



ESMA consults on Liquidity Management Tool measures and guidance

ESMA has published consultation papers proposing Level 2 RTS and Level 3 guidance on LMT under the amended AIFMD and UCITS Directive.

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On 8 July 2024, ESMA published two documents relating to liquidity management tools (LMTs) to be used by managers of open-ended AIFs and UCITS.

The consultation papers covered

- "[Draft Regulatory Technical Standards on Liquidity Management Tools under the AIFMD and UCITS Directive](#)" (the RTS CP) and
- "[Guidelines on Liquidity Management Tools of UCITS and open-ended AIFs](#)" (the Guidelines CP).

In each case, the consultation period closes on **8 October 2024**.

Taking into account responses it receives, ESMA will develop draft RTS, which it will submit to the European Commission by **16 April 2025**.

By the same date, ESMA will publish a final report containing its guidelines. These will then be translated into the official languages of the EU and formally published on the ESMA website.

Background

Among the changes that [Directive \(EU\) 2024/927](#) made to the Level 1 texts of AIFMD and the UCITS Directive was to require (a) AIFMs of open-ended AIFs and (b) UCITS to select at least two appropriate LMTs from those set out at points 2 to 8 in Annex V of the amended AIFMD or Annex IIA of the amended UCITS Directive.

These are:

- Redemption gates
- Extension of notice periods
- Redemption fees
- Swing pricing

- Dual pricing
- Anti-dilution levies
- Redemptions in kind

See our client notes on the key changes made to the AIFMD (including the new LMT regime) [here](#).

(a) The RTS CP

The amended AIFMD and UCITS Directive contain definitions of each of the various LMTs above.

They also contain mandates to ESMA to develop draft RTS to specify the characteristics of the LMTs, taking into account "the diversity of investment strategies and underlying assets of AIFs" while not restricting an AIFM's, or a UCITS's, ability to use any appropriate LMT "for all asset classes, jurisdictions and market conditions".

The draft RTS on which ESMA is consulting - set out in Annex IV (in respect of the AIFMD) and Annex V (for the UCITS Directive) of the RTS CP - define the constituting elements of each LMT in turn, such as calculation methodologies and activation mechanisms.

The aim, of both the RTS and the Guidelines, is to promote the consistent application of the amended Directives and to increase the preparedness of EU fund managers for market stress situations.

The RTS also seek to clarify the functioning of specific LMTs - in particular, the use of side pockets - where market practice varies widely across the EU.

(b) The Guidelines CP

The amended AIFMD and UCITS Directive also mandate ESMA to develop guidelines on selecting and calibrating LMTs for both liquidity risk management and mitigating financial stability risks.

Under this mandate, the final guidelines must

- recognise that the primary responsibility for liquidity risk management remains with the relevant fund manager
- include indications as to the circumstances in which side pockets can be activated
- allow "adequate time for adaptation" before they apply, in particular for existing AIFs or UCITS.

As with the draft RTS, ESMA's proposed guidelines take each LMT in turn, as well as covering general and governance principles.

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