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NOTE

From:	Presidency
To:	Delegations
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on Money Market Funds - Presidency compromise

Delegations will find below a Presidency compromise text on the above mentioned Commission proposal.

With respect to the Commission's proposal, additions are underlined.

The latest changes to the compromise text are denoted by bold underline for additions, and bold strikethrough for deletions.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on Money Market Funds

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Economic and Social Committee[1],

Acting in accordance with the ordinary legislative procedure,

Whereas:

1 OJ C , , p. .

(1) Money market funds (MMF) provide short-term finance to financial institutions, corporates or governments. By providing finance to these entities, money market funds contribute to the financing of the European economy.

(2) On the demand side, MMFs are short-term cash management tools that provide a high degree of liquidity, diversification, stability of value of the principal invested combined with a market-based yield. MMFs are mainly used by corporations seeking to invest their excess cash for a short time frame. MMFs, therefore, represent a crucial link bringing together demand and offer of short-term money.

(3) Events that occurred during the financial crisis have shed light on several features of MMFs that make them vulnerable when there are difficulties in financial markets and therefore may spread or amplify risks through the financial system. When the prices of the assets in which the MMFs are invested in start to decrease, especially during stressed market situations, the MMF cannot always maintain the promise to redeem immediately and to preserve the principal value of a unit or share issued by the MMF to investors. This situation may trigger massive and sudden redemption requests, potentially causing broader macroeconomic consequences.

(4) Large redemption requests force MMFs to sell some of their investment assets in a declining market, fuelling a liquidity crisis. In these circumstances, money market issuers can face severe funding difficulties if the market of commercial papers and other money market instruments dries up. Any contagion to the short term funding market could then also represent direct and major difficulties for the financing of the financial institutions, corporations and governments, thus the economy.

(5) Asset managers, helped by sponsors, may decide to provide discretionary support to maintain the liquidity and the stability of their MMFs. Sponsors are often forced to support their sponsored MMFs when **faced with declining** ~~losing~~ value due to the reputational risk and fear that panic could spread into the sponsor**'s** other businesses. Depending on the size of the fund and the extent of redemption pressure, sponsor support may reach proportions that exceed their readily available reserves. Therefore, it is important to provide for a framework of uniform rules in order to prevent the failure of the sponsor and risk contagion to other entities that sponsor MMFs.

(6) In order to preserve the integrity and stability of the internal market by promoting more resilient MMFs and limiting contagion channels, it is necessary to lay down rules regarding the operation of MMFs, in particular on the composition of the portfolio of MMFs. Uniform rules across the Union are necessary to ensure that MMFs are able to immediately redeem investors, especially during stressed market situations. Uniform rules on the portfolio of a money market fund are also required to ensure that MMFs are able to face massive and sudden redemption requests by a large group of investors.

(7) Uniform rules on MMFs are also necessary to ensure **the** smooth operation of the short term funding market for financial institutions, corporate issuers of short term debt and governments. They are also required to ensure equal treatment among MMF investors and to avoid **situations whereby** ~~that~~ late redeemers ~~have to support additional~~ **are further** inconvenience**d** when redemptions are temporarily suspended or when the MMF is liquidated.

(8) It is necessary to provide for the harmonisation of prudential requirements related to MMFs by setting out clear rules that impose direct obligations on MMFs and their managers throughout the Union. This would enhance **the** stability of MMFs as a source of short-term finance for government**s** and the corporate sector across the Union. It would also ensure that MMFs remain a reliable tool for the cash management needs of the Union's industry.

(9) The MMF Guidelines adopted by the Committee of European Securities Regulators (CESR) to create a minimum level playing field for MMFs in the Union were implemented one year after their entry into force only by 12 Member States thus demonstrating the persistence of divergent national rules. Different national approaches fail to address the vulnerabilities of the Union money markets, as evidenced during the financial crisis, and to mitigate the contagion risks thereby endangering the functioning and stability of the internal market. These common rules on MMFs should therefore provide for a high level of protection **~~of~~** **for** investors and should prevent and mitigate any potential contagion risks resulting from possible runs by investors in MMFs.

(10) In the absence of a Regulation setting out rules on MMFs, diverging measures might continue to be adopted at national level, which would continue to cause significant distortions of competition resulting from important differences in essential investment protection standards. Diverging requirements on portfolio composition, eligible assets, their maturity, liquidity and diversification, as well as on credit quality of issuers of money market instruments lead to different levels of investor protection because of the different levels of risk attached to the investment proposition associated with a money market fund. The failure to adopt strict common rules applicable to MMFs in the internal market prevents uniform investor protection and gives investors different incentives to redeem their investments and thereby trigger a run. It is therefore essential to avoid contagion into the short term funding market and to the sponsors of the MMF which would largely put at risk the stability of the Union's financial market by adopting a uniform set of rules.

(11) The new rules on MMFs are closely linked to Directive 2009/65/EC[2] and Directive 2011/61/EU[3] since they form the legal framework governing the establishment, management and marketing of MMFs in the Union.

(12) In the Union, collective investment undertakings may operate as undertakings for collective investment in transferable securities (UCITS) managed by UCITS managers or investment companies authorised under Directive 2009/65/EC or as alternative investment funds (AIFs) managed by alternative investment fund managers (AIFMs) authorised or registered under Directive 2011/61/EU. The new rules on MMFs supplement the provisions of those Directives. Hence the new uniform rules on MMFs should apply in addition to those laid down in Directives 2009/65/EC and 2011/61/EU. At the same time, a number of rules concerning the investment policies of UCITS laid down in Chapter VII of Directive 2009/65/EC should be explicitly dis-applied and specific product rules should be laid down in these new uniform provisions on MMFs.

(13) Harmonised rules should apply to collective investment undertakings whose characteristics correspond to those associated with a MMF. For UCITS and AIFs that invest in short term assets such as money market instruments or deposits, or enter reverse repurchase agreements, or certain derivative contracts with the ~~**only**~~ **<u>sole</u>** purpose of hedging risks inherent to other investments of the fund, and that have the objective of offering returns in line with money market rates or of preserving the value of the investment, compliance with the new rules on MMFs should be mandatory.

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2 Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (OJ L 302, 17.11.2009, p. 32).

3 Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (OJ L 174, 1.7.2011, p. 1).

(14) The specificity of MMFs results from a combination of the assets in which they invest and the objectives they pursue. The objective to offer a return in line with money market rates and the objective to preserve the value of an investment are not mutually exclusive. A MMF may have either one of these objective or both objectives jointly.

(15) The objective of offering returns in line with money market rates should be understood in a broad sense. The anticipated return does not need to be perfectly aligned with EONIA, Libor, Euribor or any other relevant money market rate. An objective **which seeks** to outperform the money market rate by a slight margin should not be considered to take a UCITS or AIF outside the scope of the new uniform rules.

(16) The objective of preserving the value of the investment should not be understood as a capital guarantee promised by the fund. It should be understood as an aim that the UCITS or AIF seeks to pursue. A decrease in value of the investments should not imply that the collective investment undertaking has changed the objective to preserve the value of an investment.

(17) It is important that UCITS and AIFs that have the characteristics of MMFs be identified as MMFs and that their capacity to comply on an on-going basis with the new uniform rules on MMFs be explicitly verified. For this purpose competent authorities should authorise MMFs. For UCITS the authorisation as MMF should be part of the authorisation as UCITS in accordance with the harmonised procedures envisaged in Directive 2009/65/EC. For AIFs, as they are not subject to harmonised authorisation and supervision procedures under Directive 2011/61/EU, it is necessary to provide for common basic rules on authorisation that mirror the existing UCITS harmonised rules. Such procedures should ensure that an AIF authorised as a MMF has as **its** manager an alternative investment fund manager (AIFM) authorised in accordance with Directive 2011/61/EU.

(18) In order to make sure that all collective investment undertakings displaying the characteristics of MMFs are subject to the new common rules on MMFs, it is necessary to prohibit the use of the designation 'MMF' or any other term that suggests that a collective investment undertaking shares the characteristics of MMFs unless this Regulation is complied with. To prevent circumvention of the MMF rules, competent authorities should monitor the market practices of collective investment undertakings established or marketed in their jurisdiction to verify that they do not misuse the MMF designation or suggest that they are a MMF without complying with the new regulatory framework.

(19) The new rules applicable to MMFs should build on the existing regulatory framework established through Directive 2009/65/EC and Directive 2011/61/EU and the acts adopted for their implementation. Therefore, the product rules concerning MMFs should apply in addition to the product rules laid down in the existing Union legislation unless they are explicitly dis-applied. Furthermore, the management and marketing rules laid down in the existing framework should apply to MMFs taking into account whether they are UCITS or AIFs. Equally, the rules on the cross-border provision of services and freedom of establishment laid down in Directives 2009/65/EC and 2011/61/EU should apply accordingly to the cross-border activities of MMFs.

(20) Given that UCITS and AIFs may take different legal forms that do not necessarily endow them with legal personality, the provisions requiring MMFs to take action should be understood to refer to the manager of the MMF in cases where the MMF is constituted as a UCITS or an AIF that is not in a position to act by itself because it has no legal personality of its own.

(21) Rules on the portfolio of MMFs would require a clear identification of the categories of assets that should be eligible for investment by MMFs and of the conditions under which they are eligible. To ensure the integrity of MMFs is also desirable to prohibit a MMF from engaging in certain financial transactions that would endanger its investment strategy and objectives.

(22) Money market instruments are transferable instruments normally dealt in on the money market, as treasury and local authority bills, certificates of deposits, commercial papers, bankers' acceptances or medium- or short-term notes. They should be eligible for investment by MMFs only insofar as they comply with maturity limits and are considered by the MMF to be of high credit quality.

(23) Asset Backed Commercial Papers (ABCPs) should be considered eligible money market instruments to the extent that they respect additional requirements. Due to the fact that during the crisis certain securitisations were particularly unstable, it is necessary to impose maturity limits and quality criteria on the **securitisations**~~**underlying assets**~~. Not all categories of underlying assets should be eligible because some were more confronted to instability than others. ~~**For this reason the underlying assets should be exclusively composed of short-term debt instruments that have been issued by corporates in the course of their business activity, such as trade receivables. Instruments such as auto loans and leases, equipment leases, consumer loans, residential mortgage loans, credit card receivables or any other type of instrument linked to the acquisition or financing of services or goods by consumers should not be eligible. ESMA should be entrusted with drafting regulatory technical standards to be submitted for endorsement by the Commission with regard to the conditions and circumstances under which the underlying exposure or pool of exposures is considered to exclusively consist of corporate debt and the conditions and numerical thresholds determining when corporate debt is of high credit quality and liquid.**~~

(24) A MMF should be allowed to invest in deposits to the extent that it is able to withdraw the money at any time. The effective possibility of withdrawal would be impaired if the penalties associated with the early withdrawal are so high as to exceed the interest accrued prior to withdrawal. For this reason the MMF should take due care not to make deposits with a credit institution that requires above average penalties or to engage in too long deposits where this results in too high penalties.

(25) Financial derivative instruments eligible for investment by a MMF should only serve the purpose of hedging interest rate and currency risk and should only have as an underlying instrument interest rates, exchange currencies or indices representing these categories. Any use of derivatives for another purpose or on other underlying assets should be prohibited. Derivatives should only be used as a complement to the fund strategy but not as the main tool for achieving the fund's objectives. Should a MMF invest in assets labelled in another currency than the currency of the fund, it is expected that the MMF manager would hedge the entire currency risk exposure, including via derivatives.

(26) Reverse repurchase agreements could be used by MMFs as a means to invest excess cash on a very short-term basis, provided that the position is fully collateralized. In order to protect the interests of the investors it is necessary to ensure that the collateral provided in the framework of reverse repurchase agreements be of high quality. All other efficient portfolio management techniques, including securities lending and borrowing, should not be used by the MMF as they are likely to impinge on achieving the investment objectives of the MMF.

(27) In order to limit risk-taking by MMFs it is essential to reduce counterparty risk by subjecting the portfolio of MMFs to clear diversification requirements. To this effect it is also necessary that the reverse repurchase agreements be fully collateralized and that, for limiting the operational risk, one reverse repurchase agreement counterparty cannot account for more than 20% of the MMF's assets. All over-the-counter (OTC) derivatives should be subject to Regulation (EU) No 648/2012[4].

(28) For prudential reasons and for **the sake of** avoiding the exercise of significant influence over the management of an issuing body by the MMF, it is necessary to avoid excessive concentration by a MMF in investments issued by the same issuing body.

(29) The MMF should have a responsibility to invest in high quality eligible assets. Therefore, a MMF should have a prudent and rigorous internal assessment procedure for determining the credit quality of the money market instruments in which it intends to invest. In accordance with Union legislation limiting over-reliance on credit ratings, it is important that MMFs avoid any mechanistic reliance on ratings issued by rating agencies when assessing the quality of eligible assets. For this purpose the MMF should establish an internal rating system based on a harmonised rating scale and an internal assessment procedure.

4 Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201, 27.7.2012, p. 1).

(30) For the purpose of avoiding that MMF managers use different assessment criteria for evaluating the credit risk of a money market instrument and thus attribute different risk characteristics to the same instrument, it is essential that managers rely on the same criteria. To this effect the rating criteria should be precisely defined and harmonized. Examples of internal rating criteria are quantitative measures on the issuer of the instrument, such as financial ratios, balance sheet dynamics, profitability guidelines, which are evaluated and compared to those of industry peers and groups; qualitative measures on the issuer of the instrument, such as management effectiveness, corporate strategy, which are analysed with a view to determining that the issuer's overall strategy does not impede on its future credit quality. The highest internal ratings should reflect the fact that the creditworthiness of the issuer of the instruments is maintained at all times at the highest possible levels.

(31) In order to develop a transparent and coherent internal rating system, the manager should document the procedures used for the internal assessment. This should ensure that the procedure follows a clear set of rules that can be monitored and that the methodologies employed are communicated upon request to the interested stakeholders.

(32) To reduce MMF portfolio risk it is important to set maturity limitations, providing for a maximum allowable weighted average maturity (WAM) and weighted average life (WAL).

(33) WAM is used to measure the sensitivity of a MMF to changing money market interest rates. When determining the WAM, managers should take into account the impact of financial derivative instruments, deposits and reverse repurchase agreements and reflect their effect on the interest rate risk of the MMF. When a MMF enters into a swap transaction in order to gain exposure to a fixed rate instrument instead of a floating rate this should be taken into account for determining the WAM.

(34) WAL is used to measure the credit risk, as the longer the reimbursement of principal is postponed, the higher is the credit risk. WAL is also used to limit the liquidity risk. Contrary to the calculation of the WAM, the calculation of the WAL for floating rate securities and structured financial instruments does not permit the use of interest rate reset dates and instead only uses a financial instrument's stated final maturity. The maturity used for calculating the WAL is the residual maturity until legal redemption, since this is the only date at which the management company can be assured that the instrument will have been reimbursed. Features of an instrument, such as the possibility to redeem at specific dates, the so-called put options, cannot be taken into account for calculating the WAL.

(35) In order to strengthen MMFs' ability to face redemptions and prevent MMFs assets from being liquidated at heavily discounted prices, MMFs should hold, on an on-going basis, a minimum amount of liquid assets that mature daily or weekly. Daily or weekly maturing assets should comprise assets such as cash, securities that mature within one day or, respectively one week. To calculate the proportion of daily and weekly maturing assets, the legal redemption date of the asset should be used. The possibility for the manager to terminate a contract on a short term basis can be taken into consideration. For instance, if a reverse repurchase agreement can be terminated with a one day prior notice, it should count as a daily maturing asset. If the manager has the possibility to withdraw money from a deposit account with a one day prior notice, it can count as a daily maturing asset.

(36) Given that MMFs may invest in assets with different maturity ranges, investors should be able to distinguish between different categories of MMF. Therefore, MMFs should be classified as either short-term MMF or as standard MMF. Short-term MMFs have the objective of offering money market rate returns while ensuring the highest possible level of safety for the investors. With short WAM and WAL, the duration risk and credit risk of short-term MMFs are kept at low levels.

(37) Standard MMFs have the objective of offering returns slightly higher than money market returns, and therefore they invest in assets that have an extended maturity. Moreover, to achieve this outperformance, this category of MMFs should be permitted to employ extended limits for the portfolio risk such as weighted average maturity and weighted average life.

(38) Under the rules laid down in Article 84 of Directive 2009/65/EC, the managers of UCITS MMFs have the possibility to temporarily suspend redemptions in exceptional cases where circumstances so require. Under the rules laid down in Article 16 of Directive 2011/61/EU and in Article 47 of the Commission Delegated Regulation (EU) No 231/2013[5], the managers of AIF MMFs may use special arrangements in order to cope with a supervening illiquidity of the funds' assets.

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5 Commission Delegated Regulation (EU) No 231/2013 of 19 December 2012 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 (OJ L 83, 22.3.2013, p. 1).

(39) It is important that the risk management of MMFs not be biased by short-term decisions influenced by the possible rating of the MMF. Therefore, it is necessary to prohibit a MMF or its manager from requesting that the MMF is rated by a credit rating agency in order to avoid that this external rating is used for marketing purposes. The MMF or its manager should also refrain from using alternative methods for obtaining a rating of the MMF. Should the MMF be awarded an external rating, either on the own initiative of the credit rating agency or following request by a third party that is independent of the MMF or the manager and does not act on behalf of any of them, the MMF manager should refrain from relying on criteria that would be attached to that external rating. For ensuring appropriate liquidity management it is necessary that the MMFs establish sound policies and procedures to know their investors. The policies that the manager has to put in place should help understanding the MMF's investor base, to the extent that large redemptions could be anticipated. In order to avoid that the MMF faces sudden massive redemptions, particular attention should be paid to large investors representing a substantial portion of the MMF's assets, as with one investor representing more than the proportion of daily maturing assets. In this case the MMF should increase its proportion of daily maturing assets to the proportion of that investor. The manager should whenever possible look at the identity of the investors, even if they are represented by nominee accounts, portals or any other indirect buyer.

(40) As part of a prudent risk management, MMFs should periodically conduct stress testing. The managers of MMFs are expected to act in order to strengthen the MMF's robustness whenever the results of stress testing point to vulnerabilities.

(41) In order to reflect the actual value of assets, the use of marking to market should be the preferred method for valuing the assets of MMFs. A manager should not be allowed to use the marking to model valuation method when marking to market provides a reliable value of the asset, as the mark to model method is prone to ~~**provide**~~ **providing** less accurate valuation. Assets such as treasury and local authority bills, medium- or short-term notes are generally the ones that are expected to have a reliable marking to market **value**. For valuing commercial papers or certificates of deposit, the manager should check if accurate pricing is provided by a secondary market. The buy-back price offered by the issuer should also be considered to represent a good estimate of the value of the commercial paper. In all other cases the manager should estimate the value, for example using market data such as yields on comparable issues and comparable issuers.

(42) Constant Net Asset Value MMFs (CNAV MMFs) have the objective of preserving the capital of the investment while ensuring a high degree of liquidity. The majority of CNAV MMFs have a net asset value (NAV) per unit or share set, for example, at 1 €, $ or £ when they distribute the income to the investors. The others accumulate income in the NAV of the fund while maintaining the intrinsic value of the asset at a constant value.

(42a) CNAV MMFs should only be available to investor groups that have a proven track record not to react instantly to a decline in the NAV of a fund [investor group to be determined]. **Besides,** ~~These~~ investors **may** value the stable redemption prices offered by CNAV MMFs in order to fulfil their charitable or public interest missions.

(43) To allow for the specificities of CNAV MMFs it is necessary that CNAV MMFs be permitted to use also the amortised cost accounting method for the purpose of determining the constant net asset value (NAV) per unit or share. This notwithstanding, for the purpose of ensuring at all times the monitoring of the difference between the constant NAV per unit or share and the NAV per unit or share, a CNAV MMF should also calculate the value of its assets on the basis of the marking to market or marking to model methods.

(44) As a MMF should publish a NAV that reflects all movements in the value of its assets, the published NAV should be rounded at maximum to the nearest basis point or its equivalent. As a consequence, when the NAV is published in a specific currency, for example €1, the incremental change in value should be done every €0.0001. In the case of a NAV at €100, the incremental change in value should be done every €0.01. Only if the MMF is a CNAV MMF, the MMF can publish a price that does not follow entirely the movements in the value of its assets. In this case the NAV can be rounded to the nearest cent for a NAV at €1 (every €0.01 move).

(45) (…)

(46) (…)

(47) External support provided to a MMF (…) with the intention of ensuring either liquidity or stability of the MMF or de facto having such effects increases the contagion risk between the MMF sector and the rest of the financial sector. Third parties providing such support have an interest in doing so, either because they have an economic interest in the management company managing the MMF or because they want to avoid any reputational damage should their name be associated with the failure of a MMF. Because these third parties do not commit explicitly to providing or guaranteeing the support, there is uncertainty whether such support will be granted when the MMF needs it. In these circumstances, the discretionary nature of sponsor support contributes to uncertainty among market participants about who will bear losses of the MMF when they do occur. This uncertainty likely makes MMFs even more vulnerable to runs during periods of financial instability, when broader financial risks are most pronounced and when concerns arise about the health of the sponsors and their ability to provide support to affiliated MMFs. For these reasons, MMFs should not rely on external support in order to maintain their liquidity and the stability of their NAV per unit or share unless the competent authority of the MMF has specifically allowed the external support in order to maintain stability of financial markets.

(48) Investors should be clearly informed, before they invest in a MMF, if the MMF is of a short-term nature or of a standard nature and if the MMF is of a CNAV type or not. In order to avoid misplaced expectations from the investor it must also be clearly stated in any marketing document that MMFs are not a guaranteed investment vehicle. **~~CNAV MMFs should clearly explain to investors the buffer mechanism they are applying to maintain the constant NAV per unit or share.~~**

(49) To ensure that competent authorities are able to detect, monitor and respond to risks in the MMF market, MMFs should report to their competent authorities a detailed list of information, in addition to reporting already required under Directives 2009/65/EC or 2011/61/EU. Competent authorities should collect these data in a consistent way throughout the Union in order to obtain a substantive knowledge of the main evolutions of the MMF market. To facilitate a collective analysis of potential impacts of the MMF market in the Union, such data should be transmitted to the European Securities and Markets Authority (ESMA) who should create a central database for MMFs.

(50) The competent authority of the MMF should verify whether a MMF is able to comply with this Regulation on an on-going basis. As the competent authorities are already provided with extensive powers under Directives 2009/65/EC and 2011/61/EU, it is necessary that such powers be extended in order to be exercised by reference to the new common rules on MMFs. The competent authorities for the UCITS or AIF should also verify compliance of all collective investment undertakings that display the characteristics of MMFs that are in existence at the time this Regulation enters into force.

(51) The Commission should adopt the delegated acts in the area of the internal assessment procedure pursuant to Article 290 of the Treaty on the Functioning of the European Union. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level.

(52) The Commission should also be empowered to adopt implementing technical standards by means of implementing acts pursuant to Article 291 of the Treaty on the Functioning of the European Union and in accordance with Article 15 of Regulation (EU) No 1095/2010[6]. ESMA should be entrusted with drafting implementing technical standards for submission to the Commission with regard to a reporting template containing information on MMFs for competent authorities.

(53) ESMA should be able to exercise all the powers conferred under Directives 2009/65/EC and 2011/61/EU with respect to this Regulation. It is also entrusted with developing draft regulatory and implementing technical standards.

(54) It is essential to carry out a review of this Regulation in order to assess the appropriateness of exempting certain CNAV MMFs **from the mandatory conversion to VNAV** ~~**that concentrate their investment portfolios on debt issued by the Member States from the requirement to establish a capital buffer that amounts to at least 3 % of the total value of the CNAV MMF's assets.**~~ Therefore, during the three years after the entry into force of this Regulation, the Commission should analyse the experience acquired in applying this Regulation and the impacts on the different economic aspects attached to the MMFs. ~~**The debt issued or guaranteed by the Member States represents a distinct category of investment displaying specific credit and liquidity traits. In addition, sovereign debt plays a vital role in financing the Member States. The Commission should evaluate the evolution of the market for sovereign debt issued or guaranteed by the Member States and the possibility to create a special framework for MMF that concentrate their investment policy on that type of debt.**~~

6 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).

(55) The new uniform rules on MMFs should comply with the provisions of Directive 95/46/EC[7] and with Regulation (EC) No 45/2001[8].

(56) Since the objectives of this Regulation, namely to ensure uniform prudential requirements that apply to MMFs throughout the Union, while taking full account of the need to balance safety and reliability of MMFs with the efficient operation of the money markets and the cost for its various stakeholders, cannot be sufficiently achieved by the Member States and can therefore, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on the European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

(57) The new uniform rules on MMFs respect the fundamental rights and observe the principles recognised in particular by the Charter of Fundamental Rights of the European Union and notably consumer protection, the freedom to conduct a business and the protection of personal data. The new uniform rules on MMFs should be applied in accordance with those rights and principles,

HAVE ADOPTED THIS REGULATION:

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7 Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).

8 Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and of the free movement of such data (OJ L 8, 12.1.2001, p. 1).

Chapter I
General provisions

Article 1
Subject matter and scope

1. This Regulation lays down rules concerning the financial instruments eligible for investment by a money market fund (MMF), its portfolio and valuation, and the reporting requirements in relation to a MMF established, managed or marketed in the Union.

   This Regulation applies to collective investment undertakings that require authorisation as UCITS under Directive 2009/65/EC or are AIFs under Directive 2011/61/EU, invest in short term assets and have as distinct or cumulative objectives offering returns in line with money market rates or preserving the value of the investment.

2. Member States shall not add any additional requirements in the field covered by this Regulation.

Article 2
Definitions

For the purposes of this Regulation the following definitions apply:

(1) "short term assets" means financial assets with a residual maturity not exceeding two years;

(2) "money market instruments" means money market instruments as defined in Article 2(1)(o) of Directive 2009/65/EC **and Article 3 of Directive 2007/16/CE**;

(3) “transferable securities” means transferable securities as defined in Article 2(1)(n) of Directive 2009/65/EC;

(4) “repurchase agreement” means any agreement in which one party transfers securities or any rights related to that title to a counterparty, subject to a commitment to repurchase them at a specified price on a future date specified or to be specified;

(5) “reverse repurchase agreement” means any agreement in which one party receives securities, or any rights related to a title or security from a counterparty subject to a commitment to sell them back at a specified price on a future date specified or to be specified;

(6) “securities lending” and “securities borrowing” mean any transaction in which an institution or its counterparty transfers securities subject to a commitment that the borrower will return equivalent securities at some future date or when requested to do so by the transferor, that transaction being securities lending for the institution transferring the securities and being securities borrowing for the institution to which they are transferred;

(7) “securitisation” means securitisation as defined in Article 4(1)(61) of Regulation 575/2013 [9] ;

(8) **~~"corporate debt" means debt instruments issued by an undertakings which is effectively engaged in producing or trading in goods or non-financial services;~~**

(9) “marking to market” means the valuation of positions at readily available close out prices that are sourced independently, including exchange prices, screen prices, or quotes from several independent reputable brokers;

[9] Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012, OJ L 176, 27.06.2013, p. 1-337

(10) “marking to model” means any valuation which has to be benchmarked, extrapolated or otherwise calculated from one or more market input;

(11) “amortised cost method” means a valuation method which takes the acquisition cost of an asset and adjusts this value for amortisation of premiums (or discounts) until maturity;

(12) “small professional constant Net Assets Value Money Market Fund” (CNAV MMF) means a money market fund that maintains an unchanging net value asset value (NAV) per unit or share; where income in the fund is accrued daily or can either be paid out to the investo**rs**, where the Net Asset Value per unit or share is rounded to the nearest percentage point or its equivalent in currency term and which are available for subscription only to small professional clients, [investor group to be determined, potentially: *public sector bodies, charities endowments or universities*];

(13) “Short-term MMF” **(or “ST MMF”)** means a money market fund that invests in eligible money market instruments referred to in Article 9(1) **and that complies with the portfolio rules for short-term MMFs as laid down in article 21;**;

(14) “Standard MMF” **(or “STD MMF”)** means a money market fund that invests in eligible money market instruments referred to in Article 9(1) and (2) **and that complies with with the portfolio rules for standard MMFs laid down in article 22**;

(15) “credit institutions” means credit institution as defined in Article 4(1)(1) of Regulation 575/2013;

(16) “competent authority of the MMF” means :

(a) for UCITS the competent authority of the UCITS home Member State designated in accordance with Article 97 of Directive 2009/65/EC

(b) for EU AIF**s** the competent authority of the home Member State of the AIF as defined in Article 4(1)(p) of Directive 2011/61/EU;

(c) for non-EU AIF**s**:

(i) the competent authority of the Member State where the non-EU AIF is marketed in the Union without a passport;

(ii) the competent authority of the EU AIFM managing the non-EU AIF, where the non-EU AIF is marketed in the Union with a passport or is not marketed in the Union;

(iii) the competent authority of the Member State of reference if the non-EU AIF is not managed by an EU AIFM and is marketed in the Union with a passport;

(17) “MMF home Member State” means the Member State where the MMF is authorised;

(18) “weighted average maturity (WAM)” means the average length of time to the legal maturity or, if shorter, to the next interest rate reset to a money market rate, of all the underlying assets in the fund reflecting the relative holdings in each asset;

(19) “weighted average life (WAL)” means the average length of time to the legal maturity of all the underlying assets in the fund reflecting the relative holdings in each asset;

(20) “legal maturity” means the date when the principal of a security is to be repaid in full and which is not subject to any optionality;

(21) “residual maturity” means the length of time **remaining until** ~~to~~ the legal maturity;

(22) “short selling” means the uncovered sale of money market instruments.

Article 3

Authorisation of MMFs

1. No collective investment undertaking shall be established, marketed or managed in the Union as MMF unless it has been authorised **or registered** in accordance with this Regulation.

   Such authorisation shall be valid for all Member States.

2. A collective investment undertaking that requires authorisation as a UCITS under Directive 2009/65/EC shall be authorised as a MMF as part of the authorisation procedure pursuant to Directive 2009/65/EC.

3. A collective investment undertaking that is an AIF shall be authorised as a MMF pursuant to the authorisation procedure laid down in Article 4.

4. No collective investment undertaking shall be authorised as a MMF unless the competent authority of the MMF is satisfied that the MMF will be able to meet all the requirements of this Regulation.

5. For the purposes of authorisation, the MMF shall submit to its competent authority the following documents:

(a) the fund rules or instruments of incorporation;

(b) identification of the manager;

(c) identification of the depositary;

(d) a description of, or any information on**,** the MMF available to investors;

(e) a description of, or any information on, the arrangements and procedures needed to comply with the requirements referred to in Chapters II to VII;

(f) any other information or document requested by the competent authority of the MMF to verify compliance with the requirements of this Regulation.

6. The competent authorities shall, on a quarterly basis, inform ESMA of authorisations granted or withdrawn pursuant to this Regulation.

7. ESMA shall keep a central public register identifying each MMF authorised under this Regulation, its typology **(whether it is a standard MMF, a CNAV short-term MMF or a VNAV short-term MMF)**, its manager and the competent authority of the MMF. The register shall be made available in electronic format.

Article 4

Procedure for authorising AIF MMFs

1. An AIF shall be authorised as a MMF only if its competent authority has approved the application of an AIFM authorised under Directive 2011/61/EU to manage the AIF, the fund rules and the choice of the depositary.

2. When submitting the application for managing the AIF the authorised AIFM shall provide the competent authority of the MMF with:

   (a) the written agreement with the depositary;

   (b) information on delegation arrangements regarding portfolio and risk management and administration with regard to the AIF;

   (c) information about the investment strategies, the risk profile and other characteristics of AIFs that the AIFM is authorised to manage.

   The competent authority of the MMF may ask the competent authority of the AIFM for clarification and information as regards the documentation referred to in the previous subparagraph or an attestation as to whether MMFs fall within the scope of the AIFM's management authorisation. The competent authority of the AIFM shall respond within 10 working days of the request by the MMF competent authority.

3. Any subsequent modifications of the documentation referred to in paragraph 2 shall be immediately notified by the AIFM to the competent authority of the MMF.

4. The competent authority of the MMF may refuse the application of the AIFM only if:

(a) the AIFM does not comply with this Regulation;

(b) the AIFM does not comply with Directive 2011/61/EU;

(c) the AIFM is not authorised by its competent authority to manage MMFs;

(d) the AIFM has not provided the documentation referred to in paragraph 2.

Before refusing an application the competent authority of the MMF shall consult the competent authority of the AIFM.

5. Authorisation of the AIF as a MMF shall not be subject either to a requirement that the AIF be managed by an AIFM authorised in the AIF home Member State or that the AIFM pursue or delegate any activities in the AIF home Member State.

6. The AIFM shall be informed within two months of the submission of a complete application, whether or not authorisation of the AIF as MMF has been granted.

7. The competent authority of the MMF shall not grant authorisation if the AIF is legally prevented from marketing its units or shares in its home Member State.

Article 5

Use of designation as MMF

1. A UCITS or **an** AIF shall use the designation 'money market fund' or 'MMF' in relation to itself or the units or shares it issues only where the UCITS or **the** AIF has been authorised in accordance with this Regulation.

   A UCITS or AIF shall use a designation that suggests a money market fund or use terms such as “cash”, “liquid”, “money”, “ready assets”, “deposit-like” or similar words only where they have been authorised in accordance with this Regulation.

2. The use of the designation 'money market fund', “MMF” or of a designation that suggests a MMF or the use of terms referred to in paragraph 1 shall comprise its use in any external ~~**or internal**~~ documents, reports, statements, advertisements, communications, letters or any other material addressed to or intended for distribution to prospective investors, unit-holders, shareholders or competent authorities in written, oral, electronic or any other form.

Article 6

Applicable rules

1. A MMF shall comply at all times with the provisions of this Regulation.

2. A MMF which is a UCITS and its manager shall comply at all times with the requirements of Directive 2009/65/EC, unless otherwise specified in this Regulation.

3. A MMF which is an AIF and its manager shall comply at all times with the requirements of Directive 2011/61/EU, unless otherwise specified in this Regulation.

4. The manager of the MMF shall be responsible for ensuring compliance with this Regulation. The manager shall be liable for any loss or damage resulting from non-compliance with this Regulation.

5. This Regulation shall not prevent MMFs from applying investment limits that are stricter than those required by this Regulation.

Chapter II
Obligations concerning the investment policies of MMFs

SECTION I
GENERAL RULES AND ELIGIBLE ASSETS

Article 7
General principles

1. Where a MMF comprises more than one investment compartment, each compartment shall be regarded as a separate MMF for the purposes of Chapters II to VII.

2. MMFs authorised as UCITS shall not be subject to the obligations concerning investment policies of UCITS laid down in Articles 49, 50, 50a, 51(2), and 52 to 57 -of Directive 2009/65/EC, unless explicitly specified otherwise in this Regulation.

Article 8
Eligible assets

1. A MMF shall invest only in one or more of the following categories of financial assets and only under the conditions specified in this Regulation:

(a) money market instruments;

(b) deposits with credit institutions;

(c) financial derivative instruments;

(d) <u>repurchase agreements and </u>reverse repurchase agreements;

<u>(e) units or shares of other MMFs.</u>

2. A MMF shall not undertake any of the following activities:

(a) investing in assets other than those referred to in paragraph 1;

(b) short-selling money market instruments;

(c) taking direct or indirect exposure to equity or commodities, including via derivatives, certificates representing them, indices based on them or any other mean or instrument that would give an exposure to them;

(d) entering into securities lending agreements or securities borrowing agreements (…) or any other agreement that would encumber the assets of the MMF;

(e) borrowing and lending cash.

Article 9

Eligible money market instruments

1. A money market instrument shall be eligible for investment by a MMF provided that it fulfils all of the following requirements:

(a) it falls within one of the categories of money market instruments referred to in Article 50(1)(a), (b), (c) or (h) of Directive 2009/65/EC.

(b) it displays one of the following alternative characteristics:

(i) it has a legal maturity at issuance of 397 days or less;

(ii) it has a residual maturity of 397 days or less.

(c) the issuer of the money market instrument has been awarded one of the two highest internal rating grades according to the rules laid down in Articles 16 to 19 of this Regulation.

(d) Where it takes exposure to a securitisation, it shall be subject to the ~~**additional**~~ requirements laid down in Article 10.

2. Standard MMFs shall be allowed to invest in money market instruments ~~**that undergoes regular yield adjustments in line with money market conditions every 397 days or on a more frequent basis while not having a residual maturity exceeding 2 years**~~ <u>**with a residual maturity until the legal redemption date of less than or equal to 2 years, provided that the time remaining until the next interest rate reset date is less than or equal to 397 days. Floating rate money market instruments should reset to a money market rate or index**</u>**.**

3. Paragraph 1(c) shall not apply to money market instruments issued or guaranteed by a central authority or central bank of a Member State, the European Central Bank, the Union, the European stability mechanism or the European Investment Bank.

Article 10

Eligible securitisations

1. A securitisation shall be considered as eligible provided that all of the following conditions are met:

   (a) <u>it is identified as a simple, transparent and standardised securitisation</u>;

   (b) (…)

   (c) <u>the securitisation position displays one of the following alternative characteristics:</u>

      <u>(i) has a legal maturity at issuance of 397 days or less; or</u>

      <u>(ii) has a residual maturity of 397 days or less.</u>

<u>1a. Asset backed commercial papers shall be considered as eligible provided that their respective instruments are liquid and that the underlying debt is of high credit quality.</u>

2. <u>The Commission shall, by [6 months following publication of this Regulation] adopt delegated acts specifying the criteria for identifying simple, transparent and standardised securitisation with regard to each of the following aspects:</u>

   (a) <u>the structural features, such as the embedded maturity transformation and simplicity of the structure;</u>

   (b) <u>the quality of the underlying assets and related collateral characteristics;</u>

   (c) <u>the transparency **~~features~~ requirements** of the securitisation and its underlying assets;</u>

   (d) <u>the robustness and quality of the underwriting processes.</u>

In doing so, the Commission shall ensure consistency with the delegated acts adopted under article 460 of Regulation **(EU) No** 575/2013 and Article xx of Directive 2009/138/EC of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II), and shall take into account the specific characteristics of securitisations with maturities at issuance of less than 397 days.

In addition, the Commission shall, by [6 months following publication of this Regulation] adopt delegated acts specifying the criteria for identifying debt of high credit quality and liquid asset backed commercial papers with regard to paragraph 2.

Article 11

Eligible deposits with credit institutions

A deposit with a credit institution shall be eligible for investment by a MMF provided that all of the following conditions are fulfilled:

(a) the deposit is repayable on demand or may be withdrawn at any time;

(b) the deposit matures in no more than 12 months;

(c) the credit institution has its registered office in a Member State or, where the credit institution has its registered office in a third country it is subject to prudential rules considered **by the competent authorities of the MMF home Member State as equivalent to those laid down in Union law**~~**equivalent to those laid down in Union law in accordance with the procedure laid down in Article 107(4) of Regulation (EU) No 575/2013**~~.

Article 12

Eligible financial derivative instruments

A financial derivative instrument shall be eligible for investment by a MMF if it is dealt in on a regulated market referred to in Article 50(1)(a), (b) or (c) of Directive 2009/65/EC or over-the-counter (OTC) , provided that all of the following conditions are fulfilled:

(a) the underlying of the derivative instrument consists of interest rates, foreign exchange rates, currencies or indices representing one of these categories;

(b) the derivative instrument serves only the purpose of hedging the duration or exchange risks inherent to other investments of the MMF;

(c) the counterparties to OTC derivative transactions are institutions subject to prudential regulation and supervision and belonging to the categories approved by the competent authorities of the MMF's home Member State;

(d) the OTC derivatives are subject to reliable and verifiable valuation on a daily basis and can be sold, liquidated or closed by an offsetting transaction at any time at their fair value at the MMF's initiative.

Article 12a

Eligible repurchase agreements

1. A repurchase agreement shall be eligible to be entered into by a MMF provided that all the following conditions are fulfilled:

(a) it is used exclusively for liquidity management purposes **and on a temporary basis**;

(aa) **assets used by the MMF as collateral under the repurchase agreement shall not be sold, re-invested or pledged;**

(ab) the counterparty receiving assets transferred by the MMF under the repurchase agreement is prohibited from selling, investing, pledging or otherwise transferring those assets;

(b) the cash received by the MMF under the repurchase agreement ~~**may**~~**shall** not be invested in eligible assets **[in order to avoid leverage]**;

(c) the MMF has the right to terminate the agreement at any time upon a notice of maximum two working days.

Article 13

Eligible reverse repurchase agreements

1. A reverse repurchase agreement shall be eligible to be entered into by a MMF provided that all of the following conditions are fulfilled:

   (a) the MMF has the right to terminate the agreement at any time upon a notice of maximum two working days;

   (b) the market value of the assets received as part of the reverse repurchase agreement is at all times at least equal to the value of the cash given out.

2. The assets received by the MMF as part of a reverse repurchase agreement shall be money market instruments compliant with Article 9.

3. Securitisations as defined in Article 10 shall not be received by the MMF as part of a reverse repurchase agreement. The assets received by the MMF as part of a reverse repurchase agreement shall not be sold, reinvested, pledged or otherwise transferred.

4. The assets received by the MMF as part of a reverse repurchase agreement shall be included for the purpose of calculating the limits on diversification and concentration laid down in this Regulation.

4a. An MMF that enters into a reverse repurchase agreement should ensure that it is able at any time to recall the full amount of cash on either an accrued basis or a mark-to-market basis. When the cash is recallable at any time on a mark-to-market basis, the mark-to-market value of the reverse repurchase agreement should be used for the calculation of the net asset value of the MMF.

5. By way of derogation from paragraph 2, a MMF may receive as part of a reverse repurchase agreement liquid transferable securities or money market instruments other than those compliant with Article 9 provided that those assets comply with one of the following conditions:

(a) they are of high credit quality and they are issued or guaranteed by a central authority or central bank of a Member State, the European Central Bank, the Union, the European stability mechanism, the European Investment Bank;

(b) they are issued or guaranteed by a central authority or central bank of a third country, provided that the third country issuer of the asset is awarded one of the two highest internal rating grades according to the rules laid down in Articles 16 to 19.

The assets received as part of a reverse repurchase agreement according to the first subparagraph shall be disclosed to the MMF investors.

The assets received as part of a reverse repurchase agreement according to the first subparagraph shall be subject to the rules laid down in Article 14 paragraph 6.

6. The Commission shall be empowered to adopt delegated acts in accordance with Article 44 specifying quantitative and qualitative liquidity requirements applicable to assets referred to in paragraph 5 and quantitative and qualitative credit quality requirements applicable to assets referred to in paragraph 5(a).

For this purpose the Commission shall take into account the report referred to in Article [509(3)] of Regulation (EU) No 575/2013.

The Commission shall adopt the delegated act referred to in the first subparagraph no later than […].

Article 13a

Eligible units or shares of MMFs

1. A MMF may acquire the units of other MMFs provided that no more than ~~[~~10 %~~]~~ of the assets of the MMF whose acquisition is contemplated, can, according to their fund rules or instruments of incorporation, be invested in aggregate in units of other MMFs.

2. A MMF may acquire the units of other MMFs, provided that no more than [~~10~~ **5** %] of its assets are invested in units of a single MMF. ~~[~~Member States may raise that limit to a maximum of ~~20~~ **10** %.

2a. A MMF may invest in aggregate no more than 20% of its assets in units or shares of other MMFs.

~~1a~~**3**. Units or shares of MMFs shall be eligible for investment by a MMF provided that all of the following conditions are fulfilled:

~~**(a) the targeted MMF is authorised under this Regulation**~~;

~~4.~~ (~~b~~**a**) where the targeted MMF is managed, directly or under delegation, by the same manager or by any other company with which the manager of the acquiring MMF is linked by common management or control, or by a substantial direct or indirect holding, the manager of the MMF or that other company is prohibited from charging subscription or redemption fees on account of the MMFs' investment in the units of the targeted MMF;

~~5.~~ (**~~e~~b**) where the rules or instruments of incorporation of an MMF allow investments **~~of more than [5%] of its assets~~** in units or shares of other MMFs, the prospectus of that MMF shall disclose the maximum level of the management fees that may be charged both to the MMF itself and to the other targeted MMFs. The annual report shall indicate the maximum proportion of management fees charged both to the MMF itself and to the other MMFs in which it invests.

6. **The provisions of paragraphs 1 to 5 do not apply to feeder MMFs.**

7. Short-term MMFs may only invest in units or shares of short-term MMFs;

7a. Standard MMFs may invest in units or shares of ~~both Short~~short-term MMFs and ~~Standard~~ standard MMFs.

8. (…)

SECTION II

PROVISIONS ON INVESTMENT POLICIES

Article 14

Diversification

1. (a) Short-term MMFs shall invest no more than 5% of its assets in money market instruments issued by **the same**~~a single~~ body.

   (b) Standard MMFs may invest up to 10% of its assets in money market instruments issued by **the same** ~~a single~~ body.

   Short-term MMFs and standard MMFs shall invest no more than ~~[~~10%~~]~~ of their assets in deposits made with the same credit institution.

~~**1a. Member States may raise the 5 % limit laid down in the first paragraph to a maximum of 10 %. If they do so, however, the total value of money market instruments and deposits made with that body shall not exceed 15% of the value of its assets.**~~

2. The aggregate of all exposures to securitisations shall not exceed ~~**10**~~**15**% of the assets of a MMF.

2a. The aggregate value of assets transferred by the MMF under repurchase agreements shall not exceed [10]% of the MMF's assets.

3. The aggregate risk exposure to the same counterparty of the MMF stemming from OTC derivative transactions shall not exceed 5% of its assets.

4. The aggregate amount of cash provided to the same counterparty of a MMF in reverse repurchase agreements shall not exceed 20% of its assets.

~~4a. By way of derogation from paragraph 1(a), a competent authority may raise the 5% limit for short-term MMFs to a maximum of [10%], provided that the total value of the money market instruments held by the short-term MMF in the issuing bodies in which it invests more than 5% of its assets shall not exceed [XX] % of the value of its assets.~~

~~**(a) A MMF may invest no more than [5-10%] of its assets in units or shares of a single MMF.**~~

~~**(b) A MMF may invest in aggregate no more than [20%] of its assets in units or shares of other MMFs.**~~

5. Notwithstanding the individual limits laid down in paragraphs 1 and 3, a MMF shall not combine, where this would lead to investment of more than [~~xx~~**15**]% of its assets in a single body, any of the following:

(a) investments in money market instruments issued by that body;

(b) deposits made with that body;

(c) OTC financial derivative instruments giving counterparty risk exposure to that body.

~~**5a. All portfolio assets that an MMF invests in according to paragraphs 4a 1b and 5 shall be disclosed to MMF investors.**~~

6. By way of derogation from paragraph 1(a) **and 1(b)**, a competent authority may authorise a MMF to invest in accordance with the principle of risk-spreading up to 100% of its assets in different money market instruments issued or guaranteed by a central, regional or local authority or central bank of a Member State, the European Central Bank, the Union, the European stability mechanism or the European Investment Bank, a central authority or central bank of a third country, or by a public international body to which one or more Member States belong.

The first subparagraph shall only apply where all of the following requirements are met:

(a) the MMF holds money market instruments from at least six different issues by the respective issuer;

(b) the MMF limits the investment in money market instruments from the same issue to maximum 30% of its assets;

(c) the MMF makes express mention in the fund rules or instruments of incorporation of the central, regional or local authority or central bank of a Member State, the European Central Bank, the Union, the European stability mechanism or the European Investment Bank, a central authority or central bank of a third country, or the public international body to which one or more Member States belong issuing or guaranteeing money market instruments in which it intends to invest more than 5% of its assets;

(d) the MMF includes a prominent statement in its prospectus and marketing communications drawing attention to the use of this derogation and indicating the central, regional or local authority or central bank of a Member State, the European Central Bank, the Union, the European stability mechanism, the European Investment Bank, a central authority or central bank of a third country, or the public international body to which one or more Member States belong issuing or guaranteeing money market instruments in which it intends to invest more than 5% of its assets.

6a. Notwithstanding the individual limits laid down in paragraph 1 ~~**and 5**~~, a MMF may invest no more than [~~**xx**~~**10**] % of its assets in bonds that are issued by a credit institution which has its registered office in a Member State and is subject by law to special public supervision designed to protect bond-holders. In particular, sums deriving from the issue of those bonds shall be invested in accordance with the law in assets which, during the whole period of validity of the bonds, are capable of covering claims attaching to the bonds and which, in the event of failure of the issuer, would be used on a priority basis for the reimbursement of the principal and payment of the accrued interest.
~~**Where a MMF invests more than 5 % of its assets in the bonds referred to in the first subparagraph which are issued by a single issuer, the total value of these investments shall not exceed xx % of the value of the assets of the MMF.**~~

7. Companies which are included in the same group for the purposes of consolidated accounts, as regulated by Council Directive 83/349/EEC[10] or in accordance with recognised international accounting rules, shall be regarded as a single body for the purpose of calculating the limits referred to in paragraphs 1 to 5.

Article 15

Concentration

1. A MMF may not hold more than 10% of the money market instruments issued by a single body.

2. The limit laid down in paragraph 1 shall not apply in respect of holdings of money market instruments issued or guaranteed by a central, regional or local authority or central bank of a Member State, the European Central Bank, the Union, the European stability mechanism or the European Investment Bank, a central authority or central bank of a third country, or the public international body to which one or more Member States belongs.

10 Seventh Council Directive 83/349/EEC of 13 June 1983 based on the Article 54 (3) (g) of the Treaty on consolidated accounts; OJ L 193, 18.7.1983, p. 1–17

SECTION III
CREDIT QUALITY OF MONEY MARKET INSTRUMENTS

Article 16

Internal assessment procedure

1. A manager of a MMF shall establish, implement and consistently apply a prudent and rigorous internal assessment procedure for determining the credit quality of money market instruments, taking into account the issuer of the instrument and the characteristics of the instrument itself.

2. The internal assessment procedure shall be based on an internal rating system and on prudent, rigorous, systematic and continuous assignment methodologies. The assignment methodologies shall be subject to validation by the manager based on historical experience and empirical evidence, including back testing.

3. The internal assessment procedure shall comply with the following requirements:

(a) a manager of a MMF shall ensure that the information used when assigning an internal credit rating is of sufficient quality, up-to-date and from reliable sources. That manager shall implement and maintain an effective process to obtain and update relevant information on issuer characteristics;

(b) a manager of a MMF shall adopt and implement adequate measures to ensure that the assignment of its internal ratings is based on a thorough analysis of all the information that is available and pertinent, and includes all relevant driving factors that influence the creditworthiness of the issuer;

(c) a manager of a MMF shall monitor its assignments of internal ratings on an ongoing basis and review all assignments of internal rating at least annually. That manager shall review the assignment every time there is a material change that could have an impact on an internal credit rating. The manager shall establish internal arrangements to monitor the impact on its internal credit ratings of changes in macroeconomic, financial market or issuer specific conditions;

(d) where a credit rating agency registered with the European Securities and Market Authority (ESMA) assigns a credit rating to an issuer of money market instruments, the downgrade below the two highest short term credit ratings used by that agency shall be considered to be material change for the purposes of point (c) and require the manager to undertake a new assignment procedure;

(e) assignment methodologies shall be reviewed at least annually to determine whether they remain appropriate for the current portfolio and external conditions;

(f) when methodologies, models or key rating assumptions used in the internal assessment procedures are changed, the manager of a MMF shall review all affected internal credit ratings as soon as possible and no later than one month after the change;

(g) assignments of internal ratings and their periodic reviews by the manager of a MMF shall not be performed by persons performing or responsible for the portfolio management of the MMF.

Article 17

Internal rating system

1. Each issuer of a money market instrument in which a MMF intends to invest shall be assigned an internal rating pursuant to the internal assessment procedure.

2. The structure of the internal rating system shall comply with all of the following requirements:

   (a) the internal rating system shall be based on a single rating scale which exclusively reflects quantification of the credit risk of the issuer. The rating scale shall have six grades for non-defaulted issuers and one for defaulted issuers;

   (b) there shall be a clear relationship between issuer grades reflecting the credit risk of an issuer and the rating criteria used to distinguish that level of credit risk;

   (c) the internal rating system shall take into account the short-term nature of money market instruments.

3. The rating criteria referred to in paragraph 2(b) shall fulfil all of the following requirements:

   (a) comprise at least quantitative and qualitative indicators on the issuer of the instrument, and the macro-economic and financial market situation;

   (b) refer to the common numerical and qualitative reference values used to assess the quantitative and qualitative indicators;

(c) be adequate for the particular type of issuer. At least the following types of issuers shall be distinguished: sovereign, regional or local public authority, financial corporations, and non-financial corporations.

(d) In case of exposure to securitisations, take into account the credit risk of the issuer, the structure of the securitisation and the credit risk of the underlying assets.

Article 18

Documentation

1. A manager of a MMF shall document its internal assessment procedure and the internal rating system. Documentation shall include:

(a) the design and operational details of its internal assessment procedures and internal rating systems in a manner that allows competent authorities **<u>of the manager of the MMF</u>** to understand the assignment to specific grades and to evaluate the appropriateness of an assignment to a grade;

(b) the rationale for and the analysis supporting the manager's choice of the rating criteria and of its frequency of review. This analysis shall include the parameters, the model and the limits of the model used to choose the rating criteria;

(c) all major changes in the internal assessment procedure, including identification of the triggers of changes;

(d) the organisation of the internal assessment procedure, including the rating assignment process and the internal control structure;

(e) complete internal rating histories on issuers and recognised guarantors;

(f) the dates of assignment of internal ratings;

(g) the key data and methodology used to derive the internal rating, including key rating assumptions;

(h) the person or persons responsible for the internal rating assignment.

2. The internal assessment procedure shall be detailed in the fund rules or rules of incorporation of the MMF and all documents referred to in paragraph 1 shall be made available upon request by the competent authorities of the MMF and the competent authorities of the manager of the MMF.

Article 19

Delegated acts

The Commission shall be empowered to adopt delegated acts in accordance with Article 44 specifying the following points:

(a) the conditions under which the assignment methodologies are deemed to be prudent, rigorous, systematic and continuous and the conditions of the validation, referred to in Article 16(2);

(b) the definitions of each grade with respect to the quantification of the credit risk of an issuer referred to in Article 17(2)(a), and the criteria to determine the quantification of the credit risk referred to in Article 17(2)(b);

(c) the precise reference values for each qualitative indicator and the numerical reference values for each quantitative indicator. These reference values of the indicators shall be specified for each rating grade taking into account the criteria in Article 17(3);

(d) the meaning of material change as referred to in Article 16(3)(c~~).~~**);**

(e) the application of principle of proportionality in the establishment of an internal rating system, with respect to the size, the nature, the scope and the complexity of MMF´s activities.

Article 20

Governance of the credit quality assessment

1. The internal assessment procedures shall be approved by the senior management, the governing body, and, where it exists, the supervisory function of the manager of the MMF.

These parties shall have a good understanding of the internal assessment procedures, the internal rating systems and the assignment methodologies of the manager and detailed comprehension of the associated reports.

2. **A manager of a MMF should report periodically to the parties referred to in paragraph 1 on the MMF's credit risk profile.**

Internal ratings-based analysis of the MMF's credit risk profile shall be an essential part of the reporting to the parties referred to in paragraph 1. Reporting shall include at least the risk profile by grade, migration across grades, estimation of the relevant parameters per grade, and comparison of realised default rates. Reporting frequencies shall depend on the significance and type of information and shall be at least annual.

3. Senior management shall ensure, on an on-going basis that the internal assessment procedure is operating properly.

Senior management shall be regularly informed about the performance of the internal assessment process, the areas where deficiencies were identified, and the status of efforts and actions taken to improve previously identified deficiencies.

Chapter III
Obligations concerning the risk management of MMFs

Article 21

Portfolio rules for short-term MMFs

A short-term MMF shall comply at all times with all of the following portfolio requirements:

(a) its portfolio shall have a weighted average maturity (WAM) of no more than 60 days;

(b) its portfolio shall have a weighted average life (WAL) of no more than 120 days**.**

When calculating the WAL for securities, including structured financial instruments, the MMF must base the maturity calculation on the residual maturity until the legal redemption of the instruments. However, when a financial instrument embeds a put option, the exercise date of the put option may be used instead of the legal residual maturity only if the following conditions are fulfilled at all times:

(i) the put option can be freely exercised by the MMF at its exercise date;

(ii) the strike price of the put option remains close to the expected value of the instrument at the next exercise date; and

(iii) the investment strategy of the MMF implies that there is a high probability that the option will be exercised at the next exercise date;

(c) at least 10% of its assets shall be comprised of daily maturing assets. A short-term MMF shall not acquire any asset other than a daily maturing asset when such acquisition would result in the short-term MMF investing less than 10% of its portfolio in daily maturing assets;

(d) at least 20% of its assets shall be comprised of weekly maturing assets. A short-term MMF shall not acquire any asset other than a weekly maturing asset when such acquisition would result in the short-term MMF investing less than 20% of its portfolio in weekly maturing assets.

Whenever a redemption of units or shares prompts a short-term MMF to sell daily or weekly maturing assets and to hold as a result less than the above ratios of daily and weekly maturing assets, the short-term MMF shall take action to remedy the breach taking due account of the interests of its unit-holders.

Article 22

Portfolio rules for standard MMFs

1. A standard MMF shall comply at all times with all of the following requirements:

(a) its portfolio shall have at all times a WAM of no more than 6 months;

(b) its portfolio shall have at all times a WAL of no more than 12 month;

(c) at least 10% of its assets shall be comprised of daily maturing assets. A standard MMF shall not acquire any asset other than a daily maturing asset when such acquisition would result in the standard MMF investing less than 10% of its portfolio in daily maturing assets;

(d) at least 20% of its assets shall be comprised of weekly maturing assets. A standard MMF shall not acquire any asset other than a weekly maturing asset when such acquisition would result in the standard MMF investing less than 20% of its portfolio in weekly maturing assets.

<u>Whenever a redemption of units or shares prompts a standard MMF to sell daily or weekly maturing assets and to hold as a result less than the above ratios of daily and weekly maturing assets, the standard MMF shall take action to remedy the breach taking due account of the interests of its unit-holders.</u>

2. (…)

3. (…)

4. (…)

5. A standard MMF shall not take the form of a CNAV MMF.

[Article 23

MMF credit ratings

The MMF or the manager of the MMF shall not solicit or finance a credit rating agency for rating the MMF].

Article 24

'Know your customer' policy

1. The manager of the MMF shall establish, implement and apply procedures and exercise all due diligence to identify the number of investors in a MMF, their needs and behaviour, the amount of their holdings with a view to correctly anticipate the effect of concurrent redemptions by several investors, <u>taking at least into account the type of investors, the number of shares in the fund owned by a single investor and the ~~**cyclical**~~ evolution of inflows and outflows.</u>

1a. If the value of the units or shares held by a single investor exceeds 10% of the net asset value of the fund, the manager of the MMF shall consider additionally~~. **To this effect the manager of the MMF shall consider at least**~~ the following factors:

(a) identifiable patterns in investor cash needs;

(b) the sophistication of the different investors;

(c) the risk aversion of the different investors;

(d) the degree of correlation or close links between different investors in the MMF.

2. The manager of the MMF shall ensure that:

(a) the value of the units or shares held by a single investor **, where it accounts for a substantial part of the total net asset value of the MMF, does not materially impact the liquidity profile of the MMF** ~~**does not exceed at any time the value of daily maturing assets;**~~ **in the event of large redemptions.**

~~**(b) redemption by an investor does not materially impact the liquidity profile of the MMF.**~~

Article 25

Stress testing

1. For each MMF there shall be in place sound stress testing processes that allow identifying possible events or future changes in economic conditions that could have unfavourable effects on the MMF **and that test the possible impact that these events or changes might have on the MMF**. The manager of a MMF shall regularly conduct stress testing and develop action plans for different possible scenarios.

The stress tests shall be based on objective criteria and consider the effects of severe plausible scenarios. The stress test scenarios shall at least take into consideration reference parameters , including the following factors:

(a) hypothetical changes in the level of liquidity of the assets held in the portfolio of the MMF;

(b) hypothetical changes in the level of credit risk of the assets held in the portfolio of the MMF, including credit events and rating events;

(c) hypothetical movements of the interest rates **and exchange rates**;

(d) hypothetical levels of redemption.

2. In addition, in the case of CNAV MMFs, the stress tests shall estimate for different scenarios the difference between the constant NAV per unit or share and the NAV per unit or share (…).

3. Where the stress test reveals any vulnerability of the MMF, the manager of the MMF shall take action to strengthen the robustness of the MMF, including actions that reinforce the liquidity or the quality of the assets of the MMF.

4. Stress tests shall be conducted at a frequency determined by ~~**the board of directors of**~~ the manager of the MMF, after considering what an appropriate and reasonable interval in light of the market conditions is and after considering any envisaged changes in the portfolio of the MMF. Such frequency shall be at least yearly.

5. An extensive report with the results of the stress testing shall be submitted for examination to the ~~**board of directors of the**~~ MMF's manager. The **MMF's manager** ~~**board of directors**~~ shall amend the proposed action plan if necessary and approve the final action plan.

The report outlining the results of the stress testing and the action plan shall be drawn in written format and shall be maintained for a period of at least five years.

6. The report with the results of the stress testing shall be submitted to the competent authorities of the manager and of the MMF. The competent authorities shall send the report to ESMA.

7. ESMA shall issue guidelines with a view to establishing common reference parameters of the stress test scenarios to be included in the stress tests taking into account the factors specified in paragraph 1. The guidelines shall be updated at least every year taking into account the latest market developments.

Chapter IV
Valuation rules

Article 26
Valuation of MMFs assets

1. The assets of a MMF shall be valued at least on a daily basis.

2. The assets of a MMF shall be valued by using marking to market whenever possible.

3. When marking to market the assets shall be valued at the more prudent side of bid and offer unless the institution can close out at mid-market.

   When marking to market only quality market data shall be used. The quality of the market data shall be assessed on the basis of all of the following factors:

   (a) the number and quality of the counterparties;

   (b) the volume and turnover in the market of that asset;

   (c) the issue size and the portion of the issue that the MMF plans to buy or sell.

4. Where marking to market is not possible or market data are not of sufficient quality, an asset of a MMF shall be valued conservatively by using marking to model.

The model shall accurately estimate the intrinsic value of the asset, based on the following up to date key factors:

(a) the volume and turnover in the market of that asset;

(b) the issue size and the portion of the issue that the MMF plans to buy or sell;

(c) market risk, interest rate risk, credit risk attached to the asset.

When marking to model, no valuation models based on amortised cost shall be used.

5. In addition to the marking to market method referred to in paragraphs 2 and 3 and marking to model method referred to in paragraph 4, the assets of a CNAV MMF may also be valued by using the amortised cost method.

Article 27

Calculation of NAV per unit or share

1. The 'Net Asset Value (NAV) per unit or share' shall be calculated as the difference between the sum of all assets of a MMF and the sum of all liabilities of the MMF-valued in accordance with the mark to market and mark to model methods, divided by the number of outstanding units or shares of the MMF.

   The NAV per unit or share shall be calculated for each MMF, irrespective of whether it is a CNAV MMF or not.

2. The NAV per unit or share shall be rounded to the nearest basis point or its equivalent when the NAV is published in a currency unit.

3. The NAV per unit or share of a MMF shall be calculated at least daily.

4. The constant NAV per unit or share' shall be calculated as the difference between the sum of all assets of a CNAV MMF and the sum of all liabilities of a CNAV MMF valued in accordance with the amortised cost method, divided by the number of outstanding units or shares of the CNAV MMF.

5. The constant per unit or share of a CNAV MMF may be rounded to the nearest percentage point or its equivalent when the NAV is published in a currency unit.

5a. The constant NAV per unit or share of a CNAV MMF shall be calculated at least daily.

6. The difference between the constant NAV per unit or share and NAV per unit or share of a CNAV MMF shall be continuously monitored.

Article 28

Issue and redemption price

1. The units or shares of a MMF shall be issued or redeemed at a price that is equal to the MMF's NAV per unit or share.

2. By way of derogation from paragraph 1, the units or shares of a CNAV MMF shall be issued or redeemed at a price that is equal to the MMF's constant NAV per unit or share.

Chapter V

Specific requirements for ~~**retail and**~~ small professional CNAV MMFs

Article 29

*Specific requirements for ~~**retail and**~~ small professional CNAV MMFs*

-1. By way of derogation from Article 21 letter (d), the weekly maturing assets in the portfolio of a ~~**retail and**~~ small professional CNAV MMF shall constitute at least 30% of the assets of that CNAV MMF.

1. The manager of a ~~**retail and**~~ small professional CNAV MMF ~~**("CNAV MMF")**~~ shall establish, implement and consistently apply ~~a~~ prudent and rigorous liquidity management procedures for controlling the weekly liquidity thresholds applicable to such funds. The liquidity management procedures should be clearly described in the fund rules or instruments of incorporation, as well as in the prospectus and any marketing materials. The liquidity management procedures shall provide for the actions described under paragraphs 3-5.~~:~~

2. Whenever the proportion of weekly maturing assets falls below the 30% referred to in paragraph 1, the manager of the CNAV MMF shall immediately inform the Board of the MMF and the Board shall undertake a documented and well-reasoned assessment of the situation. On the basis of such assessment and acting exclusively in the best interest of the investors in the CNAV MMF, the Board shall decide whether to apply one or several of the following measures:

   (a) liquidity fees of up to 2% on redemptions;

   (b) redemption gates which limit the amount of shares or units to be redeemed on any one dealing day to maximum 10% of the shares or units in the CNAV MMF for any period up to 15 dealing days;

(c) suspension of redemptions for any period up to 15 days; or

(d) take no immediate action other than fulfilling the obligation laid down in Article 21(d) second sentence.

3. (…)

4. Whenever the proportion of weekly maturing assets falls below 10~~20~~%, ~~**[e.g., cash, highly liquid government securities and securities that convert to cash maturing within one week]**~~ of its total assets the

~~**5.**~~ ~~**the**~~ manager of the CNAV MMF shall immediately inform the Board of the MMF and the Board shall undertake a documented and well-reasoned assessment of the situation. On the~~at~~ basis of such assessment and acting exclusively in the best interest of the investors in the CNAV MMF, the Board shall impose:

(a) liquidity fees of at least 1% and not exceeding 2% on redemptions; or

(b) suspension of redemptions for any period up to 15 days.

~~**6**~~**4a**. When, within a period of 90 days, aggregated suspensions exceed 15 days, the CNAV MMF shall automatically cease to be a CNAV MMF and be prohibited from using the amortized cost or rounding method.

~~7~~5. The CNAV MMF shall inform immediately each investor thereof in writing and in a clear and comprehensible way.

~~7a~~6. The manager of the CNAV MMF shall immediately inform the competent authority, as soon as any of the situations described in paragraphs 3, 4 and 5 occurs.

(…)

Article 30

(…)

Article 31

(…)

Article 32

(…)

Article 33

(…)

Article 34

(…)

Chapter VI

External support

Article 35

External support

1. (…)

2. MMFs (…) shall not be allowed to receive external support, except under the conditions laid down in Article 36.

3. External support shall mean a direct or indirect support offered by a third party 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.

External support shall include:

(a) cash injections from a third party;

(b) purchase by a third party of assets of the MMF at an inflated price;

(c) purchase by a third party of units or shares of the MMF ~~**in order to provide liquidity to the fund**~~;

(d) issuance by a third party of any kind of explicit or implicit guarantee, warranty or letter of support for the benefit of the MMF;

(e) 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.

~~**[3a. A procedure should be developed that obliges the manager to report to the competent authorities transactions + allow clearance]**~~

Article 36

Exceptional circumstances

1. In exceptional circumstances justified by systemic implications or adverse market conditions the competent authority may allow a MMF (…) to receive external support referred to in Article 35 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 provided that all of the following conditions are fulfilled:

   (a) the MMF duly justifies the necessity of external support and demonstrates through conclusive evidence the urgent need for external support;

   (b) the external support is limited in terms of the amount provided and the period of time when it is made available;

   (c) the competent authority is satisfied that the provider of the external support is financially sound and has sufficient financial resources to withstand without any adverse effects possible losses resulting from the external support granted.

2. For the purposes of paragraph 1(c), in case the provider of the external support is an entity subject to prudential supervision the agreement of the supervisory authority of that entity shall be sought in view of ensuring that the support to be granted by the entity is subject to adequate own funds provided by that entity and is in line with the risk management system of that entity.

3. Where the conditions referred to in paragraph 1 for receiving external support are fulfilled the MMF shall immediately inform each investor thereof in writing and in a clear and comprehensible way.

4. The Commission shall, by [6 months following publication of this Regulation] adopt delegated acts specifying the criteria for identifying exceptional circumstances and defining the procedure to be followed by competent authorities when MMF is willing to receive external support.

Chapter VII

Transparency requirements

Article 37

Transparency

1. A MMF shall indicate clearly whether it is a short-term or a standard MMF in any external or internal document, report, statement, advertisement, letter or any other written evidence issued by it or its manager, addressed to or intended for distribution to prospective investors, unit-holders, shareholders or competent authorities of the MMF or its manager.

   A CNAV MMF shall indicate clearly that it is a CNAV MMF in any external or internal document, report, statement, advertisement, letter or any other written evidence issued by it or its manager, addressed to or intended for distribution to prospective investors, unit-holders, shareholders or competent authorities of the MMF or its manager.

2. Any document of the MMF used for marketing purposes shall clearly include all of the following statements:

   (a) that the MMF is not a guaranteed investment;

   (b) that the MMF does not rely on external support for guaranteeing the liquidity of the MMF or stabilising the NAV per unit or share;

   (c) that the risk of loss of the principal has to be borne by the investor.

3. Any communication by the MMF or its manager to the investors or potential investors shall in no way suggest that an investment in the units or shares of the MMF is guaranteed.

4. Investors in a MMF shall be clearly informed of the method or methods used by the MMF to value the assets of the MMF and calculate the NAV.

5. In addition to the information to be provided in accordance with paragraphs 1 to 4, a CNAV MMF shall explain clearly to investors and potential investors the use of the amortised cost method and/or of rounding. (…)

Article 38

Reporting to competent authorities

1. For each MMF managed, the manager of the MMF shall report information to the competent authority of the MMF, at least on a quarterly basis. The manager shall upon request provide the information also to the competent authority of the manager if different from the competent authority of the MMF.

2. The information reported pursuant to paragraph 1 shall comprise the following points:

(a) the type and characteristics of the MMF;

(b) portfolio indicators such as the total value of assets, NAV, WAM, WAL, maturity breakdown, liquidity and yield;

~~(c) the size and the evolution of the NAV buffer;~~

(d) the results of stress tests;

(e) information on the assets held in the portfolio of the MMF:

(i) the characteristics of each asset, such as name, country, issuer category, risk or maturity, and internal ratings assigned;

(ii) the type of asset, including details of the counterpart in case of derivatives or reverse repurchase agreements;

(f) information on the liabilities of the MMF that includes the following points:

(i) the country where the investor is established;

(ii) the investor category;

(iii) subscription and redemption activity.

If necessary and duly justified, competent authorities may solicit additional information.

3. ESMA shall develop draft implementing technical standards to establish a reporting template that shall contain all the information listed in paragraph 2.

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1095/2010.

4. Competent authorities shall transmit to ESMA all information received pursuant to this Article, and any other notification or information exchanged with the MMF or its manager by virtue of this Regulation. Such information shall be transmitted to ESMA no later than 30 days after the end of the reporting quarter.

ESMA shall collect the information to create a central database of all MMFs established, managed or marketed in the Union. The European Central Bank shall have right to access this database for statistical purposes only.

Chapter VIII
Supervision

Article 39

Supervision by the competent authorities

1. The competent authorities shall supervise compliance with this Regulation on an on-going basis.

2. The competent authority of the MMF shall be responsible for supervising compliance with the rules laid down in Chapters II to VII.

3. The competent authority of the MMF shall be responsible for supervising compliance with the obligations set out in the fund rules or in the instruments of incorporation, and the obligations set out in the prospectus, which shall be consistent with this Regulation.

4. The competent authority of the manager shall be responsible for supervising the adequacy of the arrangements and organisation of the manager so that the manager of the MMF is in a position to comply with the obligations and rules which relate to the constitution and functioning of all the MMFs it manages.

5. Competent authorities shall monitor UCITS or AIFs established or marketed in their territories to verify that they do not use the MMF designation or suggest that they are a MMF unless they comply with this Regulation.

Article 40

Powers of competent authorities

1. Competent authorities shall have all supervisory and investigatory powers that are necessary for the exercise of their functions pursuant to this Regulation.

2. The powers conferred on competent authorities in accordance with Directive 2009/65/EC and Directive 2011/61/EU shall be exercised also with respect to this Regulation.

Article 41

Powers and competences of ESMA

1. ESMA shall have the powers necessary to carry out the tasks attributed to it by this Regulation.

2. ESMA's powers in accordance with Directive 2009/65/EC and Directive 2011/61/EU shall be exercised also with respect to this Regulation and in compliance with Regulation (EC) No 45/2001.

3. For the purpose of Regulation (EU) No 1095/2010, this Regulation shall be included under any further legally binding Union act which confers tasks on the Authority referred to in Article 1(2) of Regulation (EU) 1095/2010.

Article 42

Cooperation between authorities

1. The competent authority of the MMF and the competent authority of the manager, if different shall cooperate with each other and exchange information for the purposes of carrying out their duties under this Regulation.

2. Competent authorities and ESMA shall cooperate with each other for the purposes of carrying out their respective duties under this Regulation in accordance with Regulation (EU) No 1095/2010.

3. Competent authorities and ESMA shall exchange all information and documentation necessary to carry out their respective duties under this Regulation in accordance with Regulation (EU) No 1095/2010, in particular to identify and remedy breaches of this Regulation.

Chapter IX
Final provisions

Article 43
Treatment of existing UCITS and AIFs

1. Within ~~**the**~~ **twelve months** ~~**[to be defined]**~~ following the date of entry into force of this Regulation, an existing UCITS or AIF that invests in short term assets and has as distinct or cumulative objectives offering returns in line with money market rates or preserving the value of the investment shall submit an application to its competent authority together with all documents and evidence necessary to demonstrate the compliance with this Regulation.

2. No later than two months after receiving the **complete** application the competent authority shall assess whether the UCITS or AIF is compliant with this Regulation in accordance with Articles 3 and 4. The competent authority shall issue a decision and notify it immediately to the UCITS or AIF.

3. (…)

Article 44
Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Articles 10, 13**,** ~~**and**~~ 19 **and 36** shall be conferred on the Commission for an indeterminate period of time from the date of entry into force of this Regulation.

3. The delegation of power referred to in Articles 10, 13 ~~**and**~~**,** 19 **and 36** may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. The delegated acts adopted pursuant to Articles **10,** 13**,** ~~**and**~~ 19 **and 36** shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 45

Review

By *three years after the entry into force of this Regulation*, the Commission shall review the adequacy of this Regulation from a prudential and economic point of view. In particular the review shall consider the investors base of the CNAV, the operation of the liquidity risk management tools as foreseen in articles 21 and 29 and the operation of the CNAV that, in future, might concentrate their portfolios on debt issued or guaranteed by the Member States. The review shall:

(a) analyse the experience acquired in applying this Regulation, the impact on investors, MMFs and the managers of MMFs in the Union;

(b) assess the role that MMFs play in purchasing debt issued or guaranteed by the Member States;

(c) take into account the specific characteristics of the debt issued or guaranteed by the Member States and the role this debt plays in financing the Member States;

(d) take into account the report referred to in Article 509(3) of Regulation (EU) No 575/2013;

(da) take into account the impact of the regulation on the short-term financing markets

(e) take into account the regulatory developments at international level.

The results of the review shall be communicated to the European Parliament and the Council accompanied, where necessary, by appropriate proposals for amendments.

Article 46

Entry into force

This Regulation shall enter into force on the twentieth day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament *For the Council*

The President *The President*