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| 1 February 2019 |

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| Response form for the Consultation Paper on the Guidelines on liquidity stress testing in UCITS and AIFs |
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| Date: 1 February 2019 |

Responding to this paper

ESMA invites comments on all matters in this paper and in particular on the specific questions in Annex I. 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 1 April 2019.

All contributions should be submitted online at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading ‘Your input - Consultations’.

Instructions

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

* Insert your responses to the questions in the Consultation Paper in the present response form.
* Please do not remove tags of the type <ESMA\_QUESTION\_LST\_1>. 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 response, name your response form according to the following convention: ESMA\_LST\_nameofrespondent\_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESMA\_LST\_ABCD\_RESPONSEFORM.
* Upload the form containing your responses, in Word format, to ESMA’s website ([www.esma.europa.eu](http://www.esma.europa.eu) under the heading “Your input – Open 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 publically 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](http://www.esma.europa.eu) under the heading [Legal Notice](http://www.esma.europa.eu/legal-notice).

Who should read this paper?

The main stakeholders to whom these guidelines would apply are managers of UCITS and EU AIFMs as well as EU depositaries overseeing UCITS and EU AIFs. The paper will also be of interest to trade associations, investors and consumer groups relating to UCITS and EU AIFs.

# General information about respondent

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| --- | --- |
| Name of the company / organisation | German Banking Industry Committee |
| Activity | Banking sector |
| Are you representing an association? |  |
| Country/Region | Germany |

# Introduction

Please make your introductory comments below, if any:

<ESMA\_COMMENT\_LST\_1>

The German Banking Industry Committee (GBIC) welcomes the possibility to comment on the Consultation Paper on the Guidelines on liquidity stress testing in UCITS and AIFs. Representing the depositories GBIC only answers the questions Q30 and Q 31.

<ESMA\_COMMENT\_LST\_1>

1. : What additional costs and benefits would compliance with the proposed Guidelines bring to the stakeholder(s) you represent? Please provide quantitative figures, where available.

<ESMA\_QUESTION\_LST\_1>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_LST\_1>

1. : Do you agree with the scope of these Guidelines? Should certain types of funds be explicitly excluded from these Guidelines? Should MMFs remain in-scope of these Guidelines?

<ESMA\_QUESTION\_LST\_2>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_LST\_2>

1. : Is additional clarity required regarding the scope of these Guidelines? Is additional clarity required regarding the meaning of ‘nature, scale and complexity’ of a fund? Are there circumstances in which it would, in your view, be inappropriate for a UCITS to undertake LST?

<ESMA\_QUESTION\_LST\_3>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_LST\_3>

1. : What are your views on when the Guidelines should become applicable? How much time would managers require to operationalise the requirements of these Guidelines?

<ESMA\_QUESTION\_LST\_4>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_LST\_4>

1. : Do you agree with the proposed approach of setting out a list of Guidelines all funds should follow, and the provision of explanatory considerations to help managers comply with those overarching Guidelines? Do you see merit in including some of the explanatory considerations in the final Guidelines?

<ESMA\_QUESTION\_LST\_5>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_LST\_5>

1. : Do you agree with the proposed Guidelines? What amendments, if any, should ESMA make to its proposed Guidelines?

<ESMA\_QUESTION\_LST\_6>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_LST\_6>

1. : Do you agree with the proposed explanatory considerations regarding LST of fund assets?

<ESMA\_QUESTION\_LST\_7>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_LST\_7>

1. : What are your views on the requirement to undertake reverse stress testing, and the use of this tool?

<ESMA\_QUESTION\_LST\_8>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_LST\_8>

1. : Do you see merit in providing further considerations for managers on the use of data relevant to asset liquidity, particularly in circumstances when data is scarce?

<ESMA\_QUESTION\_LST\_9>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_LST\_9>

1. : Do you agree with ESMA’s wording regarding the asset liquidation method used in the LST model? How would you describe the asset liquidation method used by you or the managers you represent?

<ESMA\_QUESTION\_LST\_10>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_LST\_10>

1. : Do you agree with ESMA’s wording regarding ‘second round effects’? What is your current practice regarding modelling ‘second round effects’?

<ESMA\_QUESTION\_LST\_11>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_LST\_11>

1. : What are your views on the considerations on difficult to model parameters, such as price uncertainty? What is your current practice concerning this issue?

<ESMA\_QUESTION\_LST\_12>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_LST\_12>

1. : Do you agree with ESMA’s considerations on LST in funds investing in less liquid assets? What amendments should be made to the proposed wording? Do you think that ESMA should outline additional and/or specific Guidelines to be made in any other fund or asset types, such as ETFs?

<ESMA\_QUESTION\_LST\_13>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_LST\_13>

1. : Do you agree with the considerations regarding LST on items on the liabilities side of a fund’s balance sheet?

<ESMA\_QUESTION\_LST\_14>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_LST\_14>

1. : Do you agree with the considerations specifying the LST of redemptions and other types of liabilities may need to be considered distinctly, given a fund could potentially limit redemptions but not other sources of liquidity drain?

<ESMA\_QUESTION\_LST\_15>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_LST\_15>

1. : Do you agree with the requirement to reverse stress test items on the liabilities side of the fund balance sheet?

<ESMA\_QUESTION\_LST\_16>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_LST\_16>

1. : Do you agree with the requirement to incorporate investor behaviour considerations into the LST model ‘where appropriate’? Are there cases which you believe it would not be appropriate, and should these be detailed in these Guidelines?

<ESMA\_QUESTION\_LST\_17>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_LST\_17>

1. : What do you think about ESMA’s Guideline stating that managers should combine LST results on both sides of the balance sheet?

<ESMA\_QUESTION\_LST\_18>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_LST\_18>

1. : What are your views on ESMA’s Guideline that aggregated LST should be undertaken where deemed appropriate by the manager?

<ESMA\_QUESTION\_LST\_19>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_LST\_19>

1. : What is your experience of performing aggregated LST and how useful are the results?

<ESMA\_QUESTION\_LST\_20>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_LST\_20>

1. : What are your views on ESMA’s considerations concerning the use of LST during a fund’s lifecycle?

<ESMA\_QUESTION\_LST\_21>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_LST\_21>

1. : What is your experience of the use of LST in determining appropriate investments of a fund?

<ESMA\_QUESTION\_LST\_22>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_LST\_22>

1. : In your view, has ESMA omitted any key uses of LST?

<ESMA\_QUESTION\_LST\_23>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_LST\_23>

1. : Do you agree with ESMA’s Guideline that LST should be undertaken in all cases annually, but that it is recommended to undertake it at least quarterly, unless a different frequency can be justified? What is the range of frequency of LST applied on funds managed by stakeholder(s) you represent?

<ESMA\_QUESTION\_LST\_24>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_LST\_24>

1. : Should ESMA provide more prescriptive Guidelines on the circumstances which can justify a more/less frequent employment of LST?

<ESMA\_QUESTION\_LST\_25>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_LST\_25>

1. : Do you agree that LST should be employed outside its scheduled frequency (ad-hoc) where justified by an emerging/imminent risk to fund liquidity?

<ESMA\_QUESTION\_LST\_26>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_LST\_26>

1. : What are your views on the governance requirements regarding LST?

<ESMA\_QUESTION\_LST\_27>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_LST\_27>

1. : Should more information be included in the UCITS RMP and AIF RMP?

<ESMA\_QUESTION\_LST\_28>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_LST\_28>

1. : Do you have any views on how managers which delegate portfolio management can undertake robust LST, independently of the portfolio manager, particularly when the manager does not face the market?

<ESMA\_QUESTION\_LST\_29>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_LST\_29>

1. : Do you agree with the proposed Guideline for depositaries on carrying out their duties regarding LST?

<ESMA\_QUESTION\_LST\_30>

Paragraph 75: The general control requirements for depositaries are established under the UCITs Directive and AIFMD. Both Directives contain clarifications of these control requirements. Article 95 of the Commission Delegated Regulation (EU) 231/2013

concretizes Article 21 para. 9 c) of the Regulation 2011/61 (EU). Neither Article 95 nor Article 21 implies control requirements regarding LST. Hence, we do not agree with the proposed guidelines. Additional requirements should be implemented in the Directives above. Irrespective of the above, the procedures proposed in the guidelines would not only be redundant, but, more importantly, also not appropriate to the business nature and expertise of depositary institutions.

Paragraph 76:

Assuming that a control requirement regarding LST for depositaries exists, GBICs understanding of the role of the depositaries is that procedures are limited to ensuring that a LST policy is in place and part of the documented risk management policy.

Paragraph 78: If a control requirement for depositories is introduced, the clarification provided in paragraph 78 that depositaries are not required to replicate the LST undertaken by a manager will be very helpful.

<ESMA\_QUESTION\_LST\_30>

1. : In your experience do depositaries review the UCITS RMP and AIF RMP as a matter of course?

<ESMA\_QUESTION\_LST\_31>

Due to the fact that processes on how depositories handle their oversight duties are not harmonized across EU countries and NCA expectations differ, it is not a common practice for depositaries to review UCITS RMP and AIF RMP. As part of its due diligence procedures on management companies, the depositary typically ensures that the LST policy, procedure and RMP are in place.

Experience shows that managers are reluctant to share their RMP documentation and LST procedures including relevant results with depositaries. Hence, guaranteed access to such documents would become essential for depositories, if they had to set up appropriate verification procedures.

<ESMA\_QUESTION\_LST\_31>

1. : Do you see merit in ESMA publishing further guidance on the reporting of results of liquidity stress tests? If so, in your view how should ESMA require that results be reported?

<ESMA\_QUESTION\_LST\_32>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_LST\_32>