

IRISH FUNDS RESPONSE TO THE EUROPEAN COMMISSIONS TARGETED CONSULTATION: ASSESSING THE ADEQUACY OF MACROPRUDENTIAL POLICIES FOR NON-BANK FINANCIAL INTERMEDIATION

November 2024

Irish Funds Response to The European Commission Consultation on Assessing the Adequacy of Macroprudential Policies for Non- Bank Financial Intermediation

Question 1: Are there other sources of systemic risks or vulnerabilities stemming from NBFIs' activities and their interconnectedness, including activity through capital markets, that have not been identified in this paper?

Irish Funds would firstly note that the term 'NBFIs' is overly broad given the number of actors within the financial ecosystem that it seeks to capture, and that as the representative association of the Irish Funds industry our responses to this consultation should be read in relation to investment funds and their fund managers. In fact, even the asset management and funds sector is hugely diverse with a wide range of strategies, investor bases, asset classes etc... This means a one-size-fits-all approach or a transposition of banking-style macroprudential measures is not appropriate. In our response, we will further explore other areas of NBFIs characteristics and activities both discussed and not discussed in this paper, elaborate on the existing frameworks in place and outline our overall position on the potential development of a macroprudential policy for capital markets.

Leverage and use in Investment Funds

Measuring leverage presents challenges for investment funds, even though as previous studies have shown that, in general, leverage usage among investment funds is relatively low, particularly in comparison to other parts of the financial sector such as banking¹. However, investment funds often use derivatives for purposes such as hedging and portfolio management, which can cause gross leverage figures to exaggerate the actual economic leverage of these funds. Therefore, it is more appropriate to focus on net leverage measures, such as the Commitment Method used in the Alternative Investment Fund Management Directive ("AIFMD")², when assessing synthetic leverage from derivatives and identifying the most highly leveraged funds. When considering the priorities for macroprudential monitoring and policy development, policymakers should be conscious of a potential 'streetlight effect', whereby those sectors of NBFIs (notably investment funds) which are already more transparent and subject to stronger supervision and reporting continue to attract a disproportionate focus from policymakers relative to their risk profile. The genuine difficulty and most valuable work for macroprudential policy will be to shine a spotlight on those corners of NBFIs activity where exposures and risks are least well understood and measured.

Margin and Collateral Calls:

While we have not identified other potential vulnerabilities stemming from NBFIs, there are certainly areas relating to the functioning of the broader financial system which merit further assessment. For example, we agree with the Financial Stability Board ("FSB")³ that *"unexpectedly large margin and collateral calls for derivatives and securities financing trades"* are a key amplifier of aggregate liquidity imbalance and have contributed to increased liquidity transformation during recent periods of underlying market stress. This issue relates to the broader financial market ecosystem and policies implemented post-global financial crisis ("GFC") to reduce potential counterparty credit risk. While well-intended, the unintended consequence of the implementation of these policies has been *"excessive spikes in the demand for liquidity"*, as identified by the FSB. It is therefore imperative that EU policymakers

¹ See for example, page 87 of the [Report on the Operation of the AIFMD](#), prepared by KPMG for the European Commission, states that "absolute terms, the survey results indicate that excessive leverage is rare in AIFs."

² Set out in [Article 8 of Commission Delegated Regulation \(EU\) 231/2013](#) (AIFMD Level 2 Regulation). The Commitment Method allows netting and hedging arrangements to be applied to certain derivatives exposures to reduce the overall exposure calculation.

³ Source: FSB, [Liquidity Preparedness for Margin and Collateral Calls Consultation report](#), April 2024

focus on this part of the financial ecosystem, its operation and how it can be improved, in terms of how margin and collateral calls can be met.

Moreover, the European Commission (“*Commission*”) states in the consultation that “*the European Central Bank (‘ECB’) intervened with a purchase programme in the underlying short-term funding markets, in Commercial Paper (‘CP’) and Certificates of Deposits (‘CD’) markets, which also contributed to stop outflows in those MMFs.*” The European Commission will be aware that this statement is potentially misleading as the ECB’s purchase programme extended the maturity range of non-financial CP eligible for purchase, while it is the case that the CP which is purchased by MMFs is predominantly financial CP which was not eligible for the purchase programme. While the ECB’s programme did have a stabilising effect on short-term market functioning, it should be made clear that MMFs were not direct beneficiaries of the ECB’s intervention.

Investor Base:

One area not properly addressed by the Commission in their consultation, which we believe is a key factor in managing liquidity risk, is having insight into the fund’s underlying investor base. Managers of some investment funds (e.g. open-ended funds (“*OEFs*”)) are encountering growing challenges due to the increasingly intermediated nature of the fund’s ecosystem, especially those with a larger distribution network. These fund registers are often dominated by intermediary entities like nominee companies, which hold shares on behalf of a much larger pool of end investors. As a result, fund managers frequently lack direct access to information about the underlying investors due to legal constraints and complex ownership structures, making it difficult to gauge investor profiles and anticipate behaviour, particularly in terms of liquidity demands. This understanding is crucial for fund managers in making well-informed decisions about potential liquidity pressures. For example, understanding whether the share of a nominee’s holdings belongs to a single investor, or is tied to accounts within a common model portfolio service, would present a greater redemption risk compared to holdings spread across a diverse range of investors. Generally, fund managers have found it difficult to gather information about these underlying investors from intermediaries and it is essential for regulators to work alongside fund managers and distributors to address these challenges and develop effective solutions for engaging with intermediaries. However, it is important to clarify that we are not advocating for excessively granular investor data but instead would favour more consistently appropriate and targeted investor metrics that would better allow managers to stress and forecast investor behaviour in their funds and thus improve the overall robustness of their liquidity management frameworks.

AIFMD/ UCITS, MMFR Frameworks:

We believe that the recent EU AIFMD and UCITS framework review and the anticipated targeted EU Money Market Funds (“*MMF*”) reform initiative will contribute positively to mitigating perceived risks in the funds sector. Indeed, we believe that the liquidity risk management framework which is being implemented in the EU is sophisticated and comprehensive (i.e., the EU’s more targeted and dynamic framework governing liquidity risk management in OEFs is more appropriate and effective than the liquidity ‘bucketing’ approach proposed by the FSB). As detailed in the Irish Funds response to the FSB consultation on ‘Addressing Structural Vulnerabilities from Liquidity Mismatch in Open-Ended Funds (Revisions to the FSB’s 2017 Policy Recommendations)⁴’, that in pursuit of strengthening liquidity management practices, the most impactful approach revolves around prioritising the availability of all liquidity management tools (“*LMTs*”). It is important that the utilisation of these tools remains at the discretion of the fund manager, which is most familiar with the characteristics of the fund, and the activation of LMTs by competent authorities is reserved only for the most exceptional circumstances. The responsibility for the appropriate

⁴ Source: FSB. [Revised Policy Recommendations to Address Structural Vulnerabilities from Liquidity Mismatch in Open-Ended Funds](#). December 2023

implementation of liquidity management tools ultimately lies with the fund manager and should not be prescribed by regulatory bodies. The responsible entity is already required to act in the best interests of investors and ultimately has access to all available information to determine the most applicable liquidity management tool, thus mitigating risks associated with information asymmetry and decision making.

We disagree with the Commission's assessment that there is an unmitigated liquidity mismatch within MMFs. The MMF Regulation (*"MMFR"*) sets strict minimum thresholds for daily and weekly maturing assets that money market funds (MMFs) must hold to maintain adequate internal liquidity. This requirement ensures that MMFs can meet investor redemption requests, even during times of market stress, as outlined by the Commission (*"...no EU-based MMF had to introduce redemption fees or gates or suspend redemptions..."*). Additionally, MMFs are required to undertake detailed stress testing and periodic reporting to regulators. MMFs will also generally publish daily fund data including datapoints such as the daily liquid assets (*"DLA"*) and weekly liquid assets (*"WLA"*), as well as the weighted average maturity (WAM) and weighted average life (*"WAL"*) of the fund alongside net asset value (*"NAV"*) and related items (such as mark-to-market NAV).

We highlight the UCITS Directive stringent liquidity management rules for fund managers such as imposing strict limits on individual and concentrated investments, limiting eligible investments primarily to transferable securities and requiring liquidity stress testing. Additionally, tight restrictions on leverage by capping global exposure through derivatives and prohibiting financial leverage via borrowing is imposed. On the other hand, while the AIFMD is less prescriptive, it mandates fund managers to disclose the maximum leverage that can be used and requires extra reporting for highly leveraged funds. Fund managers are also obliged to implement comprehensive risk management frameworks, conduct liquidity stress testing, and provide regular reports to regulators. The AIFMD also gives competent authorities the power to set leverage limits on specific Alternative Investment Funds (*"AIFs"*) or groups of AIFs, as highlighted in the Central Bank of Ireland (*"CBI"*) having enforced leverage limits on domestic real estate funds⁵ and effectively restricting leverage for Liability Driven Investments (*"LDI"*) funds *"through requiring that Irish authorised GBP-denominated LDI funds must maintain resilience to a minimum of 300 bps increase in UK yields"*⁶

These regulations, along with the above detailed MMFR, offers protection, in terms of funds, against the Commission's concerns around unmitigated liquidity mismatch, excessive leverage, and interconnectedness. The existing regulations provide for the suspension of redemptions, and imposes strict asset segregation requirements, which limit the risk of contagion to other funds and the broader financial system should an individual fund fail.

Equal Market Access:

Irish Funds support equal market access for all participants and would advocate against funds being unfairly disadvantaged in accessing markets as a result of introducing certain macroprudential measures (e.g. cash buffers, additional collateral etc...). Ultimately, asset sales by a fund should be treated the same as sales by an investor that holds the asset directly. Treating funds differently in this regard would likely create an un-level playing field that would penalise clients investing through funds, thereby undermining the ability of the fund industry to deliver the economies of scale so vital for the success of the Capital Markets Union (*"CMU"*) and may even result in investors moving away from regulated structures into more opaque (from a regulators oversight perspective) investment vehicles.

Conclusion:

⁵ Source: CBI, [Irish Property Funds Return \(IPF\) Guidance Notes](#), April 2024

⁶ Source: CBI, [The Central Bank's Macroprudential policy framework for Irish-authorised GBP-denominated LDI Funds](#), April 2024

Finally, within its assessment, the Commission includes the unregulated (or less regulated) part of the financial ecosystem, and we encourage policymakers to continue with their analysis of such unregulated or underregulated entities and what measures may be required to ensure that their activities do not have a negative impact on the stability of the European Union's ("EU") financial system. Irish funds believes that the existing regulatory framework for investment funds, along with the future changes planned, should greatly aid with mitigating sources of systemic risks or vulnerabilities stemming from fund activities. Investment funds (such as UCITS and AIFs) and their respective fund managers are thoroughly regulated by National Competent Authorities ("NCAs"), with particular focus on areas like liquidity risk management, setting and maintaining a liquidity profile for each fund, employing liquidity management tools to handle inflows and outflows, and performing regular liquidity stress tests to ensure resilience under market stress.

Question 3: To what extent could the failure of an NBFIs affect the provision of critical functions to the real economy or the financial system that cannot easily be replaced? Please explain in particular to which NBFIs sector, part of the financial system and critical function you refer to, and if and how you believe such knock-on effect could be mitigated.

Firstly, we believe that it is important to acknowledge that NBFIs (as highlighted in question 1) is a broad term that captures many different stakeholders within the overall financial system. As the representative association of the Irish Funds industry our response to this question should be read in relation to investment funds and their fund managers.

We recognise that the funds sector has grown significantly since the GFC and is playing an increasingly important role in the wider global financial system. However, it is also important to note that any assessment of potential systemic risk posed by the funds sector is still evolving. The Irish funds sector has relatively minor connections to the domestic real economy compared to its overall size, although these connections are gradually increasing.

Although fund entities play a vital role in the financial ecosystem, the structure and diversity of the financial markets generally allow for alternative mechanisms to fulfil their functions without causing systemic disruption. Nonetheless, we recognise their importance and the need for appropriate oversight and risk management, given their ties to both the banking and non-banking financial sectors, to prevent any potential ripple effects.

When we consider 'systemic' risk it should be in terms of 'events' that threaten financial stability, including through the failure of critical functions within the financial system. These events should not be taken to include those that might impact a single fund or manager, or volatility as part of a normal functioning market, but rather these are broader stress events that also impact the functioning and efficiency of capital markets, and in turn may negatively impact investment funds, the wider financial system and real economy. The ability of the capital markets to enhance liquidity provisions during times of stress needs to be considered by macroprudential policymakers, as in our view enhancements in this area could help the financial system to better manage periods of stress. However, it is also important to note that investment funds and asset managers are subject to stringent rules relating to, inter alia, the structuring, investment, and risk management of the funds they manage, including the need to act in their clients and end-investors best interests. There is significant regulation and robust supervision around the areas of liquidity risk management, leverage, and valuation which can address potential channels of transmission of risk and therefore already play a role in managing and mitigating macroprudential risk.

Additionally, the safeguarding and custody of client assets (including the requirement to contribute to financial compensation schemes to ensure that relevant clients and end-investors are protected (to certain limits) against fund failures) are also mechanisms in place

to help protect the end investors, with asset managers required to separate client funds from their own funds to protect clients and end-investors against the potential failure of the manager. This is part of the “**Agency Model**”, and it underpins how the fund sector operates. The Agency model is fundamental to the functioning of investment funds, as it establishes a framework of trust and accountability between the fund manager (‘**Agent**’) and investors (the ‘**principals**’). The agency relationship carries a fiduciary duty, meaning that the fund manager has a legal and ethical obligation to act in the best interests of the investors. This duty includes making prudent investment decisions, managing risks, and disclosing relevant information to the investors. As such even with the failure of a fund manager the end investors are ringfenced and protected, i.e. liquidity calls on one investment fund will not put the manager or other investment funds at risk.

Finally, it is important to acknowledge that regulators such as the CBI have acted when there has been significant domestic concentration, such as in property funds and LDI funds. However, investment funds, including OEFs, are not autonomous actors and instead a part of the broader financial system.

Question 4: Where in the NBFi sectors could systemic liquidity risk most likely materialise and how? Which specific transmission channels of liquidity risk would be most relevant for NBFi? Please provide concrete examples.

The NBFi sector has become an integral part of the global financial system providing diverse channels of financing and supporting liquidity in various markets. As the NBFi sector grows in size and complexity, it is important to acknowledge the areas where systemic liquidity risk could materialise, while also recognising the resilience of the sector, particularly given the reforms and risk management strategies that have been implemented in recent years. Systemic liquidity risk within the NBFi sector may arise in certain subsectors, particularly those where liquidity mismatches and interconnectedness with the broader financial system are most pronounced. The key is to address these risks constructively without undermining the sector’s contributions to financial stability and market functioning.

The growing interconnectedness between NBFis and traditional financial institutions may be considered a potential transmission channel for systemic liquidity risk. NBFis are often participants in funding markets, repo transactions, and derivative markets, creating direct and indirect links with banks and other financial institutions. Liquidity risk in the NBFi sector can also be transmitted through investor sentiment and market confidence. In times of stress, a loss of confidence in one segment of the NBFi sector could trigger broader redemptions and outflows from other parts of the sector. Therefore, any consideration of systemic risk requires a holistic perspective.

Leverage is a factor that could amplify liquidity risk within the NBFi sector. In times of market stress, the need to deleverage quickly can exacerbate liquidity pressures, as funds may be forced to sell assets quickly to meet margin calls or repay creditors. This can lead to procyclical market dynamics, where falling asset prices trigger further sales.

However, it is important to recognise the significant steps that have been taken to mitigate these risks from an investment funds perspective. The development of liquidity management tool (“LMT”) frameworks such as the recent ESMA LMT Consultation on Guidelines and Draft Regulatory Technical Standards (“RTS”) and ESMA stress testing guidance has strengthened the resilience of the funds industry. Indeed, the November 2020 ESMA report on Recommendation of the European Systemic Risk Board (ESRB) on liquidity risk in investment funds noted that those funds with large corporate debt exposure generally managed to

maintain stable portfolios during the COVID-19 crisis and, in stress testing them, found that “more than 86% of AIFs and 90% of UCITS⁷” (would be) resilient to the shocks tested.

Additionally, regulatory reforms, particularly in the MMF sector, have further enhanced liquidity and transparency. The ongoing efforts to improve risk management and monitoring within the fund sector will continue to support its ability to manage liquidity risks while contributing to the broader stability and functioning of the global financial system.

Question 5: *Where in the NBFIs sectors do you see build-up of excessive leverage, and why? Which NBFIs could be most vulnerable? Please provide concrete examples.*

Leverage in the European investment fund sector remains relatively low and is frequently used for purposes beyond merely increasing market exposure, such as for enhancing portfolio efficiency and managing risk. The 2019 KPMG report⁸ demonstrates this by analysing data from 15 member states, showing that a significant proportion (70%) of NCAs had not noticed any trends in the levels of reported leverage since the implementation of AIFMD. Respondents to this survey, Alternative Investment Fund Managers (“AIFMs”) and AIF depositaries indicated “relatively low levels of Loan to Value (LTV) and there were no reported signs of excessive use of high LTV levels”.

We note that the ESMA Guidelines on Article 25 AIFMD⁹ enhances transparency, ensures effective risk management and maintains stability in the financial system by closely monitoring and regulating the use of leverage within the investment fund sector which has also strengthened the potential side effects of excessive leverage build up and as previously mentioned in question 1. Since implementation, funds have adopted strong internal risk management practices which have been able to better withstand market shocks and avoid excessive risk-taking. We recommend extending this approach to other NBFIs in less regulated markets where oversight can be weaker and risk management processes vary significantly. Furthermore, the CBI enforced leverage limits on domestic real estate funds¹⁰ and effectively restricted leverage for LDI funds through the implementation of a minimum yield buffer of 300bps¹¹, which incorporates both leverage and duration in its calculation. More frequent reporting requirements should allow regulators to identify trends and outliers in leverage, contributing to more informed and timely regulatory actions.

Question 7: *Considering the role NBFIs have in providing greater access to finance for companies and in the context of the capital markets union project, how can macroprudential policies support NBFIs’ ability to provide such funding opportunities to companies, in particular through capital markets? Please provide concrete examples.*

The design of any new NBFI macroprudential policies should start with a focus on how they will safeguard stability and resilience across the financial system. These policies should be developed with a clear objective of preserving investor confidence and market stability, ensuring that NBFIs can continue to provide essential funding to companies, particularly through capital markets. This stability is crucial for maintaining investor and market confidence, which in turn supports NBFIs’ capacity to channel funds to companies through capital markets. The CBI previously recognised that macroprudential policies can enhance the

⁷ Source: ESMA, [Report on Recommendation of the European Systemic Risk Board \(ESRB\) on liquidity risk in investment funds](#), November 2020.

⁸ Source: European Commission, [Report on the Operation of the Alternative Investment Fund Managers Directive \(AIFMD\) Directive 2011/61/EU, FISMA/2016/105\(02\)/C](#), December 2018

⁹ Source: ESMA, [Guidelines on Article 25 of Directive 2011/61/EU](#), June 2021

¹⁰ Source: CBI, [Irish Property Funds Return \(IPF\), Guidance Notes](#), April 2024.

¹¹ Source: CBI: [The Central Bank’s macroprudential policy framework for Irish authorised GBP-denominated LDI funds](#), April 2024

stability of NBFIs by mitigating systemic risk and potential vulnerabilities within the sector, or parts thereof, but acknowledged the need for policymakers to not extend or replicate the macroprudential framework applied to the banking sector to NBFIs, including investment funds.

Tailored regulations and robust frameworks that encourage sound risk management will allow funds to operate safely while providing funding opportunities to companies. These measures also prevent scenarios where funds face sudden liquidity shortages, ensuring they can continue to provide funding to companies. From an operational standpoint, macroprudential policies should focus on developing and supporting market infrastructures that facilitate NBFIs' operations, such as efficient clearing and settlement systems and robust trading platforms. This market infrastructure can improve market liquidity and offers companies an alternative avenue to traditional banking for accessing financing.

In this regard, the European Savings and Investments Union (SIU) project aims to reinvigorate the capital markets by developing a competitive, streamlined, and smart regulatory system. From a macroprudential policy perspective, supporting NBFIs means first ensuring a comprehensive understanding of collective behaviours and potential systemic impacts across jurisdictions. This is particularly relevant for the SIU project, which aims to deepen and integrate the capital markets across the EU.

Regarding macroprudential policy measures for the investment funds sector more specifically, we welcome the recognition by the CBI following its recent consultation that robust cost/benefit analysis in relation the broader economic impact of policy intervention is essential in making good policy¹². While we welcome the emphasis in the Commission's consultation on identifying the costs and benefits associated with specific policy actions, we believe that European policymakers should be more cognisant of the vital positive contribution that the investment fund sector makes to financial stability and efficient capital allocation – and the related risks from poorly-targeted macroprudential policy measures relating to the investment fund sector.

As capital allocators and investors, fund managers have an important intermediary role to play in the realisation of a true European capital market and, as such, in supporting investment in companies where it serves the best interest of end-investors and clients in line with their fiduciary duty. One of the most important ways in which policymakers can support asset managers in fulfilling this role is through appropriate and proportionate regulation and supervision. Recognising the distinction between funds and direct investors, as highlighted in our response to question 1, is essential to avoid creating an uneven playing field. Failing to do so would disadvantage clients who invest in markets through funds and undermine the fund industry's capacity to achieve the economies of scale vital to the success of capital markets. As various international and European institutions have agreed, including the European Commission in its consultation, fund managers are best placed to determine the strategy, structure, and operation of investment funds within the necessarily principles-based parameters set out in the relevant EU legislation.

For example, regarding investment funds, policymakers should continue to provide sufficient flexibility to fund managers regarding the structure (e.g., dealing frequency, redemption policy etc.) and operation (e.g., risk and liquidity management framework and tools) of such funds in a way which provides stability for both the fund manager and end-investors. Specifically, this refers to a continued focus on the proportionate implementation of the EU's targeted and dynamic liquidity risk management framework as agreed in the recent EU AIFMD/UCITSD review, including regarding the work being taken forward by ESMA.

The impact of inappropriate regulation and supervision on fund managers has already been seen through the relative failures of the ELTIF 1.0 (which has now been revised in a way which

¹² Source: CBI, [Feedback Statement Discussion Paper 11: An approach to macroprudential policy for investment funds](#), July 2024

should be more conducive to the allocation of capital) and PEPP structures¹³ (which has led to the creation of only two niche products available for distribution in four countries). The EU AIFMD/UCITS framework is world-leading in terms of the investment that it facilitates for all investor types and the funding opportunities it creates for companies of all sizes and EU policymakers must bear this in mind when considering the need for and implementation of further macroprudential policies for NBFIs affecting asset managers.

As an example, the global reputation of the UCITS as an effective conduit for retail investors is built on being a secure, well-diversified, liquid, and transparent collective investment vehicle. The UCITS Directive has been a consistent regulation, which has allowed financial market participants the opportunity to rely upon UCITS during periods of market turmoil and innovate in times of prosperity. For example, EFAMAs latest monthly statistical publication in September 2024¹⁴, UCITS continued to attract strong net inflows in July 2024. An analysis of the July data for Europe shows that UCITS attracted net inflows of EUR 77bn, long-term UCITS (UCITS excluding money market funds) saw net inflows of EUR 40bn and UCITS money market funds experienced net inflows of EUR 32bn. Such regulatory stability has contributed to the success of the UCITS, which continue to grow despite frequent changes in the market.

Question 8: *What are pros and cons of giving the competent authority the power to increase liquidity buffer requirements on an individual or collective basis in the event of system-wide financial stability risks? Under which other situation do you believe MMF liquidity buffers should be increased on an individual or collective basis by the competent authority? Please explain.*

Broadly speaking, we believe that giving public bodies the power to increase MMF liquidity buffers presents significant risks with little to no benefit, for the reasons set out below.

It is worth recalling the purpose of liquidity buffers, which is to enable an MMF to meet redemption requests. In other words, the MMF should be able to actually use (i.e. sell or allow mature without replacement) the liquid assets it has built up. Buffers are not useful if they cannot be used. As such, we find it interesting that the question specifically asks about ability to increase buffer requirements, rather than simply amend or modify them. If anything, there is a case to be made that liquidity buffers should be decreased in times of stress (i.e. a fund should be able to use the liquidity it has built up without fear of breaching a regulatory threshold). That having been said, the need to decrease liquidity buffers will be greatly reduced if/when the proposals (as referenced in the Commission's July 2023 report on the functioning of the MMFR) to de-link liquidity buffers from redemption fees and gates are implemented. Should that proposal be implemented (and the liquidity buffers set at a reasonable level to begin with), there should be no need to alter them dynamically.

Therefore, giving public bodies the power to increase MMF liquidity buffers poses several issues:

- Countercyclical buffers should be usable during stress periods. Making them variable and dependent on a public body with limited real-time market data would reduce their usability instead of increasing it.
- Permitting a public authority to alter MMF liquidity thresholds during periods of financial stress would likely exacerbate market volatility rather than mitigate it. Potential intervention by a public authority introduces the very "cliff edge" effects that recent MMF proposals have endeavoured to eliminate.

¹³ Source: European Insurance and Occupational Pensions Authority. "Pan-European Personal Pension Product (PEPP)." *European Insurance and Occupational Pensions Authority*, https://www.eiopa.europa.eu/browse/regulation-and-policy/pan-european-personal-pension-product-pepp_en. Accessed 7 Nov. 2024

¹⁴ Source: EFAMA. *Net Inflows Across All UCITS Categories in July*. September 2024.

- Allowing a public authority to alter liquidity buffers would be in direct conflict with the fundamental principle that fund managers should have ultimate responsibility for managing fund liquidity. From a practical perspective, such intervention would disrupt the essential management functions of a fund, which include the active buying and selling of portfolio components in response to investor actions.

Question 9: *How can ESMA and ESRB ensure coordination and the proper use of this power and what could be their individual roles? Please provide specific examples or scenarios to support your view.*

As per our response to question 8, we do not believe there is any role for ESMA or ESRB in dynamically adjusting liquidity buffers.

Question 10: *In view of the new UCITS supervisory reporting obligations and improvements to AIFMD reporting, how could reporting requirements under the MMFR be aligned, simplified and improved to identify stability risks (such as liquidity risks) and to ensure more efficient data sharing?*

The existing MMFR requirements are far more detailed and specific to MMFs than the UCITS requirements. It is worth noting in this regard that the Central Bank of Ireland introduced additional daily reporting specific to MMFs in 2022. All of this data is of use to NCAs, and it would not make sense for any alignment to reduce the data collected for MMFs. There is potentially however scope to reduce overlap, such that MMF specific reporting does not seek data that is already provided via standard UCITS reporting.

Question 11: *Do you believe that the proposed enhancements to the stress testing framework listed above are sufficient to identify and mitigate liquidity risks effectively? If not, what specific elements would you suggest including in the strengthened supervision and remediation actions for detecting liquidity risks?*

The consultation appropriately identifies timely access to data on portfolio composition and disclosure of underlying data as important. There are limits to the usefulness of MMF stress tests – given the short maturity and high portfolio turnover of MMFs, results are out of date almost as soon as they are available. This limitation is not solved by more frequent stress-testing, because the portfolio that was stress-tested has most likely changed materially within a day or two of the stress-test anyway, due to short maturities and high turnover. As the Consultation notes, stress-testing is only a part of the solution and instead improved reporting for supervisory purposes would be focused on timely access to data on portfolio composition and disclosure of underlying data.

A related point worth noting is that liquidity risks of MMFs would be greatly reduced if it was made clear that MMFs were acceptable collateral for EMIR margin requirements. For example, EMIR provides that, for non-centrally cleared OTC derivatives for example, units in UCITS are acceptable as collateral where, amongst other things, the UCITS is limited to investing in cash and low risk debt securities. MMF regularly make use of reverse repurchase agreements, where they post cash and receive low risk government debt securities back as collateral. Such collateral, if held directly, would carry a zero-risk rating. It should be made clear that an MMF using such reverse repurchase agreements is nonetheless acceptable as collateral under EMIR.

When market participants who use money market funds to manage their cash (i.e., most market participants) need to post margin for their derivative transactions, they often have to redeem from the money market fund and pass the cash to the counterparty. ESMA and others

have found that this type of behaviour was a significant driver of money market fund flows during stressed periods (Covid, UK gilt crisis). To meet the redemptions, the MMFs have to withdraw from activity in the short-term markets but the cash eventually finds its way to an OTC counterparty who then needs to either place that cash with an MMF or invest it directly in the short-term markets. This round-about route creates needless additional liquidity stress and would be significantly addressed with a simple clarification regarding EMIR collateral requirements.

Question 12: *What are the costs and benefits of introducing an EU-wide stress test on MMFs? Should this stress test focus mainly on liquidity risks?*

It is not clear from the consultation what exactly is proposed. MMFR already requires stress testing, the precise parameters of which are set by MMFR itself and, on annual basis, ESMA. This would appear to be an EU-wide stress test for MMFs. The focus of it should be, and already is, on liquidity risks

Question 13: *What are your views on the EU ban on a reverse distribution mechanism by MMFs?*

The ban on RDM was not justified. The legal argument put forward was based on unique views as to what it means to “cancel” a unit in an MMF. There was no policy justification; as noted in our response to Question 14, RDM supported the stability and integrity of MMFs by allowing them to ensure investors-maintained exposure to the yield produced by the assets of the MMF in a negative interest rate environment.

Once RDM was banned, industry (and investors) completed the material operational changes necessary to continue to allow MMFs to pass on to investors the impact of negative yield, using accumulating share classes. Interesting, once interest rates turned positive and investors then had a choice between accumulating and distributing share classes, many investors moved back into distributing share classes. Those investors clearly prefer that format. The ban on RDM should be revoked, allowing MMFs to provide those investors with always distributing share classes (including in negative interest rate environments), subject to appropriate disclosures.

Question 14: *Can you provide insights and data on how the reverse distribution mechanism has impacted in practice the stability and integrity of MMFs?*

The use of RDM positively impacted the stability and integrity of MMFs by allowing them to accurately pass on to investors, in a negative yield environment, the current yield experienced by the MMF. In that sense, RDM allowed MMFs to maintain their existing stability and integrity and, contrary to commentary by some at the time, RDM did not conceal losses – in fact, its purpose was to ensure that underlying investors experienced the impact of negative yield, not to hide that negative yield. The removal of RDM did threaten to negatively impact the stability and integrity of MMFs, by requiring industry (and investors) to perform material operational changes necessary to accommodate the removal, but thankfully the changes were implemented without that happening.

Question 15: *Should regulatory requirements for MMFs take into account whether the instrument they are investing in is admitted to trading on a trading venue (regulated markets, multilateral trading facilities or organised trading facilities) with some critical level of trading activity? Please explain your answer.*

As noted in the Consultation, *“MMFs do not necessarily distinguish between instruments that are traded or not on a regulated venue ... [and regulated venues] are subject to greater transparency and organisational requirements for secondary trading”*.

The reason MMFs do not distinguish between OTC and exchange traded is that MMF managers are primarily concerned with liquidity and there is a considerable difference between liquidity and transparency or organised secondary trading. Transparency and organised secondary trading do not guarantee that instruments will be more liquid. Ultimately MMFs are agnostic to the venue and are driven instead by liquidity. For example, if it was the case that trading venues offered more liquidity than OTC, then MMFs would trade on those venues.

Question 16: How can NCAs better monitor the liquidity profile of OEFs, including redemption frequency and LMTs, in order to detect unmitigated liquidity mismatches during the lifetime of OEFs?

The existing frameworks in place by NCA's for monitoring the liquidity profiles of OEFs is well-established, from the fund's authorisation process, ongoing reporting requirements and recent reviews to the AIFMD and UCITS directive. At a European level, we acknowledge the ongoing efforts by the Commission and ESMA to harmonise reporting from fund managers across jurisdictions. However, any data collection recommendations should take these recent reviews into account and align with international data requests. In this context, co-ordination between NCAs should be a top priority.

Under existing frameworks, OEFs are subject to liquidity monitoring at the point of authorisation and throughout the life of the OEF. During the fund authorisation process, fund managers must meet specific liquidity requirements for both UCITS and AIFs to obtain NCA authorisation. As part of the authorisation process managers must describe the liquidity profile of the respective AIF and UCITS to which it manages. If the NCA is not satisfied with the liquidity arrangements, they may not grant authorisation for the fund. Once an OEF is authorised, it must comply with the ongoing liquidity requirements and related reporting. The AIFMD and UCITS Directives set out specific ongoing liquidity reporting requirements for OEFs of which, the details reported include information on the liquidity profile of the fund, results of stress tests and details of any events that could impact the funds' ability to meet redemption requests. Many NCAs require reporting of significant redemption capital flows, including the CBI, with others asking for detail on how these flows are managed. Furthermore, NCAs previously implemented enhanced liquidity reporting during specific market events. For example, the CBI requested additional liquidity reporting during the Covid-19 pandemic which helped inform regulators with valuable insights into how liquidity was being managed during a period of market stress. The recent AIFMD/UCITS Directive review includes a new reporting system for AIFs and UCITS, a new reporting template for AIFMs and a novel obligation for UCITS to report on their holdings. Furthermore, these reviews have introduced a harmonised set of LMTs and laid down mandates for ESMA to further guide a uniform use of LMTs by fund managers across the EU. Those rules, which are adopted at fund level, will have to be operationalised by an RTS and ESMA RTS on the characteristics, and guidelines on selection and calibration of those LMTs. The expectation is that these new provisions will enhance the resilience of all investment funds, including MMFs when they become applicable. Therefore, from a European perspective, it is our view that these changes further enhance the robustness of the regulatory framework these funds operate in. Additionally, the significant volume of data that is/ will be available should be reviewed, as a starting point, to remove the potential for duplicative reporting requirements.

Data acts as a key enabler for any macroprudential framework. Access to accurate, comprehensive, and consistent data is crucial for NCAs to perform their supervisory duties in monitoring liquidity profiles of OEFs. At a European level, the Commission is currently

implementing its '*Strategy on Supervisory Data in EU Financial Services (December 2021)*'¹⁵, which aims to modernise supervisory reporting, ensuring accurate and timely data collection while reducing the reporting burden on institutions. When fully implemented, the Commission expects the updated system will enhance decision-making by leveraging advanced technologies for better data precision and speed. Additionally, it aims to improve coordination across financial sectors by standardising data sets, making reporting more efficient and less burdensome for fund managers. As part of its work in this area, the Commission has reviewed legislation across sectors to address inefficiencies in reporting, focusing on removing overlaps, outdated requirements, and inconsistencies. The review also aims to streamline data flows between authorities and ensure reporting requirements are proportionate.

In February of 2024, the Commission staff published a 'Progress' report¹⁶ on the strategy on supervisory data in EU financial services. The report provides an update on the ongoing initiatives to modernise EU supervisory reporting and the key building blocks of the strategy which relate to data standardisation and consistency, data sharing and reuse, design of reporting requirements, and joint governance. As part of the data sharing and reuse initiative, the EU and national authorities have made progress on more extensive reuse of data. For example, a legislative package¹⁷, adopted at the end of 2023, established a European single access point providing centralised access to publicly available information of relevance to financial services, capital markets and sustainability will enable supervisors to get easier access to data published by regulated entities. Therefore, from a European perspective, we expect that the European single access point will provide NCAs with a greater amount of data that could be used for monitoring activities.

Question 17: *What is the data that you find most relevant when monitoring liquidity risks of OEFs?*

When monitoring the liquidity risks of OEFs, fund managers should include a comprehensive set of metrics and indicators that collectively provide a detailed picture of the fund's liquidity profile and potential vulnerabilities. The most relevant data points for monitoring liquidity risks will vary significantly depending on the fund type and the fund's unique characteristics and should be considered by fund managers during the design stage of the fund, as well as when monitoring liquidity risks through the lifecycle of the OEF.

Metrics and indicators can be either variable or static in nature, and we have grouped them under the following headings when considering the relevant data points:

- Portfolio composition: Information on the liquidity of the fund's assets, including the proportion of highly liquid, moderately liquid, and illiquid assets and data on the concentration of assets in specific securities, sectors, issuers or geographic regions which could affect liquidity.
- Redemption patterns: Trends in investor redemptions, including frequency, volume, and timing. The investor profile and composition such as the proportion of retail vs. institutional investors can influence redemption behaviour.
- Liquidity Buffers and Cash Holdings: The cash and cash equivalents held by the fund to meet redemption requests and any additional liquid assets that can be quickly converted to cash without significant loss of value.
- Liquidity Management Tools (LMTs): The availability of LMTs and the frequency and circumstances under which LMTs are used and understanding their effectiveness on

¹⁵ Source: European Commission. [Strategy on Supervisory Data in EU Financial Services](#). December 2021

¹⁶ Source: European Commission. [Commission Staff Working Document: Progress Report on the Strategy on Supervisory Data in EU Financial Services](#). February 2024

¹⁷ Source: European Council, Council of the European Union. [Council Adopts Regulation Easing Access to Corporate Information for Investors](#). November 2023

managing liquidity risk during periods of market stress. It is important that the utilisation of these tools remains at the discretion of the manager, which is most familiar with the characteristic of the fund.

- Operational Data: NAV frequency, capital calls, derivatives, margin, borrowing and borrowing costs and other liabilities due transaction costs associated with buying and selling assets, which can affect liquidity and information on the settlement periods for different asset classes within the portfolio.
- Performance Metrics: Changes in the fund's NAV, particularly during periods of high redemption activity and performance metrics that can impact investor decisions and potential redemption requests.
- Counterparty Risk: Data on the fund's exposure to counterparties, which can affect liquidity if a counterparty defaults or experiences financial distress.
- Stress testing: Outcomes of hypothetical stress tests under various market conditions, including severe but plausible scenarios and understanding the conditions under which the fund would face significant liquidity challenges. Stress testing should examine all of the above variable data points.

As illustrated in our response to question 1, the ability for a fund manager to understand investor behaviour is an important liquidity risk data point for managers to monitor. A common difficulty encountered in measuring and monitoring liquidity risks and their evolution is the inability, in certain cases, for fund managers to have full visibility over the underlying investor base of a fund. This lack of transparency often arises when nominee companies act as intermediaries between the fund and the underlying investors, obscuring critical investor data. Without clear insights into the composition and behaviour of the investor base, fund managers may find it difficult to anticipate and manage liquidity demands, especially during periods of market stress. To address this challenge, it is essential to enhance the transparency and availability of appropriate investor data through better mechanisms imposed by regulators on these nominee companies. However, it is important to clarify that we are not advocating for excessively granular investor data, but instead would favour more consistently appropriate and targeted investor metrics that would better allow managers to stress and forecast investor behaviour in their funds, and thus improve the overall robustness of their liquidity management frameworks.

Question 19: *On the basis of the reporting and stress testing information being collected by competent authorities throughout the life of a fund, how can supervisory powers of competent authorities be enhanced to deal with potential inconsistencies or insufficient calibration between the LMTs selected by the manager for a fund or a cohort of funds and their assets and liabilities liquidity profile? How can NCAs ensure that fund managers make adjustments to LMTs if they are unwilling to act? How could coordination be enhanced at the EU level?*

National supervisors already possess a broad range of supervisory powers, including the ability to introduce leverage limits, suspend share redemptions, mandate the cessation of practices that violate applicable rules, conduct onsite inspections, and even withdraw a fund's authorisation. While the primary responsibility for fund liquidity lies with the asset manager and their liquidity risk framework, it is crucial for NCAs to ensure that robust risk management practices are implemented industry-wide and that their powers are exercised in a proportionate manner.

Irish Funds advocates that, in pursuit of strengthening liquidity management practices, the most impactful approach should focus around prioritising the availability of all liquidity management tools, as such we welcomed the outcomes in this regard from the AIFMD II review. It is our view that the availability of the tools referenced below, coupled with the considered discretion of the fund manager in its application, would create an adaptive

environment suitable to the management of a fund's liquidity and the mitigation of unforeseen market shocks:

- Availability of price based and quantity-based liquidity management tools appropriate to fund type and underlying assets.
- Comprehensive stress testing.
- Operational ability to use these tools.
- Ongoing readiness to activate tools in stressed market conditions e.g., with "break glass" procedures.

The responsibility for the implementation of liquidity management tools ultimately lies with the fund manager and should not be prescribed by regulatory bodies. The fund manager already has a fiduciary to act in the best interests of investors and ultimately has access to all available information to determine the most applicable LMTs required to best manage liquidity within their fund, thus mitigating risks associated with information asymmetry and decision making.

In analysing the asset level liquidity of a portfolio, we note that some jurisdictions have adopted a prescriptive method in defining liquidity parameters while others, in particular Europe, have adopted a principles-based approach. Irish Funds remains steadfast in its support of a principles-based approach which afford the fund manager the discretion and flexibility to manage its liquidity risk in the best interests of the fund's investors.

In this regard, it is our understanding that each of the items raised in this question have been addressed by the recent EU AIFMD/UCITS Directive review. Once implemented, there will be new requirements for asset managers to select at least two liquidity management tools (one for MMFs) for each of the relevant funds they manage, beyond suspension, from a pre-defined list as detailed by ESMA. There will be enhanced disclosure, regulatory reporting, and data sharing related to funds' liquidity risk management decisions and activities. This will include new empowerments for national regulators with ESMA playing a key role in this mechanism.

Of course, there are already well-defined parameters concerning fund structures, dealing propositions, asset liquidity, and diversification, all of which will remain in place, with some being strengthened for specific funds, such as loan-originating funds. Given that ESMA's work on developing technical standards and guidance in this area is ongoing, and many of the newly enhanced requirements are yet to be applied, we believe that further strengthening is not an immediate priority. Instead, coordination at the EU level should be prioritised, particularly in terms of cross-border collaboration and harmonisation, along with potential targeted and proportionate EU-wide stress testing.

Within the existing regulatory framework, we encourage joint supervisory actions and initiatives among NCAs to address cross-border liquidity risks and efforts to enhance information exchange mechanisms between NCAs and European authorities for better oversight and coordination. An example of good practice in this regard are the coordinated actions taken by the Central Bank of Ireland (CBI)¹⁸ and the Commission du Surveillance du Secteur Financier (CSSF)¹⁹ in March 2024, as advised by the European Securities and Markets Authority (ESMA)²⁰, in relation to the application of investment restrictions for GBP liability-driven investment (LDI) funds to ensure their resilience. We believe that the effective coordination of this initiative shows that it is not necessary to enhance supervisory powers to address cross-border issues within the EU.

¹⁸ Source: CBI, [The Central Bank's macroprudential policy framework for Irish-authorized GBP-denominated LDI funds](#), April 2024

¹⁹ Source: CSSF, [Macroprudential measures for GBP Liability Driven Investment Funds managed by Luxembourg AIFMs](#), April 2024

²⁰ Source: ESMA, [Advice of the European Securities and Markets Authority of 26 April 2024 on a proposed measure by the Central Bank of Ireland under Article 25 of Directive 2011/61/EU and Advice of the European Securities and Markets Authority of 26 April 2024 on a proposed measure by the Commission du Surveillance du Secteur Financier under Article 25 of Directive 2011/61/EU](#), April 2024

To maximise the effectiveness of any potential EU-wide stress testing, policymakers would need to be very targeted in terms of areas of focus and intended outputs and proportionate in terms of supervisory and industry resource committed to such an initiative. The Bank of England system-wide exploratory scenario (SWES) hypothetical scenario²¹ is a useful example of how such stress-testing could be undertaken, however it is important to note the targeted nature of the exercise as well as the length of time it has taken to progress. Seeking to replicate such an exercise at an EU-level would require careful calibration and appropriate timelines to ensure maximum effectiveness, recognising the time and resources required is important. Equally it is important to note that the results of any stress testing exercise should only be viewed as a risk management tool, with any test having to be based on severe but plausible scenarios and not be used as a policy making tool.

Question 20: *What measures do you find particularly effective to measure and monitor liquidity risk in stressed market conditions?*

Effective measures for monitoring liquidity risk in stressed market conditions will vary significantly depending upon the fund type and the fund's unique characteristics. This should be accounted for and considered by fund managers when monitoring liquidity risks in stressed market conditions through their liquidity management framework. Typically, at the design stage of a fund managers will consider the expected liquidity profile of their fund, along with the appropriate LMTs needed. These tools and the liquidity profile of the fund is then reviewed and considered during the lifecycle of the fund. The most suitable measures should be determined by the fund manager who is best placed to consider the idiosyncratic nature of the funds' exposures.

As per our response to question 17, we set out the variable and static data points that are most relevant when monitoring liquidity risk. We would reiterate these data points in relation to measuring and monitoring liquidity risk in stressed market conditions and note that it can be particularly effective to examine the interactions between the various measures, rather than just stand-alone measures. Furthermore, we note the importance of timely data availability when examining liquidity risk in stressed market conditions. In stressed market conditions managers may need to be aware of the status and liquidity capability of some or all of the variable data points noted in question 17 on a real-time basis. Short-term market movements can simultaneously impact asset valuations, redemption requests, collateral value, collateral movements, and the outcome of stress testing, to name but a few important data points.

Also, as per our response to question 1 and 17, we highlight the importance of understanding the investor base as an important component when measuring and monitoring liquidity risk in stressed market conditions. Without clear insights into the composition and behaviour of the investor base, fund managers are less equipped to anticipate and manage liquidity demands, especially during periods of market stress. To address this challenge, it is essential to enhance the transparency and availability of appropriate investor data through better mechanisms imposed by regulators on these nominee companies.

Question 21: *What difficulties have you encountered in measuring and monitoring liquidity risks and their evolution? Are there enough tools available under the EU regulations to address liquidity mismatches?*

We believe that there are enough tools available under the EU regulations to address liquidity mismatches, however we note that investor composition, in certain circumstances, remains

²¹ Source: Bank of England, [Detail on the system-wide exploratory scenario hypothetical scenario](#), November 2023

opaque and we believe the development of consolidated tape would also greatly assist with data transparency to aid liquidity analysis.

As per our response to question 1, 17 and 20, we highlight the importance of understanding the investor base as an important component when measuring and monitoring liquidity risk in stressed market conditions. Without clear insights into the composition and behaviour of the investor base, fund managers are less equipped to anticipate and manage liquidity demands, especially during periods of market stress. To address this challenge, it is essential to enhance the transparency and availability of appropriate investor data through better mechanisms imposed by regulators on these nominee companies.

The idea of consolidated tape would aggregate and standardise trade data across markets, providing fund managers with a clearer picture of trading volumes, investor activity, and market sentiment. This would not only aid in more accurate liquidity risk assessments but also allow fund managers to better anticipate potential liquidity events driven by shifts in investor behaviour. Moreover, both IOSCO (International Organization of Securities Commissions) and the FSB have emphasized the importance of transparency and data access in their discussions on liquidity risk management. IOSCO, in its guidance²², has highlighted the need for fund managers to have “*comprehensive access to investor data to effectively monitor liquidity risks*”. Similarly, the FSB²³ has emphasised the role of robust data sharing practices in enhancing the stability and resilience of financial markets. Both organizations advocate for improvements in data collection and reporting standards to ensure that fund managers can access the information they need to manage liquidity risks proactively. In addition to data visibility, IOSCO and the FSB have also pointed out the importance of examining the interactions between various liquidity measures rather than evaluating them in isolation. Understanding how different measures, such as redemption gates, swing pricing, and side pockets, interact with each other and with investor behaviour can provide deeper insights into liquidity risks and help in the design of more effective liquidity management strategies.

By improving access to trade patterns through initiatives like a consolidated tape, along with adhering to IOSCO and FSB recommendations, the ability of fund managers to measure, monitor, and manage liquidity risks in a more holistic and effective manner would be enhanced.

Question 22: *What are the challenges in calibrating worst-case and stress-case scenarios related to redemptions and margin calls?*

The calibration of worst-case and stress-case scenarios related to redemptions and margin calls requires a nuanced approach that goes beyond historical data. It involves a careful assessment of the fund's unique characteristics, the composition and liquidity of its assets, and the potential market conditions that could impact its ability to meet redemption and margin requirements.

These scenarios require a comprehensive approach that considers all liquidity aspects of the fund, as redemption and margin call requirements cannot be viewed in isolation. The specific characteristics of each fund, such as its asset composition, investor base, and redemption policies, must be taken into account, making a one-size-fits-all approach to stress testing ineffective. Instead, fund managers need to tailor their stress tests to the unique nature of each fund, considering factors such as asset liquidity, concentration risks, and the potential for correlated redemptions.

²² Source: IOSCO. [Anti-Dilution Liquidity Management Tools – Guidance for Effective Implementation of the Recommendations for Liquidity Risk Management for Collective Investment Schemes](#). Final Report, December 2023

²³ Source: FSB. [Revised Policy Recommendations to Address Structural Vulnerabilities from Liquidity Mismatch in Open-Ended Funds](#). December 2023

Understanding eligible assets for margin is a key component of calibrating stress scenarios. It is crucial that fund managers not only have a clear understanding of the eligible assets that can be posted but also actively manage liquidity to ensure sufficient buffers of high-quality liquid assets (HQLAs) that can be quickly converted to cash without significant price impact. An expansion of assets that are deemed acceptable for collateral purposes would aid with liquidity management and margin resilience. Collateral could be expanded to include for example, PDCNAV MMFs and certain qualifying ETFs. Stress scenarios should recognise this and the need for a diversified approach to margin management, ensuring that funds are not overly reliant on a narrow range of assets that may become illiquid in stressed conditions.

Market participants would benefit from greater transparency of the margin models used by Central Counterparties (CCPs), as well as simulation tools to stress test that information. Improving the quality of the data in these feedback loops will be central to enhancing the sophistication and accuracy of market participants' stress testing models.

Furthermore, worst case and stress case scenarios may be better calibrated with improved transparency and data sharing between market participants and regulators, as mentioned in previous answers. By having access to more granular data on market conditions and the behaviour of counterparties during stress periods, fund managers can better calibrate their models to reflect potential future challenges.

Question 26: *What are your views on the preparedness of NBFIs operating in the EU in meeting margin calls, and on the ways to improve preparedness, taking into account existing or recently agreed EU measures aimed at addressing this issue? Please specify the NBFI sector(s) you refer to in your answer?*

As the FSB noted in its April 2024 consultation²⁴ on liquidity preparedness for margin and collateral calls, *"the substantial majority of market participants were able to meet margin calls"*, even during stress events like March 2020.

In the EU, this is underpinned by ESMA guidelines on stress testing for UCITS and AIFs, which require consideration of potential idiosyncratic, market-wide, and combined shocks leading to large margin and collateral calls. However, individual market participants' ability to model and respond to margin calls, maintain cash buffers, use contingent funding sources, and pre-position collateral are dependent both on the quality of existing market data, and the behaviours of other market participants and intermediaries. With this in mind, three main ways in which liquidity preparedness of market participants could be improved:

1. Market participants would benefit from greater transparency regarding the margin models used by their CCPs, as well as user-friendly margin simulation tools to stress test that information. Currently, the degree and quality of CCP margin transparency varies greatly from CCP to CCP. Improving the quality of the data in market disclosures and audit requirements will be central to enhancing the effectiveness of stress testing models.
2. Market participants' liquidity preparedness could also be enhanced through an expansion of eligible collateral to include a wider range of high-quality liquid securities. This could reduce investors' need to either sell assets or rely on cash to meet margin calls. Expanding acceptable collateral to include certain types of Money Market Funds (MMFs) and Exchange Traded Funds (ETFs) and exploring potential benefits of security tokenisation could enhance systemic resiliency.
3. Finally, assessments of - for example - the possible behaviour of other market participants or concentration of certain markets cannot be made with the data coverage and granularity that currently exists. In some jurisdictions, the data quality available to

²⁴ Source: FSB, [Liquidity Preparedness for Margin and Collateral Calls](#), consultation report Pg.3, April 2024.

market participants on trading activity can be fragmented, inconsistent or of poor quality. Therefore, policymakers should recognise limitations in data, and work with industry and other authorities to improve data availability and quality across the board.

Question 27: *What are relevant risk metrics or tools that can be used to effectively monitor liquidity and margin preparedness across all NBFi entity types? Please provide examples specifying the sector you refer to.*

All market participants should have:

- (i) robust operational and governance processes for managing margin and collateral calls
- (ii) liquidity risk management frameworks that include robust stress tests that are subject to regular review and used to calibrate liquidity and collateral decisions
- (iii) regular reviews of collateral management arrangements and
- (iv) regular interaction with relevant counterparties and third parties

The extent to which assets held represent adequate provision for margin calls depends on the magnitude of the margin call likely to be faced. As such, it is difficult to identify specific risk metrics that will be useful across all NBFi types.

However, in preparing for margin calls, market participants need to balance uncertainties around the level of margin or collateral calls they are likely to face, and the capacity and willingness of counterparties to provide contingent funding against their own hedging requirements, banks' investment and return objectives, and the cost of holding higher cash buffers or liquidity buffers more generally.

Question 30: *What would be the benefits and costs of creating a framework or a label in EU legislation for certain money market instruments (such as commercial papers) to increase transparency and standardisation? Should the scope of eligible instruments to such framework/label be aligned with Article 3 of Directive 2007/16/EC60? If not, please suggest what criteria would you consider for identification of eligible instruments.*

A labelling regime that brought increased standardisation and transparency could bolster investor confidence, potentially leading to greater market participation and liquidity. Such a framework could also facilitate easier comparison between different instruments, fostering a more competitive environment that benefits both issuers and investors.

On the other hand, the regulatory burden of compliance might deter smaller issuers, leading to a concentration of issuance among larger, more established entities. This could reduce the diversity of available instruments, impacting market dynamics. It may also entail, in the short term, a cost for issuers to update their documentation, which could result in less favourable rates for investor.

Regarding the alignment with Article 3 of Directive 2007/16/EC60, while it provides a solid foundation, it may not fully capture the diversity and evolving nature of current money market instruments. Additional criteria could include detailed parameters around credit ratings and residual maturity (with different labels linked to different ratings/maturities) and/or minimum criteria for issuer eligibility (with respect to financial soundness and transparency requirements).

Question 31: *Would the presence of a wider range of issuers (notably smaller issuers) to fund themselves on this market, and therefore diversify their funding sources, be beneficial or detrimental to financial stability?*

The presence of a wider range of issuers could be beneficial, but also may have some drawbacks:

The potential benefits include:

- Risk Distribution - A broader range of issuers distributes risk, reducing dependence on a few large entities. This mitigates systemic risks and lessens the impact of a single large issuer's failure.
- Increased Liquidity - More issuers enhance market liquidity, leading to efficient pricing and a resilient market environment.

The potential drawbacks include:

- Credit Risk - smaller issuers introduce higher credit risks due to their higher likelihood of default.
- Market Complexity - a diverse range of issuers complicates market structure, making risk assessment and oversight more challenging. (including due to a large volume of different types of issuers).

It is also worth noting that MMFs are large buyers of money market instruments, and they have restrictions on the issuers they can purchase, both as regards credit quality and concentration limits – it may be challenging for a new issuer to build enough scale to become an issuer from whom an MMF may purchase debt securities.

Question 32: *What are your views on why euro-denominated commercial papers are in large part issued in the 'EUR-CP' commercial paper market outside the EU? What risks do you identify? Please provide quantitative and qualitative evidence, if possible.*

This can be attributed to several factors. In particular, the EUR-CP market outside the EU offers a more flexible and accommodating environment for issuers compared to domestic EU markets, including as regards simplified issuance procedures and a broader investor base. These factors make it attractive for issuers seeking quick and cost-effective funding solutions. Issuers are also generally global firms, with a range of funding needs in multiple currencies – it makes sense for them to issue on one key market (e.g. London), in multiple currencies, rather than to split issuances such that they occur in the home jurisdiction of the currency.

The risks of this dynamic, from an EU perspective, relate to the fact that EU legislators and regulators have no direct control over the market infrastructure. For an issuer or investor perspective, the risks include regulatory uncertainty (e.g. post-Brexit regulations in the UK are still evolving).

Question 33: *What could be done to improve the liquidity of secondary markets in commercial papers and certificates of deposits?*

Liquidity in secondary markets would be enhanced by

- Standardization of Issuance: Create a standardized framework for CP and CD issuance to reduce information asymmetry.
- Transparency and Reporting: Mandate detailed disclosures about issuers' financial health and specifics of CPs and CDs to inform investors.

- Reporting: Require detailed reporting to a central repository to enable price transparency and price discovery.
- Creating of a permanent standing facility available to all market participants (similar to that put in place in the US by the Federal Reserve).

Question 34: *Considering market practice today, is the maturity threshold for ‘money market instruments’ (up to 397 days) in the Eligible Asset Directive 2007/16 sufficiently calibrated for these short-term funding markets?*

Yes, 397 days is adequate for a money market instrument, for a number of reasons:

- Alignment: The 397-day limit aligns with regulatory guidelines set by financial authorities like the U.S. Securities and Exchange Commission or in the rules for US 1940 Act mutual funds. This standardisation ensures consistency and stability across the money market, fostering investor confidence.
- Balance between risk and yield: While shorter maturities would offer enhanced liquidity and reduced risk, they would come with lower yields. 397 days provides issuers and investors with the opportunity to obtain slightly higher returns without significantly increasing risk. This balance is crucial for making money market instruments competitive and appealing within the broader fixed-income market.

Question 35: *Do you think there is a risk with the high concentration of this market in a few investors (MMF and banks)? Please elaborate*

Generally speaking, and certainly in normal market conditions, the high concentration in two types of investors (MMFs and banks) does not pose significant risks, for a number of reasons.

First, diversity within the MMF and banking sectors mitigates the risks associated with concentration. Within the MMF space, funds have different investor bases, different currencies, different MMF regulatory types, amongst other things. Similarly in the banking space, banks have different liquidity requirements and needs. This diversity helps to cushion the impact of adverse market conditions on the overall short-term funding market. In the event of an issue impacting every market participant (e.g. Covid-19 pandemic), then the high concentration itself is not the problem – the event by definition is impacting everyone.

Second, the inherent liquidity of short-term funding instruments like treasury bills and repurchase agreements provides a degree of protection. These instruments mature quickly, making them less susceptible to dramatic price fluctuations and illiquidity.

Thirdly, banks and MMF managers are sophisticated market participants. Advancements in financial technology and risk management tools have enhanced their ability of to monitor and manage liquidity risks more effectively through; sophisticated stress testing, scenario analysis, and real-time monitoring systems allow them to identify and address potential liquidity issues before they escalate.

Question 36: *How could secondary markets in these money market instruments attract liquidity and a more diverse investor base, while relying less on banks buying back papers they have helped to place?*

The answer here is in essence the same as the answer to question 33: standardisation, transparency and reporting:

- Standardization of Issuance: Create a standardized framework for CP and CD issuance to reduce information asymmetry.

- Transparency and Reporting: Mandate detailed disclosures about issuers' financial health and specifics of CPs and CDs to inform investors.
- Reporting: Require detailed reporting to enable price transparency and price discovery.

Question 37: *What are the benefits and costs of introducing an obligation to trade on trading venues (regulated markets, multilateral trading facilities and organised trading facilities) for such instruments?*

The benefits of a trading venue would be marginal (e.g. reduction in counterparty risk, which is typically not material). The key point is that trading on a regulated venue does not, of itself, generate liquidity (which is ultimately the goal). The costs (namely higher fees for executing trades, as well as the implementation and compliance costs with any new requirement) are likely to outweigh the benefits.

Question 38: *Can the possibility to trade on a regulated venue increase the chances of secondary market activities in a systemic event, for instance by acting as a safety valve for funds that need to trade these assets before maturity (especially when facing strong redemption pressures, like for MMFs)?*

As noted in the response to question 37, while trading on a regulated venue may help at the margins, it does not guarantee liquidity. During periods of stress the fact that trading takes place on a trading venue is unlikely to have a material impact on the ability to find a willing buyer on the other side of the trade.

Question 42: *To what extent do you see emerging liquidity risks or market functioning issues that can affect liquidity in other markets? Can you provide concrete examples?*

The financial landscape is constantly changing, bringing with it new liquidity risks and the possibility of issues affecting market functioning. The NBFIs sector has grown substantially and, as such, must remain aware of these risks. Nevertheless, from Irish Funds perspective, the fund sector has implemented various proactive measures to address potential liquidity challenges, and ongoing regulatory and industry efforts continue to strengthen its resilience.

During periods of market stress, potentially less liquid asset classes may be more susceptible to liquidity shocks, especially when there is a rapid withdrawal of capital. During the Covid-19 pandemic, the high-yield bond market faced liquidity challenges due to rapid outflows. This impacted the liquidity in related markets, such as investment-grade bonds. Many funds have adopted liquidity management tools, including swing pricing and redemption gates, which help prevent large-scale redemptions from causing 'fire sales' of assets. Regulatory frameworks, such as ESMA's liquidity stress testing guidelines, have also been implemented to ensure that funds can withstand liquidity shocks.

Leverage can magnify liquidity risks (to meet margin or unwind positions quickly) in times of market stress, potentially increasing market volatility and liquidity shortages. Regulatory bodies, including the FSB and the ECB have increased their oversight of leverage in NBFIs. Regulators are monitoring margin requirements more closely while funds have also introduced enhanced internal liquidity stress testing to assess the impact of leverage during market downturns. The introduction of stress testing for margining and liquidity, such as that by ESMA²⁵ has also played a key role in helping funds prepare for potential liquidity shortfalls.

²⁵ Source: ESMA: [Guidelines on liquidity stress testing in UCITS and AIFs](#), July 2020

Climate-related financial risks are gaining prominence as a potential source of liquidity risk. Investors are increasingly shifting away from carbon-intensive sectors, and there is a growing risk that a sudden re-pricing of assets exposed to climate risks could lead to liquidity strains in certain markets. The ESMA guidelines on ESG funds' names is a significant regulatory step up for investors that requires funds that use sustainability and ESG related terms to uplift their portfolio to meet portfolio composition requirements. There are a significant number of funds that may need to consider either divesting from impacted stocks or rebranding. Outside of Europe, we see this example²⁶ in the United States where an insurance fund swapped out coal assets for a responsible index ETF. Similarly, fossil fuel companies are facing increasing pressure as investors shift capital towards more sustainable investments and in such case, a 'rapid' market-wide shift could lead to capital outflows from these sectors, affecting liquidity. Both regulators and the financial industry are integrating climate-related risks into risk management frameworks.

Emerging liquidity risks and market functioning issues are an important focus for both the NBFIs sector and regulators. While it is important to recognise the risks related to concentrated investments, liquidity of investments, leverage, and climate-related financial risks, the fund sector has taken significant steps to mitigate these challenges. The introduction of a full LMT toolkit post the transposition of the EU AIFMD/UCITS review, regulatory stress tests, enhanced transparency requirements, and the development of more robust risk management frameworks all contribute to a more resilient financial system. As the NBFIs sector continues to evolve, ongoing collaboration between industry stakeholders and regulators will be crucial in ensuring that emerging risks are effectively managed, and that financial stability is maintained.

Question 43: *What are other tools than those currently available under EU legislation which could be used to contain systemic risks generated by potential pockets of excessive leverage in OEFs?*

Our response to this question should be considered alongside our general comments on leverage and our observations on existing leverage tools in the UCITS regulations in question 1 and general comments on AIFMD in question 5.

While leverage limits are a key tool, their implementation presents operational challenges that need careful consideration. For example, the calibration of these limits—whether they should be fixed or time-varying—is critical, as is accurately measuring leverage, particularly synthetic leverage. We also noted in question 1 that leverage can be challenging to measure, but importantly we need to reiterate the point made in question 5 that leverage levels in AIFs is generally low, with, UCITS also subject to specific leverage limits.

We recognise the importance of leverage limits in specific contexts and note that the CBI has experience with implementing leverage limits, as demonstrated by their 2022 initiative to apply a 60% leverage cap on Irish-domiciled property funds, and more recently in the case of LDI funds where there was a yield buffer (which incorporates leverage and duration in its calculation) minimum limit introduced. This case shows the importance of tailoring leverage limits to the specific characteristics of different types of funds which may vary significantly in complexity and risk exposure.

In addition to leverage limits, other tools could be explored to contain systemic risks. The recent ESMA margin call consultation²⁷, for instance, highlights the role of margin requirements in managing leverage-related risks. Applying margin requirements more dynamically could serve as an additional safeguard and highlights the importance of ensuring any measure is appropriately considered to avoid any unintended consequences.

²⁶ Source: Reuters: "[New York State Fund Swapped Coal Assets for Responsible Index ETF](#)," September 26, 2024.

²⁷ Source: ESMA. [Consultation Paper: Review of RTS No 153/2013 with Respect to Procyclicality of Margin](#). January 2022

Regulatory stress testing focused on leverage-related risks could be enhanced from a macroprudential perspective. This would not only help improve resilience at the fund level but also at the system-wide level, providing valuable insights for macroprudential policy discussions. However, as noted in question 19, we encourage policymakers to be very targeted in terms of areas of focus and intended outputs and proportionate in terms of supervisory and industry resource.

As noted in EFAMAs paper on ‘Open-ended funds and resilient capital markets’²⁸, there are several issues relating to the broader financial market ecosystem which may be considered, both in terms of liquidity and leverage, in the context of a potential macroprudential framework for investment funds:

- Following the review of the EU MiFIR framework, establishing an effective consolidated tape for equity, equity like and fixed-income securities, would provide greater transparency in times of market volatility. An effective consolidated tape would support market participants in identifying the most liquid markets, support best execution reporting, and allow supervisors to monitor market developments more closely during periods of market stress.
- Facilitating the use by banks of their liquidity buffers during periods of stress would allow broker-dealers to expand their balance sheets further during such periods of uncertainty. During March 2020, broker-dealers were unwilling to dip into their buffers to provide additional liquidity to the market, despite the fact that they were designed for this exact countercyclical reason. Greater guidance from bank regulators on when and how broker-dealers can use these liquidity buffers would significantly contribute to the resilience of capital markets.
- Improving CCP margin transparency and predictability, to avoid spikes in margin calls during periods of market stress as experienced during the COVID-19 crisis. This would avoid the excessive flow of liquidity away from markets. CCPs could use appropriate model assumptions to size initial margin requirements proportionately (for example, historical market trends and margin period of risk) to mitigate the potential for future procyclical initial margin moves.
- It is equally important to ensure that brokers’ collateral policies – including for investment funds – are sufficiently transparent to those investors that use their services, as we understand that brokers may impose additional margin requirements on their clients on top of those required by CCPs. Lastly, to alleviate unintended liquidity pressures from margin calls, we recommend expanding acceptable collaterals to include, for example, PDCNAV MMFs and certain qualifying ETFs.
- Consolidating supervisory reporting across all financial sectors, to allow macroprudential supervisors to form a more complete overview of the European financial system. Indeed, to conduct a comprehensive systemic risk analysis, it is not sufficient to only leverage supervisory information on the behaviour of investment funds, particularly given their relatively limited footprint in capital markets.

In conclusion, while leverage limits remain important in specific contexts, their effectiveness could be bolstered by dynamic margin requirements, enhanced stress testing, and a range of other tools, such as those above targeting overall transparency, and consolidating reporting.

These measures, alongside a deeper understanding of leverage dynamics and the operational challenges associated with them, could significantly strengthen the EU's risk framework for managing risks in the OEF sector.

²⁸ Source: EFAMA. [Open-Ended Funds and Resilient Capital Markets: The Perspective of the European Asset Management Industry](#), July 2023

Question 45: *While on average EU OEFs are not highly leveraged, are there, to your knowledge, pockets of excessive leverage in the OEF sector that are not sufficiently addressed? Please elaborate with concrete examples.*

Irish Funds is not in a position to determine whether there are pockets of excessive leverage in the OEF sector.

However, in the EU, the UCITS Directive has certain restrictions in place around the use of leverage and similarly, the procedure under Article 25 of AIFMD provides sufficient tools to supervisors to identify such pockets of excessive leverage in the OEF sector for non-UCITS.

Question 46: *How can leverage through certain investment strategies (e.g. when funds invest in other funds based in third countries) be better detected?*

Before exploring options for detecting synthetic leverage through investments in other funds, it is important to first identify the specific group of fund strategies that are affected by this issue. This preliminary step is essential because it sets the stage for effective detection and management of synthetic leverage risks. Understanding the relevance of synthetic leverage achieved through investment in other funds is contingent upon two key factors:

- **Proportion of investment in other funds:** The impact of synthetic leverage is heavily influenced by the proportion of the regulated fund's assets allocated to other funds. A higher allocation increases the potential for synthetic leverage, as it amplifies the exposure to leveraged positions within the underlying funds.
- **Leverage in Underlying Fund Portfolios:** The degree of leverage employed by the underlying funds also plays a critical role. If the underlying funds use significant leverage in their portfolios, this leverage is magnified when aggregated at the level of the investing fund, creating substantial synthetic leverage.

A mechanism for detecting synthetic leverage is most relevant when both of these measures—investment in other funds and the extent of leverage within those funds—are material. Therefore, it is important to develop detection methods that specifically address situations where these ratios are significant, ensuring that the mechanisms are effective in identifying and managing synthetic leverage risks.

However, several barriers may complicate the identification process:

- **Regulatory and Compliance Differences:** Regulatory and compliance standards vary significantly between jurisdictions. Third countries may have different reporting requirements, regulatory frameworks, and oversight mechanisms compared to the investing fund's home jurisdiction. These differences can create obstacles in obtaining a clear and consistent view of fund strategies and their associated risks.
- **Legal and Tax Considerations:** Legal and tax implications of investing in third-country funds can further complicate the identification process. Differences in legal systems and tax regimes can affect the way fund strategies are structured and reported, making it challenging to assess and compare their impact on synthetic leverage.
- **Transparency and Reporting Difficulties:** Transparency and reporting standards can vary widely among funds, especially those based in third countries. Limited or inconsistent disclosure practices can obscure critical information about the underlying funds' investment strategies and their use of leverage, complicating efforts to assess their potential impact on synthetic leverage.
- **Operational Challenges:** Operational difficulties, such as language barriers, cultural differences, and logistical issues, can hinder the ability to effectively identify and analyse fund strategies. These challenges can affect the accuracy and completeness of the information needed for proper detection of synthetic leverage.

The existing restrictions that are applicable to UCITS and AIFs relating to the proportion of investment in other funds should also be considered in the identification process. UCITS, for example, are subject to specific limits on investments in other funds. They are generally prohibited from investing in non-UCITS funds. For instance, a UCITS can invest up to 10% of its assets in a single UCITS or eligible investment fund, and the total investment in other funds, including UCITS, cannot exceed 20% of the UCITS's assets²⁹. This aggregate limit aims to promote diversification and mitigate risks associated with any single fund or group of funds.

AIFs, on the other hand, face varying limits and regulatory requirements depending on their type and jurisdiction. The CBI's AIF Rulebook³⁰ provides additional specific guidelines for AIFs in Ireland, including maximum thresholds for direct and indirect investments in other funds. For example, a Qualifying Investor Alternative Investment Fund ("QIAIF") may invest a maximum of 50% of its assets in any one unregulated investment fund or two or more unregulated investment funds which have identical investment strategies. These guidelines serve to enhance diversification and limit risk exposure, as well as compliance requirements and risk management practices.

By addressing these considerations and barriers, fund managers and regulators can better identify and analyse the fund strategies affected by synthetic leverage and implement more targeted and effective detection mechanisms.

Question 47: Are you aware of any NBFIs sector entities with particularly high leverage in the EU that could raise systemic risk concerns?

Leverage in the European investment fund sector is relatively low and is often used to enhance portfolio efficiency and manage risk, rather than just to increase market exposure. Existing regulatory measures such as Article 25 AIFMD³¹ aim to mitigate risk concerns with high leverage products by enhancing transparency, risk management, and stability such as the CBI did for Irish domiciled property funds. Measures like this should be extended to other NBFIs, such as a family office, which can be less or (un)regulated and therefore may take on higher leverage without adequate controls. It is also worth noting that AIFs deemed to be using leverage on a substantial basis (>300%) are also subject to additional reporting requirements.

Question 50: How can it be ensured that competent authorities can effectively reconcile positions in leveraged products (such as derivatives) taken via various legal entities (e.g. other funds or funds of funds) to the ultimate beneficiary?

Before considering the methods for reconciliation, it would be helpful to first consider what is meant by "ultimate beneficiary" in this context.

Typically, in the context of funds, the ultimate beneficiary or ultimate beneficial owner ("UBO") is understood generally to be a natural person who is the **beneficial owner** of a fund's assets. A beneficial owner is not usually involved in the investment decision-making process for the fund and has no influence on the fund's positions in leveraged products, whether taken directly or via various legal entities. Investment decisions for a regulated fund are taken by the fund manager to the scheme rather than its investors and it is the fund manager's responsibility to understand the fund's positions including any underlying leverage. A reconciliation of positions in leveraged products to the UBO, from this perspective, may offer limited value in addressing leverage risk.

²⁹ Source: Irish Statute Book: [S.I. No. 230/2019 - Central Bank \(Supervision and Enforcement\) Act 2013 \(Section 48\(1\)\) \(Undertakings for Collective Investment in Transferable Securities\) Regulations](#) 2019

³⁰ Source: CBI. [AIF Rulebook](#) Chapter 2 – Qualifying Investor AIF Requirements March 2017

³¹ Source: ESMA. [Final Report: Guidelines on Article 25 of Directive 2011/61/EU](#). December 2022

If the objective of such a reconciliation is to detect the risk of UBOs divesting of multiple fund holdings resulting in a market sell-off for leveraged products, there are many factors that would impact this assessment and should be taken into consideration. Some of these factors include the size of an UBOs stake in the regulated funds, the size of the regulated funds, the size of the regulated funds' stake in underlying funds, the redemption terms of both the regulated funds and the underlying funds, whether liquidity management tools might be applied at any level, the proportion of the regulated funds' assets that are comprised of leveraged products versus other liquid assets to facilitate redemptions, and the purpose of the leveraged products within the funds' portfolios. Performing a reconciliation without accounting for these factors would result in a partial and unrepresentative view of the risk. Likewise, if the reconciliation is aimed at addressing the risk or impact of a sell-off of leveraged products originating at the level of the underlying funds, which in turn triggers a sell-off at the level of the UBOs, similar factors would need to be considered.

If, in the context of this question, "ultimate beneficiary" refers to a regulated fund, the factors outlined in response to question 46 should be considered.

Question 52: Do you have concrete examples of links between banks and NBFIs, or between different NBFIs sectors that could pose a risk to the financial system?

Some investment funds established in other parts of the world, along with other entities such as sovereign wealth funds and family offices, are subject to minimal regulation or, in some cases, are unregulated. The characteristics and activities of these market participants are, therefore, much less understood. The Archegos Capital Management case referenced in the Commission's consultation is the most significant recent example of financial stability risks arising at the interface of the banking system and a non-bank entity (in Archegos case, a large family office). As the case has been examined extensively, we would offer only two observations:

- (i) that Archegos was a real test of the strengthened prudential and resolution framework for banks, which the framework was in general able to manage effectively; and
- (ii) that opinions appear to vary among public authorities about whether the right supervisory data was available ex ante for policymakers to effectively monitor and assess Archegos' changing exposures and risk profile.

Separately, we agree with the FSB³² that "*unexpectedly large margin and collateral calls for derivatives and securities financing trades*" can contribute to aggregate liquidity imbalances and can increase liquidity transformation during recent periods of underlying market stress. This issue relates to the broader financial market ecosystem and policies implemented post-global financial crisis to reduce potential counterparty credit risk. While well-intended, the unintended consequence of the implementation of these policies has been excessive spikes in the demand for liquidity, as identified by the FSB. It is therefore imperative that EU policymakers focus on this part of the financial ecosystem, its operation and how it can be improved, and how margin and collateral calls can be met.

In this regard, we welcome the Commission's focus on enhancing the functioning of short-term debt markets³³ following the related work of the FSB³⁴. We believe that there is an opportunity, in particular, to enhance the transparency of the EU markets for CP and CD, for example by providing ISINs for such securities. In turn, we believe this should improve the functioning and resilience of those markets and the EU financial system more broadly as

³² Source: FSB, [Liquidity Preparedness for Margin and Collateral Calls Consultation report](#), April 2024

³³ Source: European Commission, [Roundtable on EU markets for commercial paper and certificates of deposit](#), September 2024

³⁴ Source: FSB, [Enhancing the Functioning and Resilience of Commercial Paper and Negotiable Certificates of Deposit Markets](#), May 2024

investors in such assets, as well as supervisors, will have a better view of the market (e.g., in terms of debt outstanding) and therefore the potential liquidity in their portfolios.

Question 53: *What are the benefits and costs of a regular EU system-wide stress test across NBFIs and banking sectors? Are current reporting and data sharing arrangements sufficient to perform this task? Would it be possible to combine available NBFIs data with banking data? If so, how?*

Irish Funds acknowledge that System-wide stress testing exercises, like the Bank of England's SWES, can offer valuable insights into the dynamics of core markets. These exercises have the potential to provide a comprehensive view of how various market participants, including banks and non-banks, interact and respond to stress conditions, which is important for understanding systemic risks, however any system-wide stress testing exercise should not be used as a policy forming tool.

To be effective, EU stress tests should have a clearly defined purpose, focusing on how different market participants influence a specific market within a given scenario. It should be proportionate in scope and time-limited to manage the resource burden. These exercises should aim to gather information, not to set macroprudential policies for NBFIs or enforce specific rules, such as liquidity ratios or prudential requirements, which are typically established for banks. Supervisors should avoid assumptions about market participant behaviour. Rather than relying on hypothetical or desk-based simulations, supervisors should gather insights from participants' own experiences to understand how they would realistically respond to various scenarios.

Furthermore, while stress testing and data collection are crucial, there is also a need to enhance data sharing among NCAs. Developing standardised reporting templates would reduce the administrative load on cross-border firms operating within Europe. An ad-hoc EU-wide stress test could benefit authorities and market participants by highlighting how capital markets might react to specific stress scenarios and the feedback loops that might arise between different segments of the system. An interactive approach could add further value, where representative market participants provide insights into their responses to given stress scenarios.

While we recognise the value of system-wide stress tests, certain limitations like resource intensity and market fragmentation must be acknowledged. These exercises are time-consuming and require coordination among multiple stakeholders, including ESMA, ESAs, and several NCAs from each member state, along with a representative panel of financial institutions. In addition, the stress test has to be based on a severe but plausible scenario, and not just historical replays. Conducting an EU system-wide assessment is also challenging due to the fragmented nature of European markets and the varying behaviours of investors across member states. Furthermore, foreign investors, who held 25% of the European bond market in 2023³⁵, add complexity to the exercise as their behaviour may influence outcomes but might not be fully incorporated.

While comprehensive and consistent data reporting is essential, the primary advantage of system-wide stress tests lies in capturing the dynamic nature of markets. Nevertheless, adequate data reporting from financial institutions is vital to allow authorities to perform effective analyses and share this information among supervisory bodies.

³⁵ Source: ECB, [Data Portal Securities Holdings Statistics](#), accessed November 2024

Question 57: *How can we ensure a more coordinated and effective macroprudential supervision of NBFIs and markets? How could the role of EU bodies (including ESAs, ESRB, ESAs Joint Committee) be enhanced, if at all? Please explain.*

Whilst the current macroprudential supervision framework may continue to be refined, it is important to acknowledge that the existing holistic and system-wide framework of supervision across the EU has proved largely effective in preventing the build-up of systemic risk in the NBFIs sector and in ensuring the coordinated supervision of the sector across Member States. It is clear that the existing EU legislative framework establishing and governing the operation of the ESAs should be sufficient to ensure the necessary coordination and effective macroprudential supervision of NBFIs and markets.

In this regard we would draw attention to the breadth of the ESAs' existing mandates which were instituted following shortcomings in this regard during the global financial crisis. This relates to coordination within their respective areas, as well as through the Joint Committee structure.

Impactful regulatory supervision requires a significant degree of coordination amongst supervisory bodies and the ESAs have already demonstrated that they operate an effective coordination function with respect to relevant national regulators, in relation to issues that could potentially jeopardise the orderly functioning and integrity of financial markets or the stability of the EU financial system.

In terms of improvements that can be made within the framework, one area where policymakers should focus is on harmonising national regulators' ad hoc reporting requests during periods of underlying market stress, both in terms of content and format, while also ensuring better, more efficient data sharing between the ESAs and national regulators during such periods. This would include the reporting and sharing of information relating to macroprudential supervisory issues. With the provision of comprehensive data acting as the foundation for any macroprudential framework, the strengthening of data sharing should provide the basis for any system-wide analysis to be undertaken by the Commission or EU bodies and, in due course, provide the basis for any potential targeted and proportionate stress-testing across Member States.

As set out in our response to question 19, we encourage joint supervisory actions and initiatives among NCAs to address cross-border liquidity risks and efforts to enhance information exchange mechanisms between NCAs and European authorities for better oversight and coordination. Continued harmonisation in areas such as regulatory reporting and the use of LMTs, exemplified by the forthcoming updates to the AIFMD/UCITS regimes, as well as broader application of best practices when implementing coordinated actions, such as in relation to LDI funds, show the proportionate and effective means through which NBFIs and relevant markets can continue to be supervised within the existing regulatory framework.

Greater harmonisation and coordination will allow EU bodies to continue to give due consideration to the downstream impact of any macroprudential policy implemented on an EU-wide basis and in doing so ensure that, to the extent future interventions are required, their impact can be targeted in substance and form.

Question 58: *How could the currently available coordination mechanisms for the implementation of macroprudential measures for OEFs by NCAs or ESAs (such as leverage restrictions or powers to suspend redemption on financial stability grounds) be improved?*

Regarding existing coordination mechanisms for the implementation of leverage restrictions, Article 25 of the AIFMD³⁶ requires that, where a national regulator determines it necessary to implement a limit of the leverage employed by an AIFM in respect of a relevant AIF it manages, the national regulator must first notify "ESMA, the ESRB and the competent authorities of the relevant AIF"³⁷ thereof. This requirement is further detailed in Article 50 of the AIFMD³⁸ which sets out regulators' obligation to cooperate. A decision by national regulators to implement specific leverage limits will be based on an assessment of the data collected under requirements on the AIFM set out under Article 25 of the AIFMD, which also sets out requirements for the national regulator to inform ESMA of additional reporting requirements it imposes on AIFMs, as well as the ability of ESMA under certain conditions to request that national regulators impose additional reporting requirements.

We understand that the CBI was the first NCA to use the powers provided for in Article 25 of the AIFMD when it imposed leverage limits on Irish property funds³⁹, as well as Guidance to limit liquidity mismatch within such funds⁴⁰. We are not aware that there were any shortcomings in the CBI's communication with EU and other NCAs in relation to the development and implementation its new policy and related Guidance, and so it is not clear to Irish Funds that existing coordination mechanisms in this regard are required to be improved.

Regarding existing coordination mechanisms for the implementation of fund suspensions, it is the case that NCAs have the power to require to suspend the issue, repurchase or redemption of shares in the fund. Like the above, national regulators are required to cooperate with each other and with ESMA and the ESRB wherever necessary to carry out their respective roles, including regarding fund suspensions. We believe that, following the recent EU AIFMD/UCITS Directive review, requirements with respect to regulators activities related to fund liquidity risk management, including fund suspensions and cooperation, have already been strengthened. Moreover, we are not aware that any NCA has required a fund manager which it regulates to suspend a fund and, as such, there is no evidence to suggest that further enhancements relating to existing coordination mechanisms are required.

Question 59: *What are the benefits and costs of introducing an Enhanced Coordination Mechanism (ECM), as described above, for macroprudential measures adopted by NCAs?*

On the basis of our responses to Q19, Q58, and Q60, it is not clear that introducing an Enhanced Cooperation Mechanism (ECM) for the adoption of macroprudential measures and conflict resolution in an asset management context is necessary.

Question 60: *How can ESMA and the ESRB ensure that appropriate National Macroprudential Measures (NMMs) are also adopted in other relevant EU countries for the same (or similar) fund, if needed?*

It is first important to state that while a particular national macroprudential measure ("NMM") may be deemed by a national regulator to be appropriate for one jurisdiction (e.g., leverage limits for domestic Irish property funds), it is not necessarily the case that such an NMM is appropriate for implementation in another jurisdiction. There may be specificities to the (domestic) fund structure, underlying asset and/or market, local investor base etc. that

³⁶ Source: ESMA, [Guidelines on Article 25 of Directive 2011/61/EU](#), June 2021

³⁷ Source: Official Journal of the European Union, [Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers \(AIFMD\)](#), June 2011

³⁸ Source: Official Journal of the European Union, [Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers \(AIFMD\)](#), June 2011

³⁹ Source: CBI, [The Central Bank's macroprudential policy framework for Irish property funds](#), November 2022

⁴⁰ Source: CBI, [Guidance on Redemption Terms for Property Funds](#), November 2022

necessitate the implementation of an NMM which are not manifest in other jurisdictions. So, it may not always be appropriate to rollout an NMM across the EU or to a subset of Member States.

Notwithstanding the above, where it is determined that an NMM implemented in one jurisdiction may be relevant for implementation in another jurisdiction, it is our view that existing empowerments to engage with NCAs, who remain the relevant competent authorities for such domestic decisions, and to coordinate actions taken thereby should be sufficient to facilitate implementation. For instance, as set out in our response to question 19, the coordinated actions taken by the CBI and the CSSF in April 2024, as advised by ESMA, in relation to the application of investment restrictions for GBP LDI funds to ensure their resilience are an example of effective practice within the existing regulatory framework. The effective coordination of this initiative shows that it is not necessary to enhance supervisory powers to address cross-border issues within the EU.

Furthermore, the recently strengthened by EU AIFMD/UCITS Directive allows for host regulators to advise home regulators on the implementation of certain measures, with ESMA given a mediation and advisory role. As such, it is not clear that further empowerments are necessary at this stage.

Question 61: *Are there other ways of seeking coordination on macroprudential measures and possibly of reciprocation? What could this system look like? Please provide concrete examples/scenarios and explain if it could apply to all NBFIs sectors or only for a specific one.*

As per our response to question 60, while it is important to recognise when an NMM in one jurisdiction may have relevance in another, the existing ESAs and ESRB frameworks already provide sufficient mechanisms for coordination.

Each jurisdiction within the EU has its own unique financial landscape, including differences in fund structures, underlying assets, and investor bases. As mentioned, previously, the Irish property market has its specific characteristics that may warrant particular NMMs like leverage limits on domestic property funds. These measures are tailored to address localised risks that may not be present or relevant in other Member States. Thus, implementing a one-size-fits-all NMM across the EU could lead to inefficiencies or even unintended consequences in jurisdictions where such measures are not necessary or appropriate.

In our view, the current frameworks under the European System of Financial Supervision (ESFS), including the ESAs and the ESRB, already provide robust mechanisms for coordination and communication among national regulators. These bodies facilitate information sharing and can help identify when a macroprudential measure implemented in one jurisdiction might have relevance elsewhere. The existing system enables a coordinated response without the need for additional or alternative structures. Imposing a requirement for widespread reciprocation or uniform application of NMMs across multiple jurisdictions risks is overstepping the appropriate regulatory bounds and could lead to regulatory overreach. It could also undermine the autonomy of NCAs to make decisions that are in the best interests of their domestic financial stability. These frameworks ensure that NCAs can respond to localised risks while maintaining overall financial stability across the EU, without the need for new or additional coordination mechanisms.

Question 62: *What are the benefits and costs of improving supervisory coordination over large (to be defined) asset management companies to address systemic risk and coordination issues among national supervisors? What could be ESMA's role in ensuring coordination and guidance, including with daily supervision at fund level?*

Whilst a more integrated supervisory infrastructure may bring certain benefits to the broader capital markets ecosystem in which these fund management companies operate, it is important to note that the impact this would have in reducing systemic risk should be carefully weighed against the negative impact to the real economy that could be caused by a potentially significant increase in direct and indirect costs borne by such firms.

A proposal to extend ESMA's powers of direct supervision to individual fund managers would cause significant upheaval to a sector that has proven largely resilient to recent stresses and the Commission has not sought to articulate or evidence the need for ESMA to be given supervisory coordination powers for large (as yet undefined) fund management companies or what ESMA would be specifically required to do with its coordination powers. The comparison that is drawn with the ESMA CCP Supervisory Committee model as a potential model for such coordinated **supervision** of asset managers seems to ignore the difference in function between asset managers providing cross-border products and services and critical cross-border market infrastructures.

Also to note, Irish Funds would advocate strongly against any idea or suggestion that experienced NCAs may be required to seek an opinion on **authorisation** of a fund manager and/or investment fund from ESMA, which has no experience in this field, would seem to add an additional and unnecessary layer of bureaucracy which could significantly delay the deployment of capital and act as a barrier to new entrants. For ESMA to be able to achieve a base level of authorisation and supervision on a par with that currently achieved by NCAs, they would have to engage in substantial organisational change to implement the systems, processes and procedures necessary for such an undertaking. This would likely take several years to implement, and it is not certain that it would be achieved. Irish Funds would also question the need for this given there does not appear to be substantive issues that would warrant an increase in complexity and justify potential diluting the local NCAs powers.

In contrast, authorisation and supervisory standards could be incrementally improved by ESMA pursuing its supervisory convergence mandate. This approach would require no systemic change, be much more cost efficient and have a much higher likelihood of success. The development of a consistent EU supervisory culture involves building on, rather than seeking to replace and/or replicate, the NCAs' deep and extensive experience of authorisation, supervision and enforcement. Increased supervisory convergence should ensure that key issues of authorisation, supervision and enforcement are effectively addressed across the EU by NCAs with the addition of feedback loops from ESMA on matters of pan-European importance as and when they occur. This approach respects the fact that NCAs are primarily responsible for the risks that may arise in their markets and are responsible for the orderly resolution and windup of investment firms and management companies within national legal frameworks.

ESMA already has the power to conduct peer reviews (and other common supervisory actions) and initiate and coordinate EU wide stress tests (as referenced in the consultation). Deeper integration of financial markets and greater supervisory coordination could be achieved, in the main, by building upon existing powers and mechanisms available to the ESAs, without unnecessarily altering long standing, well-functioning arrangements, particularly in the absence of any compelling evidence to the contrary. A more proportionate response would be for the ESAs and ESMA in particular, to use their existing framework of powers and mechanisms to support engagement among NCAs for the development of practical convergence solutions. Such consistency of supervisory approaches could be achieved through the use of opinions and other Level 3 measures which are tools to achieve the practical application and implementation of EU legislative measures.

Furthermore, supervisory convergence and enforcement can be supported, for example, by the use of standard forms and templates to drive consistent supervisory outcomes.

Ultimately, implementing enhanced supervisory coordination for large fund management companies would only seem to bring additional supervisory complexity, increased regulatory friction, and, in all likelihood, greater costs to firms and, ultimately, end-investors as a result of reduced investment returns and a decrease in capital available for future investment. Instead, we believe that ESMA is best placed to play an effective role in ensuring supervisory convergence amongst NCAs in their application of regulations across Member States.

Question 63: *What powers would be necessary for EU bodies to properly supervise large asset management companies in terms of flexibility and ability to react fast? Please provide concrete examples and justifications.*

As set out in our response to question 62, if the Commission's proposal is to implement a similar mechanism to the ESMA CCP Supervisory Committee for the direct supervision of large fund management companies, we do not believe that any perceived reduction in systemic risk that this may lead to would outweigh the challenges and costs this would bring given ESMA's lack of experience in the authorisation of fund managers and/or investment funds.

Recognising that ESMA already has the power to conduct peer reviews (and common supervisory actions) and initiate and coordinate EU-wide stress tests, we believe that EU bodies are already well positioned to assist NCAs in the supervision of such firms so to ensure regulators can react quickly as and when matters arising that give rise to macroprudential concerns. Indeed, implementing such a supervisory committee for large fund management companies would only seem to bring additional supervisory complexity, increased regulatory friction, and likely, great costs to firms and, ultimately, end-investors.

For example, introducing a role for ESMA in the fund authorisation process would only reduce an NCAs flexibility and ability to act fast and would likely act as a barrier to new entrants and, if anything, lead to regulatory arbitrage and see fund management companies move outside of the direct supervision of NCAs. Additionally, the adoption of a 'one-size-fits-all' approach for investment funds is contrary to the stated position of FSB, IOSCO and CBI as ultimately there will be nuances within the domestic markets across countries within the EU that need to be considered.

Instead, we believe that the existing framework and supervisory powers could be utilised to continue to effectively supervise large firms and the NBFIs sector more generally, with the EU bodies already well positioned to drive and oversee increased harmonisation in areas such as reporting and stress-testing. Collaboration and coordination with NCAs in the supervision of large asset management firms has allowed NCAs, with oversight from the EU bodies, to react quickly and in a targeted, proportionate and effective manner.

Question 64: *What are the benefits and costs of having targeted coordinated direct intervention powers to manage a crisis of large asset management companies? What could such intervention powers look like (e.g. similar to those in Article 24 of EMIR)*

"[EMIR Article 24 reads as follows: The CCP's competent authority or any other relevant authority shall inform ESMA, the college, the relevant members of the ESCB and other relevant authorities without undue delay of any emergency situation relating to a CCP, including developments in financial markets, which may have an adverse effect on market liquidity, the transmission of monetary policy, the smooth operation of payment systems or the stability of the financial system in any of the Member States where the CCP or one of its clearing members are established.]"

Notwithstanding our previous comments in relation to the usefulness of the ESAs' existing supervisory coordination mandates and tasks, both in relation to national regulators and the ESAs themselves (including the Joint Committee of the ESAs), and our general comments in relation to the need for a similar mechanism to the ESMA CCP Supervisory Committee for the supervision of large asset management companies (including the key differences between asset managers providing cross-border products and services and critical cross-border market infrastructures), establishing a more formalised process within the existing framework for the coordination of supervisory interventions during periods of underlying market stress merits further assessment. It is not clear, however, that such an assessment should necessarily be limited to "large" financial market participants or, indeed, asset managers.

For example, as also referenced in our response to question 66, during March 2020 and the initial phase of Russia's invasion of Ukraine, certain national regulators in conjunction with ESMA, required fund managers to report on specific issues or data points (e.g., regarding trading conditions and market liquidity etc.) in a non-standardised manner. Additional data requests were understandable and regulated financial service providers and asset managers engaged constructively, responding in an expedient manner. However, responding to 'ad-hoc' data requests will always be time consuming and burdensome, especially for regulated firms with a presence in several Member States. There is an opportunity, therefore, for the Commission to harmonise NCAs reporting requests during such periods, both in terms of content and format, while also ensuring better, more efficient data sharing between the ESAs and NCAs.

A similar lack of coordination was experienced in relation to NCAs introduction of bans on net short positions during the March 2020 period⁴¹. While ESMA issued ex-post opinions approving such national interventions, there is clearly an opportunity to establish more formalised processes within the existing framework regarding the coordination of such interventions during periods of underlying market stress. Hence this proposal merits further assessment but should not focus solely on the activities of large asset managers given they operate within the wider financial market ecosystem.

More broadly, Irish Funds recognises the potential necessity of targeted direct intervention powers in crisis situations and stress the need for clear legislative boundaries and procedural safeguards to protect the EU's fundamental principles and ensure the powers are used judiciously and effectively. Irish Funds holds a cautious stance on the expansion of direct intervention powers by the ESAs particularly in times of crisis and emphasise the importance of procedural safeguards and checks to ensure that any use of product intervention powers is appropriate and strictly necessary. Irish Funds argues that these powers should be limited to specific cases and conditions outlined in legislative acts, warning against a general application that could pose risks to the EU's fundamental freedoms, advocating for clarity in legislation regarding the circumstances under which ESMA can deploy its product intervention powers, suggesting that any extension of these powers should undergo rigorous rule-making procedures.

Question 65: *What are the pros and cons of extending the use of the Enhanced Coordination Mechanism (ECM) described under section 6.1 to other NBFIs sectors?*

As per our answer to question 59, it is not clear that introducing ECM for the adoption of macroprudential measures and conflict resolution in an asset management context is necessary.

⁴¹ Sources: ESMA, [ESMA issues positive opinions on short selling bans by Austrian FMA, Belgian FSMA, French AMF, Greek HCMC and Spanish CNMV](#), April 2020

Question 66: *What are the benefits and costs of gradually giving ESAs greater intervention powers to be triggered by systemic events, such as the possibility to introduce EU-wide trade halts or direct power to collect data from regulated entities? Please justify your answer and provide examples of powers that could be given to the ESAs during a systemic crisis.*

It is important to note the breadth of the ESAs' existing mandates and, in support thereof, emergency intervention powers. Such mandates include the ESAs generally being tasked with:

- (i) contributing to the consistent, efficient, and effective application of EU legislation and regulations through the promotion of a common supervisory culture (and ensuring effective and consistent supervision of financial market participants),
- (ii) preventing regulatory arbitrage,
- (iii) mediating and settling disagreements between national regulators, and
- (iv) ensuring the coherent functioning of supervisory colleges, including coordinating supervisory action in emergency situations.

In this context, as part of their tasks relating to consumer protection and financial activities, the ESAs are empowered to temporarily prohibit or restrict certain financial activities that threaten the orderly functioning and integrity of financial markets or the stability of the EU financial system. The ESAs' roles in emergency situations are facilitated by an empowerment allowing them under specific conditions to adopt individual decisions requiring NCAs to take necessary actions to address an emergency situation in accordance with the relevant legislation/regulation. Where a national regulator does not comply within the specified time, the ESAs are empowered to address financial market participants directly, including requiring them to cease specified activities. The ESAs' empowerments relating to emergency situations also include their involvement in the development and coordination of effective and consistent recovery and resolution plans, including emergency procedures and preventive measures to minimise the systemic impact of any failure. We believe these existing empowerments, alongside broader coordination mandates in relation to the actions of NCAs, are sufficient to allow the ESAs to respond to systemic crises.

More broadly, there are already requirements on data sharing between the ESAs and NCAs, particularly in relation to potential systemic issues or situations, including for fund managers as recently strengthened by EU AIFMD/UCITS Directive review. As mentioned in our response to question 64, in emergency situations, such as those experienced during March 2020 and the initial phase of Russia's invasion of Ukraine, NCAs will require financial market participants to report on specific issues or data points and it would not serve any valuable purpose to duplicate this process via the ESAs. Instead, the Commission's focus should be on harmonising NCAs reporting requests during such periods, both in terms of content and format, while also ensuring better, more efficient data sharing between the ESAs and national regulators. As such, it is not clear that the ESAs require to be empowered to collect data directly from financial market participants.

Separately, any considerations regarding extending the ESAs' powers to include the implementation of EU-wide trade halts should be based on an evidenced need for such an empowerment. However, existing coordination procedures have not been shown to be inadequate and we therefore do not believe that the ESAs' powers require to be extended in such a way at this time.

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