to the RTS consultation. The experience of our manager members is insightful in this regard. In Luxembourg, the term side pocket was traditionally only used when a portion of the assets became illiquid. These assets would then be

allocated to a closed-ended tracking share class and the redemption rights could only be exercised in relation to the other class(es). The side pockets are different to ordinary tracking classes (i.e., a class tracks a specific asset) which are used in the normal course of portfolio management and which are not uncommon in Luxembourg.

In Ireland, by way of contrast, the legal approach has typically taken a broad view on what a side pocket is, for example a liquidating / run-off share class (provided for in the fund documents) could be considered to be a side pocket. This approach has been adopted because the approach of the competent authority has typically not permitted the types of separate portfolio tracking classes as permitted in Luxembourg (requiring instead that all share classes within the fund have exposure to the same pool of assets).

We submit that it would be helpful to ensure that these portfolio management tracking classes (which are part of the ordinary fund strategy and hard wired from the outset) are not captured by the proposed side pocket regulation (i.e. side pockets as LMTs in exceptional circumstances).

<ESMA_QUESTION_GLMT_43>

Q44 Do you have any comment on the proposed guidance on disclosure to investors?

<ESMA_QUESTION_GLMT_44>

There will likely be concerns among fund managers that the disclosure in public reports of the actual adjustment factors that have been used by funds could result in stigma effects or front-running which may jeopardise the effectiveness of LMTs. Disclosing a range of factors that have been used, rather than specific figures, or delayed disclosure after application, could help to mitigate this risk.

In addition, having reviewed a random sample of fund documentation, we suspect that many AIFs and UCITS may need to amend their fund documents to provide for additional LMTs and/or amend the terms of their existing LMTs to comply with the draft guidelines. Fund documents may not grant the fund board sufficient powers to amend the fund documents to comply with new requirements on liquidity management.

In order to avoid delays in implementation and/or needless outflows of capital from the portfolios, it would be helpful to clarify that such changes to the fund documents as may be required as a result of the new provisions on LMTs:

- can be made without granting a free redemption right to investors before implementation; and
- are not subject to the consent of the investors.

This should be the case irrespective of whether the fund comprises only professional investors or whether it admits also retail investors.

In the case of professional investors, when an NCA considers that changes to fund documentation are material and there are associated implications for informing investors, it is important to clarify that changes here do not require fresh consent from investors as the fund manager is acting in the investors' interests. As long as fund managers are fulfilling their fiduciary duty by acting in the investors' best interests, and any changes are consistent with the RTS and guidelines, then updated consent is not required.

<ESMA_QUESTION_GLMT_44>

Q45 Do you agree that investors should be informed of the fact that the manager can activate selected and available LMTs and that this information should be included in the fund's rules and instruments of incorporation?

<ESMA_QUESTION_GLMT_45>

No comment.

<ESMA_QUESTION_GLMT_45>

Q46 Which parts of the LMT policy, if any, should be disclosed to investors?

<ESMA_QUESTION_GLMT_46>

The following parts of the LMT policy should be disclosed to investors:

- Types of LMTs used;
- Criteria for activation;
- Impact on NAV and transactions costs;

- Roles and responsibilities (roles of the fund manager, depositary, and other relevant parties); and
- Disclosure and communication (how and when information about the activation and impact of LMTs will be communicated).

<ESMA_QUESTION_GLMT_46>

Q47 In your view, how much time would managers need for adaptation before they apply the guidelines, in particular for existing funds?

<ESMA_QUESTION_GLMT_47>

The level 1 mandate provides that ESMA is empowered under Article 16(2h) of the AIFMD and Article 18a(4) of the UCITS Directive to “develop guidelines on the selection and calibration of liquidity management tools by [AIFMs and UCITS, respectively, for liquidity risk management and for mitigating financial stability risks.” Those instructions continue as follows in Article 16(2h) of the AIFMD:

Those guidelines shall recognise that the primary responsibility for liquidity risk management remains with AIFMs. They shall include indications as to the circumstances in which side pockets, as referred to in Annex V, point 9, can be activated. They shall allow adequate time for adaptation before they apply, in particular for existing AIFs.

In light of the governance processes involved, and the potential need to seek investor consent for changes to fund documentation under non-EU law, we believe managers will need up to 24 months following their home Member State making each of the required LMTs available to make the required changes.

<ESMA_QUESTION_GLMT_47>

Q48 Do you agree with the above-mentioned reasoning in relation to the possible costs and benefits of the technical proposal developed by ESMA as regards the policy of achieving a set of minimum standards by which all managers across Member States should select, activate and calibrate LMTs? Which other types of costs or benefits would you consider in that context?

<ESMA_QUESTION_GLMT_48>

No comment.

<ESMA_QUESTION_GLMT_48>

Q49 Do you agree with the above-mentioned reasoning in relation to the possible costs and benefits of the technical proposal develop by ESMA as regards the policy objecting of achieving a set of minimum standards by which all managers across Member States should provide disclosure to investors on the selection, activation and calibration of LMTs? Which other types of costs or benefits would you consider in that context?

<ESMA_QUESTION_GLMT_49>

No comment.

<ESMA_QUESTION_GLMT_49>

Q50 Do you agree with the above-mentioned reasoning in relation to the possible costs and benefits of the technical proposal develop by ESMA as regards the policy objecting of achieving a set of minimum standards by which all managers across Member States arrange their governance for the selection, activation and calibration of LMTs? Which other types of costs or benefits would you consider in that context?

<ESMA_QUESTION_GLMT_50>

No comment.

<ESMA_QUESTION_GLMT_50>