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| 29 March 2021 |

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| Response form for the Consultation Paper on the EU Money Market Fund Regulation – legislative review |
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| Date: 29 March 2021 |

**Responding to this paper**

ESMA invites responses to the questions set out throughout this Consultation Paper and summarised in Annex 3. Responses are most helpful if they:

1. respond to the question stated and indicate the specific question to which they relate;
2. contain a clear rationale; and
3. describe any alternatives ESMA should consider.

ESMA will consider all comments received by **Wednesday 30th June 2021.**

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 steps below when preparing and submitting their response:

1. Insert your responses to the consultation questions in this form.
2. Please do not remove tags of the type <ESMA\_QUESTION\_MMFR\_1>. Your response to each question has to be framed by the two tags corresponding to the question.
3. 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.
4. When you have drafted your response, name your response form according to the following convention: ESMA\_MMFR\_nameofrespondent\_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESMA\_MMFR\_ABCD\_RESPONSEFORM.
5. 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’ → ‘Consultation on EU Money Market Fund Regulation – legislative review’).

**Publication of responses**

All contributions received will be published following the close of the consultation, unless you request otherwise. If you do not wish for your response to be publicly disclosed, please clearly indicate this by ticking the appropriate box on the website submission page. 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 ‘[Data protection](https://www.esma.europa.eu/about-esma/data-protection)’.

**Who should read this paper?**

This document will be of interest to (i) MMF managers and their trade associations, as well as (ii) institutional and retail investors (and associations of such investors) investing in MMF.

# General information about respondent

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| Name of the company / organisation | ACI France AFTB |
| Activity | Issuer Association |
| Are you representing an association? |[x]
| Country/Region | France |

# Introduction

Please make your introductory comments below, if any:

<ESMA\_COMMENT\_MMFR\_1>

ACI France AFTB is a non-profit association which was founded in 1955. It specialises in Money Market, Forex, Debt and Commodities markets on both cash and derivatives instruments.Thanks to exchanges of view, collaboration amongst members and contributions to working groups, it aims at :

Promoting, the development of capital markets activities and instruments in an orderly and healthy manner,

Promoting the design and enforcement of market conventions and best practices,

Establishing dialogue between market professionals and authorities

Building bridges with peers associations locally or at international level – using amongst others the ACI FMA network –

Promoting professional training on technical matters but also on behavioral and ethical issues.

ACI France contributed through ACI FMA to the creation of the STEP market, the GFX Code and implementation of its online related learning tool. It has been directly implicated in various working groups dealing with the reforms on monetary indexes and on numerous national initiatives dealing with Money Market instruments.

<ESMA\_COMMENT\_MMFR\_1>

1. i) Do you agree with the above assessment of the difficulties faced by MMFs during the COVID-19 March crisis? Do you agree with the identification of vulnerabilities? ii) What are your views in particular on the use of MMF ratings by investors? Are you of the view that the use of such ratings has affected the behaviors of investors during the March crisis?

<ESMA\_QUESTION\_MMFR\_1>

The MMF experienced indeed some difficulties in managing client expectations during the Covid crisis, as most of the economic sectors and financial participants. From our members’ perspective, on EUR Money Markets in Europe, the situation described in the document is giving an alarmist image of the situation on MMF. We shall not forget that a big part of the economy was frozen and had to reinvent itself in a zip in terms of homeworking and communication with clients, colleagues and regulatory authorities. The vulnerabilities attributed here to MMF are the those of any market which faces suddenly, and with an unprecedented magnitude, a situation of panic by a vast majority of participants. All markets lost rapidly their liquidity and their value (at least from a marked to market perspective) but not on the Money Market side. The MMF suffered from an overstated image of liquidity safe heaven also linked to the very odd situation of “over liquidity” which has been lasting overs the past 10 years. The liquidity of MMF in Europe has proven for decades to be delivered efficiently and promptly with a few incidents in exceptional crisis. The efficiency of the markets (USD, EUR, GBP, …) and their excess liquidity, have fuelled this overoptimistic perception. The good management of the difficult times was possible thanks to the behaviour of market participants, relevant actions set by the regulatory authorities and the central banks. The good execution of the plans, especially the PEPP and CSPP in Europe, was key in the succeeding in restoring confidence.

Identification of the vulnerabilities : the vulnerabilities of the MMF are well listed but are intrinsic to the promises granted to investors who choose this support. The promise should remind clearly and firmly that the commitment of liquidity is effective in normal market conditions. In addition credit risk should not be assimilated to liquidity risk, even if concern on credit risk and uncertainties generate flight to quality with solicitations on liquidity. During a very short period of time, the very first weeks of the crisis, the circumstances jeopardized the credit risk perception of market participants, resulting in this natural quest for liquidity to cover immediate needs (conversion of investment in MMF to banking deposits or cash account to ensure capability to face immediate payments or quickly to come in an uncertain environment). This was mainly operated with a reasonably low impact on the overall liquidity on Money Markets since it resulted in a reallocation and use of proceeds to face cash needs from the real economy. The exceptional measures provided arrived in due time since this situation could not have last for months.

1. Investment in rated MMF responds to a quest for credit safe investments with an implied assumption of greater liquidity. We believe secondary market is very efficient and rarely used in normal market conditions, but, as mentioned above, loses its efficiency in exceptional conditions. The (usually high quality) rated assets are easier to dispose of for MMF, especially when they are in the scope of purchasing facilities (such as PEPP). This is linked to their rating but also to the market on which they have been issued (regulated market or accepted market such as STEP or NEUCP). An MMF does not need to be rated to decide to set its investment policy to invest in high quality eligible assets.
2. For the reasons mentioned above, rated MMF invested in CPs / CDs of high quality but not eligible to ECB repos operation (because not issued on relevant markets) might have faced unexpected difficulties to find bids from banks or dealers at the peak of the crisis. They were the first, amongst non eligible assets, to benefit nevertheless of restoration of confidence when PEPP was announced.

Part of the general pattern of investors looking to transform their holdings in MMF in cash was also due to perceptions based on rumours on loss of capacity of certain issuers (financial and non financial) to issue CPs and CDs. This was amplified on markets where little or none statistics about market activities are available.

<ESMA\_QUESTION\_MMFR\_1>

1. i) Do you agree with the above assessment on the potential MMF reforms related to the review of the MMF Regulation? ii) What are your views on the abovementioned assessment of the interaction between potential MMF reforms and the behaviour of investors during the MMF March 2020 crisis?

<ESMA\_QUESTION\_MMFR\_2>

1. Money Markets are by nature in the center of any liquidity issue. MMF, due to the very specific role they play in the functioning of Money Markets (recycling short term money from investor to the real economy via, amongst others, subscriptions of issuances of short term debs by various type of issuers) are on front stage when exceptional events occur on Money Markets. MMF should be considered as revealing critical events, not generating them. We understand that the proposed initiative aims at reforming the MMF in order to reduce their exposure to critical events arising on Money Markets. These events find their sources in different origins (sovereign debt crisis, sectorial crisis (internet, corporates, financial sector), political crisis and pandemy, …). In all case, when market conditions get hostile, liquidity vanishes and freezes. Willing to eliminate this risk can be summarised as willing to ensure that water will not freeze, whatever exogenous conditions are. This can not be achieved without altering the intrinsic qualities of MMF. As a consequence, the reform might focus on ensuring transparency and monitoring of information on performances and risks generated on these markets rather than limitation the scope of activities of MMF. Reducing the scope of activities of MMF (reducing maturities to set liquidity ratios at higher levels, restricting credit quality criteria ) would inversely reduce the capacity of recycling of MMFs, without reducing the risk, at a final stage. The support mechanism envisaged, LEF and recourse to support / guarantee, do not find a favourable echo because of the costs they would inevitably generate and potential negative effect they could have on guarantors in case of turmoils. The example of contagion from the securitisation sector to the banking sector in 2007 / 2008 illustrates this risk. In addition, it would contribute to anchor the image of a robustness at a higher level than the real one.
2. During the covid crisis, we observed final investors (mainly institutional composed of non financial firms, pension funds and insurance companies) exiting from MMF to cover short cash needs to come : payrolls, pensions (quarter ends in France), operating expenses. The proceeds of the sales were directly used or placed on banking deposits. The fact that, for some of them, they also faced difficulties to roll issuances of short term papers (ECP or NEUCP mainly) amplified their needs for setting up a petty cash. It can be noted that all market participants invested in MMF at the time of the crisis managed to reach their goal. As a consequence, the Money Markets were severely hit, but delivered, as well as MMF did. This situation could nevertheless not last and did not thank to central banks and regulatory bodies interventions. In continental Europe and especially in France, the situation was positively impacted by the launch of PEPP and CSPP because most of the activity is libelled in €. For those who argue that implementation of PEPP was very slow and hectic, it should be reminded that the plan was the result of negotiations from institutions of 27 countries, with different cultures and unequal experience of liquidity crisis for some. For non US market participants invested in USD, access to FED measures was not possible and this might have given a wrong image of the sector.

<ESMA\_QUESTION\_MMFR\_2>

1. Do you agree with the above assessment of the i) potential need to decouple regulatory thresholds from suspensions/gates and the corresponding proposals of amendment of the MMF Regulation ii) potential reforms of the conditions for the use of redemption gates? When you answer this question, please also take into account the grid of criteria listed in paragraphs 76 to 80.

<ESMA\_QUESTION\_MMFR\_3>

* We agree with this proposal. This would mitigate the benefit to the first mover and overreacting from certain investors.

<ESMA\_QUESTION\_MMFR\_3>

1. i) Do you agree with the above assessment of the potential need to require MMFs to use swing pricing and / or ADL / liquidity fees and the corresponding proposal of amendment of the MMF Regulation (including the above list of corresponding potential benefits and drawbacks)? ii) If you are of the view that swing pricing might not be workable for certain types of MMFs, which instruments would you suggest as an alternative for these types of MMFs going forward? When you answer this question, please also take into account the grid of criteria listed in paragraphs 76 to 80.

<ESMA\_QUESTION\_MMFR\_4>

The feed back our members received from market participants, including fund managers and final investors is that the behaviour of early leavers from MMF in market turmoil, above the concern about the market event, is the willingness not to absorb losses for those who have left firstly. Mechanisms to avoid or refrain investors to dilute their peers when they leave should take into account : understanding and acceptation by investors, clarity and transparency and avoidance of risk of stigma for such or such fund.

Swing pricing requests objective and independent pricing sources. The short term market, which remains by nature OTC, can not offer globally the appropriate transparency in terms of pricing to provide solid and safe basis for swing pricing implementation. The prerequisite to envisage this option would be to provide fair and objective pricing sources. This should be provided by a public authority (with data provided by SSS) to avoid structural weaknesses. The present set up of data feed provided on the NEUCP and STEP market by SSS would allow to envisage such evolution. For the moment only half of the CP CD market in Europe operates under this scope. For various reasons linked to transparency and CMU, incentives to use such markets should be provided to market participants (issuers, dealers and investors). Acceptance of these markets for ECB collateral, which has revealed to be wise and useful, and has been the first move in this direction.

We must outline as well that in difficult market conditions, when these tools could have to be used, the scarcity of transactions makes the feed of pricing data based very hazardous.

Last but not least, cash instrument dealt in money markets, and especially CPs and CDs do not deal on a bid offer basis since getting short of a CP is structurally not possible.

As on other markets, directions / instructions from regulatory authorities allowing MMF to enforce, if needed, mechanism of safeguard for the market as liquidity fees set by each fund manager would appear more appropriate. The fees could be determined by each MMF, leaving room for open competition for clients, and the authorisation to use such fee would be granted in relevant circumstances by the regulatory body. This would put all market participants on the same playing field level. The advantage of the setup of regulatory thresholds to activate these fee is the elimination of potential stigma on such or such MMF which, by activating the liquidity fee in application of a rule, would disclose potential (and hopefully temporary) difficulties. This could generate an snowball effect.

In very extreme conditions – as it might have been the case with the Covid crisis if the central banks packages would have taken time to appear or not delivered – a temporary ban on MMF exits by regulators could be envisaged (this would be the equivalent of closing temporarily a regulated market).

<ESMA\_QUESTION\_MMFR\_4>

1. i) Do you agree with the above assessment of the potential need to increase liquidity buffers and/or make them usable/countercyclical and the corresponding potential proposal of amendment of the MMF Regulation? ii) With respect to option 1 above, views are sought in particular on the relevant threshold (on the size of redemptions) from which WLA would need to be automatically adjusted. When you answer this question, please also take into account the grid of criteria listed in paragraphs 76 to 80.

<ESMA\_QUESTION\_MMFR\_5>

By analogy with liquidity ratios applied to banks, ACI France considers that the efficiency of liquidity ratio is demonstrated in normal market conditions and to addresses potential problems on one single firm (Bank or MMF). The appropriateness of simply increasing liquidity ratio to better cope with a crisis is not obvious. The recent experience of the Covid crisis does not provide evidence that the direction is accurate. We nevertheless consider that improving the ratio on qualitative side by proposing to MMF to set internal models approved by supervisory authorities (in the same spirit as LCR for banks) depending on the typology of their investors would be more efficient. In addition, the higher the regulatory constraints on liquidity will be, the less the MMF will play their role of reallocation of short term cash hold by investors to borrowers who need them. We shall not underestimate the additional burden that MMF will have to deal with : ESG requisites will imposed themselves in a very short time on both issuers and investors and generate new sets of constraints. Their cumulation, as well intended and necessary as they might be, shall not jeopardize the business model of European MMF which have been put under high pressure due to the unusual negative rate environment over the past years.

<ESMA\_QUESTION\_MMFR\_5>

1. What are your views on the potential need to eliminate CNAV and LVNAV funds, in light of the recent market developments, and the corresponding potential proposal of amendment of the MMF Regulation? When you answer this question, please also take into account the grid of criteria listed in paragraphs 76 to 80.

<ESMA\_QUESTION\_MMFR\_6>

ACI France members are less involved with CNAV and LVNAV but consider that as long as market demand is present and investor information clear and transparent, market participants should be free to engage in typology of MMF which corresponds to their needs.

<ESMA\_QUESTION\_MMFR\_6>

1. What are your views on the extent to which Article 35 of the MMF Regulation should be i) clarified ii) amended? When you answer this question, please also take into account the grid of criteria listed in paragraphs 76 to 80.

<ESMA\_QUESTION\_MMFR\_7>

The present set up of MMFR in Europe seems appropriate and does not need, from ACI France perspective, to be adjusted. It is appropriate to the situation in Europe, which differs with the MMF in the US and has proven to fit the needs of all market participants, in its present format.

<ESMA\_QUESTION\_MMFR\_7>

1. i) Do you agree with the above assessment of the potential need to assess the role of MMF ratings in light of the difficulties faced by MMFs during the March crisis, and the potential need to introduce regulatory requirements for MMF ratings? ii) In your view, based on your experience, what are the benefits of MMF rating from investors’ perspective, having in mind that rules applying to MMFs are already very stringent? What would be the likely consequence on investors from the downgrade of one or several MMFs? When you answer this question, please also take into account the grid of criteria listed in paragraphs 76 to 80.

<ESMA\_QUESTION\_MMFR\_8>

1. As mentioned previously, an MMF rated by CRA “X” can widely be perceived as a vehicle exclusively invested in better or equally rated investment supports by CRA “X”. This gives comfort to the investor. This results in an additional commitment of the fund manager to restrict its investments universe to a certain category of assets (rated by the CRA “X”) and accepting to pay fees to be checked on this by the said agency. The rating of the MMF is de facto a rating of its components (which have to be rated by CRA “X” to be purchase by the said MMF) and very often, in case of downgrade of a CP (as an example), the MMF will take appropriate measures to have sold the CP before the CRA will engage measures to downgrade the concerned MMF.
2. The Covid crisis did not deliver an example of downgrade of such MMF (probably due to the speed of crisis and recovery : the first stage would have been to downgrade the assets/issuers and then the said MMF). Should it have happened, it would have resulted in divestments from MMF holders with an amplified problematic for the fund to find bids of lower rated assets in a disrupted market. The rating does not take into account the capacity of investment support to be used as collateral with central banks, which has proven to be crucial.

<ESMA\_QUESTION\_MMFR\_8>

1. Do you agree with the above assessment of the potential need to amend the requirements on stress tests included in the article 28 of the MMF Regulation? When you answer this question, please also take into account the grid of criteria listed in paragraphs 76 to 80.

<ESMA\_QUESTION\_MMFR\_9>

Even if stress tests for MMF are not precisely in the scope of ACI France, members and member firms (money markets front offices and investment banks) wonder to which extend the present set of stress tests has revealed weaknesses during the management of the Covid crisis and to which extend its update would allow a better management of such event. We believe the stress tests are commonly helpful to identify changes and assess strengths and weakness on the long term. For these reasons, we do not identify such needs.

<ESMA\_QUESTION\_MMFR\_9>

1. Do you agree with the above assessment on the potential need to review the reporting requirements under the MMF Regulation? When you answer this question, please also take into account the grid of criteria listed in paragraphs 76 to 80.

<ESMA\_QUESTION\_MMFR\_10>

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<ESMA\_QUESTION\_MMFR\_10>

1. Do you agree with the above assessment of the potential need to include additional requirements in the MMF Regulation, and/or potentially in other types of EU piece of legislation on the disclosure of money market instruments (MMIs) and main categories of investors to regulatory authorities (e.g. detailed information on liabilities)? When you answer this question, please also take into account the grid of criteria listed in paragraphs 76 to 80.

<ESMA\_QUESTION\_MMFR\_11>

ACI France understands that reporting to clients and regulatory authorities for MMF have been set at appropriate and very demanding level. We base this perception since we did not perceive any request / complaint from market participants for such change, including during the difficult times of March 2020. We nevertheless support more transparency at macro level for European MMF (frequent publication of amounts of MMF by category, allocations by type of instruments, type of credit risk, investor typologies, currencies, … ) would allow market participant to set their opinion on facts and figures rather than pure perception. Data / studies provided by private institutions are often well processed but suffer from incompleteness in terms of market coverage and instrument considered. The recourse to public authorities in echo to what is made for CP-CD on NEUCP and STEP by respectively the Banque de France and ECB is worth being considered.

<ESMA\_QUESTION\_MMFR\_11>

1. i) Do you agree with the above assessment on the potential creation of a LEF? When you answer this question, please also take into account the grid of criteria listed in paragraphs 76 to 80. ii) Several open questions related to the creation of the LEF, on which ESMA would specifically welcome feedback from stakeholders, include:
2. **What should be the appropriate size of such a pooling vehicle as the LEF?**
3. **In terms of funding, how much MMF would have to pay each year to participate in the pool? How much of the funding would/should be provided by other sources?**
4. **How long would it take to establish such a LEF?**
5. **Under which conditions would the LEF be activated?**
6. **Who would be responsible for activating the LEF**.

<ESMA\_QUESTION\_MMFR\_12>

ACI France does not support such project which would increase costs for the industry globally (direct and indirect), bureaucracy and legitimize a kind of lesser concern on the management of their MMF by some market participants based on “the LEF will cover …”. We do not see how the LEF will help to deal with the problematic of “first mover advantage”(point174). This solution consists in moving the cost from the said MMF to the LEF without addressing the issue of setting up rules which make it as coercive as possible to do so for an investor (who must of course remain on last resort free to do so).

Considering the nominal sizes traded on Money Markets, if the status of the LEF would be, as described, a banking institution able to deal with ECB on repo and PEPP (or any like vehicle), the capital needs would be extremely high and not reasonable for stakeholders. The question of remote responsibility on this LEF is not envisaged in the document but seems to be worth being considered. In addition providing the LEF adequate capital to leverage financing to deal on requested nominal sizes considered as usual on Money Markets when needed, seems, at first glance, over ambitious.

The governance and operational set up and management of such a mechanism will be a challenge which seems oversized versus the potential benefits expected.

A contagion effect, on other segments of Fund Management, might also have to be considered.

The LEF would, realistically for capital cost reasons, not be able to propose solutions on noneligible assets.

In addition, the service proposed – providing bids on eligible assets – is already offered by the banking industry and is efficient in normal market conditions. The present regulatory framework enforced for dealers sets quickly limits to their capacities to provide this service when demand increases, under pressure such as experienced during the covid crisis. Regulatory authorities, when adjusting on a temporary basis the framework, allowing banks to offer a larger part of CPs CDs issued by financial institution as an example, did the right thing to unlock the situation. All the existing set up has recently demonstrated it capacity to deal with this peculiar situation. It would make sense to use the present momentum of questioning, to engage in a review of these rules and propose changes to shape the framework in order to get more flexibility in normal market conditions and adjust quickly to special situations – under control of regulatory authorities.

Opening also a debate aiming to reduce capital and liquidity constraints put on dealers who commit to this market would be simpler and set favorable environment for developments on secondary market and commitment to non-eligible CPs /CDs Encouraging in addition market participants to privilege transparent markets such as NEU CP or STEP would, at first stage, produce significant effects with lesser investments and differ the breaking point when exceptional measures would have to be enforced.

<ESMA\_QUESTION\_MMFR\_12>

1. Do you agree with the above assessment on the potential need of further clarification of the requirements of articles 1 and 6 of the MMF Regulation? When you answer this question, please also take into account the grid of criteria listed in paragraphs 76 to 80.

<ESMA\_QUESTION\_MMFR\_13>

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<ESMA\_QUESTION\_MMFR\_13>