

AFGG'S RESPONSE CONSULTATION

ESMA Guidelines

Reporting to competent
authorities under article 37
of the MMF Regulation

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The Association Française de la Gestion financière (AFG) represents and promotes the interests of third-party portfolio management professionals. It brings together all asset management players from the discretionary and collective portfolio management segments. These companies manage at end 2017 €4,000 billion in assets, including €1,950 billion in French funds and €2,050 billion in discretionary portfolios and foreign funds.

The AFG's remit:

- Representing the business, financial and corporate interests of members, the entities that they manage (collective investment schemes) and their customers. As a talking partner of the public authorities of France and the European Union, the AFG makes an active contribution to new regulations,
- Informing and supporting its members; the AFG provides members with support on legal, tax, accounting and technical matters,
- Leading debate and discussion within the industry on rules of conduct, the protection and economic role of investment, corporate governance, investor representation, performance measurement, changes in management techniques, research, training, etc.
- Promoting the French asset management industry to investors, issuers, politicians and the media in France and abroad. The AFG represents the French industry – a world leader – in European and international bodies. AFG is of course an active member of the European Fund and Asset Management Association (EFAMA), of PensionsEurope and of the International Investment Funds Association (IIFA).

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AFG's response to the ESMA consultation on the draft guidelines on the reporting to competent authorities under article 37 of the MMF Regulation

I. General remarks

The Association Française de la Gestion Financière (AFG) is grateful for the opportunity to comment on the consultation by ESMA on the draft guidelines on the reporting to competent authorities under article 37 of the MMFR.

AFG supports ESMA's efforts in these draft guidelines to build on the existing reporting within AIFM whenever possible while sticking to those items the MMFR considered appropriate to collect in the specific case of MMFs.

Given that asset managers, depending on their activities, are subject to various reportings (e.g. AIFM, SFTR, MiFID, EMIR or specific national reportings), any efforts to reduce the risk of overlapping or contradictions between existing reportings obligations and to limit the cost of developments and compliance for asset managers are most welcome.

In pursuing these objectives, our members would like to highlight that the earlier the publications of these guidelines (and the IT guidelines to follow), the more the adaptation and implementation of these reporting obligations are facilitated for asset managers. Therefore, the delay between the publications of the two sets of guidelines on the MMF reporting should be limited. The use of the ISO Standard 20022 for the MMF reporting as proposed in this consultation paper should also be extended to other regulatory reporting.

II. Questions

Q1 Are you of the view that there could be merits for managers of MMFs subject to yearly reporting in accordance with article 37(1) of the MMF Regulation to report on a quarterly basis so that their corresponding operational process is less burdensome?

We agree with this proposal, managers of MMFs subject to yearly reporting should be allowed to report on a quarterly basis, as long as the possibility to return to a yearly frequency subsists during the life of the fund.

Q2 Do you identify potential situations in which managers of MMFs do not have any information to report on MMFs other than those listed above (e.g. certain types of situations of liquidation of the MMF)?

Broadly speaking, requirements for reporting under Article 37 of the MMFR should be in line with the clarifications provided in the context of the AIFMD reporting, where relevant.

Q3 Do you agree that the MMF Guidelines could specify which sources should be used by managers of MMFs if the base currency is not included in the list of

currencies for which the ECB provides an exchange rate? If yes, which sources should be used in your view?

We do not agree with this proposal. ESMA guidelines on the AIFMD reporting do not specify the sources that should be used if the base currency is not included in the list of currencies for which the ECB provides an exchange rate.¹ Asset managers have therefore developed their own practices and they do not use the same data providers.

Q4 Do you identify any other issue that would need to be specified in relation to the above section on “general principles” of the reporting template?

Article 110 1) of the Commission Delegated Regulation (EU) No 231/2013 of 19 December 2012² provides that where the AIF is a fund of funds the reporting period is extended by the AIFM by 15 days. To ensure consistency between these reporting requirements, these guidelines should state that the reporting period of the MMF fund of funds or master feeder MMF is extended.

Q5 Do you agree that if an MMF is composed of different share classes that differ in relation to their base currency the base currency that should be included in field A.1.12 should be the base currency as specified in the accounting documents of the MMF or are you of the view that in that case the base currency of the largest share class should be included in field A.1.12? Would you see merit in aligning the inception date mentioned above in section X with the first reporting date, as defined in section II?

AFG agrees that the base currency should be the base currency as specified in the accounting documents of the MMF.

As regards the first reporting date, our members think this should be the authorisation date and not the date of the calculation of the first NAV.

Q6 Do you identify any other issue that would need to be specified in relation to the above section on the block 1 of the reporting template?

In our views, part 2 “Type of the MMF” of the block 1 of the reporting template is not consistent with the MMF Regulation and therefore should be amended. Indeed article 3)1. clearly mentions three types of MMFs (VNAV, public debt CNAV and LVNAV) that differ from the categories of the MMF (short-term or standard). However, field A.2.1 of the MMF reporting uses the term “MMF type” to ask for both the category and the type of the MMF. That is why we propose to rename section (2) Category and type of the MMF and so on for field A.2.1, while keeping the same list of propositions.

¹ 51. AIFMs should report the value of assets under management for all AIFs managed using the method set out in Articles 2 and 10 of the Regulation. AIFMs should always indicate the value in Euro. In order to convert the total value of assets under management for all AIFs managed into Euro, AIFMs should use the conversion rate provided by the European Central Bank (ECB). If there is no ECB conversion rate, AIFMs should indicate the conversion rate used. Only when all AIFs of the AIFM are denominated in one single base currency that is not the Euro should this value be complemented by the value in the base currency of the AIFs. This information should be reported as of the last business day of the reporting period.

² 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

Contrary to what one may think, this request for amendment is more than a drafting issue, it is essential to respect the spirit of the MMF regulation which draws a distinction, in the first place, between short-term and standard MMF. The type of the MMF comes after that point and in no case it can be said that there are four types of MMF, but instead two categories and three types of MMF. Otherwise, this would go against long-established market practices and would lead to further confusion or misinterpretation.

Q7 Are you of the view that the abovementioned specification leaves too much room for interpretation and would lead to data that is not comparable? Are you of the view that settlement periods should be taken into account and that, as a consequence, the last part of the abovementioned specification (“if it has as a non-negligible impact on the liquidity profile of the MMF”) should be removed?

As a general remark and for greater clarity, our members think ESMA and the European Commission on the portfolio liquidity should use the same terminology. The MMF regulation do not use the term “buffer” as regards to requirements on daily maturing assets and weekly maturing assets. Therefore, we think the term “buffer” should not be used in the template for reporting under article 37 of MMFR.

We think the proposed specifications on the portfolio liquidity are sufficiently clear as they are in line with AIFM practice. We do not ask for further clarification.

Q8 Do you have any views in relation to the abovementioned formula on how to measure the monthly portfolio volatility or are you of the view that another formula would be welcome?

Given that MMF are by nature short-term funds and have to calculate their NAV at least daily, a formula on the measure of the weekly portfolio volatility should be proposed in these guidelines.

Q9 Do you identify any other issue that would need to be specified in relation to the above section on the block 2 of the reporting template?

As regards to the field A.4.5 [% of assets qualifying for the daily liquidity buffer], our members believe that it should represent the underlyings’ funds daily liquidity ratio in the case of feeder funds or funds of funds (ie investing more than 92.5% in other funds). These structures are allowed under the MMFR as they are marketed solely through employee savings schemes governed by national law and which have natural persons as investors. Redemptions in these specific MMFs are restricted by national law as Recital (30) of the MMF Regulation clearly mentions³. These MMFs may only invest in other MMFs that all comply with the MMF Regulation – i.e. having their own daily liquidity ratio –, we believe the daily liquidity buffer of MMFs marketed solely through employee savings schemes should continue to be read by transparency of their underlying funds.

³ *“Employees investing in MMFs via their employee savings schemes cannot redeem their investment on demand. Redemptions are only able to occur in the case of certain predefined life events. Therefore, even in stressed market situations, employees will not be able to redeem their investment in MMFs.”*

Q10 Do you identify any other issue that would need to be specified in relation to the above section on the block 3 of the reporting template?

Paragraph 94 of the CP states for the dates of the stress tests that “one of these dates should be the last day of the year”. No such obligation is prescribed in the MMF Regulation which only provides that stress tests should be carried by managers of MMF at least twice a year. Some managers may perform their stress tests at other dates than the last day of the year.

As regards to money market fund of funds or master/feeder, our members ask for the possibility to report on the stress tests by transparency of the underlying funds or master fund, depending on the case. Indeed the stress tests aim at stressing instruments directly linked to the market, and not MMF which are already designed to find the right balance between risk and performance even in stressed market conditions.

In addition, our members would like to highlight that filling the fields A.5.1 to A.5.10 in the quarters when no stress test have been carried is burdensome and has a limited added value from a regulatory standpoint. These fields should be left blank in the quarters when no stress test have been carried.

Q11 With the respect to the CFI codes to be provided, do you identify any eligible asset not included in the table in the Annex of the Guidelines?

Regarding the instruments that do not possess a CFI code, our members believe the generation of the CFI code should be done by the issuer of the instrument and in no case by asset managers. This ensures that the same instrument has only one CFI code so that data aggregation at the level of ESMA is facilitated. This approach should be extended to all other reporting requirements to ensure consistency.

Q12 Do you agree with the proposals of ESMA in relation to the domicile of the abovementioned assets?

For cleared OTC financial derivative instruments, our members think the country of the financial derivative instrument (field A.6.50) shall be the country of the CCP.

Our members suggest consistency with the AIFMD approach.

Q13 Do you agree that a category “supranational/multiple regions” should be included in the potential geographical areas to be chosen? If yes, could you provide examples of assets for which you would choose that category?

We agree with this proposal, this is consistent with the AIFMD approach.

Q14 Do you agree that the clean price of the money market instrument (A.6.12), this field should always be reported in absolute terms (in monetary values, not in percentages)? Which of the 2 abovementioned options on the “base currency” mentioned in field A.6.13 would you favour: currency of the asset or the currency of the MMF?

We agree that the clean price of the money market instrument should always be reported in absolute terms.

For the “base currency” mentioned in field A.6.13 our members favour the currency of the MMF, which is easier to report.

Q15 With respect to fields A.6.23 to A.6.25, would you identify any cases where there is no sponsor of an eligible securitisation or asset backed commercial paper?

Our members would like to ensure that the definition for “sponsor” of an eligible securitisation or ABCP is the one used in the STS Regulation (page 346-347), where the sponsor is the arranger of the securitisation or ABCP. In some term-sheets or final terms the arranger of the securitisation or ABCP is not mentioned, that is why it should be allowed in this situation to fill in fields A.6.23 to A.6.25 with “N/A”.

Q16 Do you identify other potential contract types that would need to be included in the list above in relation to field A.6.39?

We would like to know if cross-currency swap and FX forward fall within one of the proposed category or if new categories are required for these instruments.

Q17 Do you see merits in clarifying what should be the name of the underlying as referred to in Field A.6.45? If yes, which specifications would you expect?

We’d like to pinpoint that for those instruments which have an ISIN code, indicating the name of the underlying has a limited added-value.

As bespoke index may not always have a name, we’d like to ensure that field A.6.45 could be filled in with “N/A”.

Q18 Are you of the view that ESMA should further specify what is meant by “exposure” in fields A.6.91 and A.6.92? If yes, which types of specifications would you suggest?

We are in favour of further specification on the exposure of repurchase agreement and reverse repurchase agreement. Fields A.6.91 and A.6.92 only mention gross exposure of the MMF vis-à-vis the counterparty of the transaction and fields A.6.93 and A.6.94 ask for the market value of the collateral received. Thus, the net exposure of the MMF in a reverse repurchase agreement does not appear in the reporting. We think that this configuration might give an erroneous view of the risk to which the MMF is exposed to. Reverse repurchase agreements allow the MMF to reduce its risk of counterparty in comparison to a deposit or a subscription of a CP. This is not reflected in the proposed guidelines for the reporting.

Q19 Do you identify any other issue that would need to be specified in relation to the above section on the block 4 of the reporting template? In particular, in your view, how would the NAV of the MMF compare to the sum of the values of the fields on total market values (and quantity) of money market instruments, securitisation and ABCP, financial derivative instrument, unit or share of other MMF, deposit or ancillary liquid asset, repurchase agreement and reverse repurchase agreement (A.6.16 and A.6.11, A.6.34 and A.6.29, A.6.54, A.6.67 and A.6.69, A.6.80, A.6.91)? Do you have any comments on the table “CFI codes for eligible securities” included in the annex of the Guidelines?

Our members would like to highlight that due to accounting adjustments, it is not possible to ensure that the NAV of the MMF is equal to the sum of the values of the fields on total market values (and quantities) of MMI, securitisation and ABCP, financial derivative instrument, unit or share of other MMF, deposit or ancillary liquid asset, repurchase agreement and reverse repurchase agreement. These accounting adjustments may be related to the fees, coupons that are postponed, margin calls or other operations that implies a modification in the accounting system.

Regarding the CFI codes, as already mentioned in question 11, we think the issuer of the instrument has to generate the CFI code and not asset managers. This ensures that one instrument has only one CFI code.

Q20 Do you identify any other issue that would need to be specified in relation to the above section on the block 5 of the reporting template?

AFG has always supported that knowing its customers is important in MMF business and our members perform such an analysis. However, the asset manager and the fund do not always know information on real beneficial owners. In most cases the top 5 investors will be identified and their pattern known. Knowing its customer may be efficiently performed without being able to treat every cent invested through tracking down the ultimate beneficiary that invests through several channels.

We would like to recall the importance of maintaining some proportionality of means, as long as intermediaries are still reluctant to give the detailed information. Therefore, many asset managers would only be able to report estimated figures on the liabilities section. These estimated figures based on information given by intermediaries may be biased by the fact that an institutional investor may invest in a retail share or unit of a MMF. The asset manager would not have a detailed view. For the avoidance of doubt, we wish intermediaries to give us detailed information and hope this will be a reality in the future (maybe through a regulatory push towards them).

Q21 Do you identify any other issue that would need to be specified in relation to the above section on the block 6 of the reporting template?

No