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PUBLIC STATEMENT

Actions to mitigate the impact of COVID-19 on the EU financial markets – External support within the meaning of Article 35 of the MMF Regulation

The European Securities and Markets Authority (ESMA) is issuing this Public Statement to promote coordinated action by National Competent Authorities (NCAs) in the context of the COVID-19 pandemic in relation to the prohibition of providing external support to money market funds (MMFs) within the meaning of Article 35 of Regulation (EU) 2017/1131¹ (MMF Regulation). In accordance with Article 31 (Coordination function) of Regulation (EU) 1095/2010² (ESMA Regulation), ESMA is issuing this Public Statement to promote coordinated action by NCAs in response to these adverse events and to provide clarity to managers of MMFs.

Background

In the second half of March 2020, certain money market funds faced significant liquidity challenges. On the liability side, MMFs faced sizable redemptions from their investors, while on the asset side, liquidity deteriorated quickly in money markets, particularly in the commercial paper market in the EU and in the US.

In this context, ongoing efforts and measures of central banks and securities and markets regulators to ensure the proper and orderly functioning of markets and financial stability as a whole are also relevant for MMFs. In particular, the market liquidity brought by some of these measures may also indirectly benefit MMFs through the intermediation of credit institutions purchasing short-term assets held by MMFs.

¹ Regulation (EU) 2017/1131 of the European Parliament and of the Council of 14 June 2017 on money market funds (OJ L 169, 30.6.2017, p. 8).

² Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

Banking intermediation in the purchase of MMFs' short-term assets

This statement is issued to coordinate the supervisory approaches of NCAs in light of these and any future liquidity challenges for MMFs in the context of the current COVID-19 pandemic. In this respect, the purpose of this statement is to recall certain conditions the aforementioned intermediation must comply with under the requirements of the MMF Regulation.

In the normal course, MMFs may enter into transactions with affiliated or related parties. Such affiliated or related parties may also have directly benefited from some of the measures mentioned above.

Pursuant to Article 35 of the MMF Regulation, MMFs are unable to receive external support, defined as “*direct or indirect support offered to an MMF by a third party, including a sponsor of the MMF, that is intended for or in effect would result in guaranteeing the liquidity of the MMF or stabilising the NAV per unit or share of the MMF*”. ESMA is therefore of the view that it is relevant to clarify the potential interaction between the abovementioned intermediation of credit institutions and the requirements of Article 35 of the MMF Regulation.

In that context, MMFs may enter into transactions with third parties, including affiliated or related parties provided the requirements of Article 35 of the MMF Regulation are met. For that purpose, it is important to consider, in particular, the following requirements of Article 35 of the MMF Regulation:

- point (b) of the second subparagraph of Article 35(2) of the MMF Regulation provides that external support shall include, amongst other examples, the “*purchase by a third party of assets of the MMF at an inflated price*”. For the purposes of examining whether a third party provides the external support referred to in that point, transactions with third parties relating to the assets of the MMF are not purchased at an inflated price where they are executed at arm's length conditions; and
- point (e) of the second subparagraph of Article 35(2) of the MMF Regulation provides that external support shall also include “*any action by a third party the direct or indirect objective of which is to maintain the liquidity profile and the NAV per unit or share of the MMF*”. An indication of the direct or indirect objective referred to in that point is where third parties execute transactions solely with the MMFs to which they are affiliated.



ESMA, together with NCAs, will continue to closely monitor the situation and will take or recommend any measures necessary to mitigate the impact of COVID-19.