21 November 2024

European Commission
Directorate-General for Financial Stability,
Financial Services, and Capital Markets Union

Re: *Targeted consultation document: assessing the adequacy of macroprudential policies for non-bank financial intermediation (NBFI)*

Submitted Electronically

To Whom It May Concern:

The Investment Company Institute[1] is submitting its views on the European Commission's consultation assessing the adequacy of macroprudential policies for non-bank financial intermediation (NBFI). Our comments specifically address open-end funds (OEFs) that our members manage in the European Union (EU) and in other global markets, including nearly €6 trillion in UCITS. These funds are integral to supporting economic growth, fostering capital formation, and providing the benefits of collective investing to a wide range of investors, particularly long-term individual investors.

In addition to our detailed responses to the questions contained in the Consultation (attached), we offer the following comments on themes that arise across our responses.

1. Existing regulatory frameworks for OEFs are sufficient to address the risks identified in the Consultation

The activities of NBFIs, including OEFs, encompass a diverse array of market participants, products, and services. Given this heterogeneity, it is crucial for the European Commission to differentiate between various financial vehicles and their respective regulatory frameworks when evaluating systemic risks and vulnerabilities. OEFs, such as UCITS, operate in robust regulatory frameworks designed to mitigate key risks identified in the Consultation—excessive leverage and liquidity mismatch.

With respect to leverage, UCITS are subject to strict controls on leverage to ensure their risk profile remains low, thus minimising the risk of negative spillovers to the broader financial

[1] The Investment Company Institute (ICI) is the leading association representing the global asset management industry in service of individual investors. ICI members are located in Europe, North America and Asia and manage fund assets of €43.7 trillion, including Undertakings for Collective Investment in Transferable Securities (UCITS), mutual funds, exchange-traded funds (ETFs), closed-end funds, unit investment trusts, and similar funds in these different jurisdictions. ICI has offices in Brussels, London, and Washington, DC.

system. Notably, the examples of excessive leverage cited in the Consultation primarily involve unregulated entities, such as family offices, rather than highly regulated vehicles like OEFs. Furthermore, UCITS are prohibited from engaging in the types of leverage activities under scrutiny in the Consultation, underscoring the importance of distinguishing between regulated and unregulated entities in making assessments about risk.

On liquidity risk, UCITS must hold highly liquid assets, place those assets in segregated or custodian accounts that are legally separate from the asset manager's balance sheet, and follow stringent requirements to meet redemption demands and mitigate the risk of liquidity mismatches. Recent amendments to the UCITS Directive further have enhanced liquidity risk management, requiring funds to implement at least two liquidity management tools (LMTs).

Finally, while the Consultation raises concerns about systemic risks arising from the interconnectedness of OEFs with the broader financial markets, the Consultation provides no evidence to support this conclusion. Before considering the introduction of macroprudential tools, policies, or measures, it is crucial to first determine, through data-driven analysis, whether these funds pose systemic risk that is not already addressed under existing regulations.

2. Additional macroprudential tools for OEFs would be distortionary and counterproductive

The application of macroprudential tools to OEFs not only is unnecessary, it also could lead to unintended negative consequences. For example, during periods of stress, if investors fear that restrictions will be placed on their ability to redeem from OEFs, they may engage in pro-cyclical selling, rushing to redeem before those restrictions are imposed. Thus, the macroprudential tools could undermine rather than support financial stability.

The use of macroprudential tools could also limit UCITS' ability to trade and invest on equal terms with other market participants. Such policies could distort the market and discourage investment in regulated funds like UCITS, potentially driving capital to less-regulated, higher-risk channels or leaving it in bank deposits. This situation would not only reduce the efficiency of capital markets but also hinder the growth of individual wealth and the success of the Savings and Investments Union (SIU).

3. Authorities should prioritise improving data sharing and effective use of existing data reporting

Before considering the application of macroprudential tools for OEFs, the European Commission first should set up a more robust system for gathering and sharing data across the EU financial system. Data must be the foundation of any decision to introduce macroprudential tools to OEFs, rather than assumptions about systemic vulnerabilities.

A comprehensive data sharing mechanism between national competent authorities (NCAs) and European Supervisory Authorities (ESAs) is essential for accurately assessing any potential systemic risks and informing regulatory decisions. Only once such a system is in place—and after a thorough analysis of the data—should policymakers consider additional regulatory tools. At present, there is insufficient evidence to justify the introduction of macroprudential measures for OEFs without a clearer understanding of whether and where systemic vulnerabilities genuinely exist.

We also call for greater standardisation of the required data reporting across Member States. Changes such as increased data standardisation would not only ease administrative burdens

and compliance costs but also would facilitate supervision through improved data sharing and aggregation. This effort is consistent with broader EU efforts to improve the use of existing supervisory data provided by the EU financial services industry.

4. **Improvements to liquidity transmission and market structure remain important for deepening European capital markets**

To increase the resiliency of the broader financial ecosystem, including the fund sector, a greater focus should be placed on enhancing liquidity transmission across the financial system. The challenges faced during the March 2020 market turmoil highlighted the limitations of traditional liquidity providers, such as banks, especially during times of crisis. As banks reduce their role as primary liquidity intermediaries, it is critical to modernise the infrastructure supporting liquidity provision in capital markets.

For this reason, policymakers should focus on strengthening market structures to support NBFIs, such as OEFs, in managing and providing liquidity. Improving liquidity transmission—especially during periods of stress—will enhance the resilience and stability of European financial markets. For example, modernising market infrastructure, such as reducing the settlement cycle for stocks and bonds, would improve liquidity, efficiency, and reduce counterparty risks. Greater transparency and efficiency in margin collection also would significantly aid in improving overall market preparedness to manage liquidity needs.

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While macroprudential tools may have their place in certain other areas of financial regulation, applying them to OEFs, such as UCITS, would unnecessarily impede the ability of these funds to help European households and individuals grow their personal wealth and support capital market activity. Instead, policymakers should focus on working with the funds industry to make the SIU a reality.

We appreciate your consideration of our comments. If you have any questions or would like to discuss our comments further, please contact me at tracey.wingate@ici.org, or Matthew Mohlenkamp (matthew.mohlenkamp@ici.org).

Sincerely,

/s/ Tracey Wingate

Tracey Wingate
Head of Global Affairs
Investment Company Institute

Attachment: Investment Company Institute Responses to European Commission Targeted Consultation Document: Assessing the Adequacy of Macroprudential Policies for Non-Bank Financial Intermediation (NBFI)

The Asset Management Industry
SERVING INDIVIDUAL INVESTORS
INVESTMENT COMPANY INSTITUTE

Investment Company Institute Responses to European Commission Targeted Consultation Document: Assessing the Adequacy of Macroprudential Policies for Non-Bank Financial Intermediation (NBFI)

Submitted via online questionnaire. Questions without a response have been omitted.

Q1. 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?

The activities of NBFIs, including OEFs like UCITS, cover a broad range of market participants, products, and services. It is important to distinguish between different financial vehicles and the regulatory frameworks that govern them when assessing systemic risks and vulnerabilities.

UCITS are already subject to a robust regulatory framework designed to mitigate the key risks outlined in the Consultation—excessive leverage, liquidity mismatches, and interconnectedness.

These funds are highly regulated, with strict controls on leverage to ensure their risk profile remains low, thus minimising the risk of negative spillovers to the broader financial system. In fact, the examples highlighted in the Consultation regarding leverage and interconnectedness appear to focus on unregulated entities, such as family offices, rather than highly regulated funds where the activities at issue are not permitted.

UCITS must also hold highly liquid assets, must place those assets in segregated or custodian accounts that are legally separate from the asset manager's balance sheet, and must follow stringent requirements to meet redemption demands and mitigate the risk of liquidity mismatches. Recent amendments to the UCITS Directive have further enhanced liquidity risk management, requiring funds to implement at least two LMTs.

UCITS have demonstrated resilience during times of market stress, and the current regulatory framework effectively mitigates systemic risks, making the case for macroprudential tools unnecessary.

Moreover, before considering macroprudential measures for OEFs, we strongly urge that there be a more robust system for gathering and sharing data across the EU financial system. Data must be the foundation of any decision to introduce macroprudential tools to OEFs, rather than assumptions about systemic vulnerabilities. A comprehensive data sharing mechanism between NCAs and ESAs is essential for accurately identifying any potential systemic risks and informing regulatory decisions. Only once such a system is in place—and after a thorough analysis of the data—should policymakers consider additional regulatory

tools. At present, there is insufficient evidence to justify the introduction of macroprudential measures for OEFs without a clearer understanding of where vulnerabilities exist.

Additionally, we believe to increase the resiliency of the fund sector (and thus, the broader financial ecosystem) a greater focus should be placed on enhancing liquidity transmission across the financial system. The challenges faced during the March 2020 market turmoil highlighted the limitations of traditional liquidity providers, such as banks, especially during times of crisis. As banks reduce their role as primary liquidity intermediaries, it is critical to modernise the infrastructure supporting liquidity provision in capital markets.

Policymakers should focus on strengthening market structures to support NBFIs, such as UCITS, in managing and providing liquidity. Improving liquidity transmission—especially during periods of stress—will enhance the resilience and stability of European financial markets. For example, modernising market infrastructure, such as reducing the settlement cycle for stocks and bonds, would improve liquidity, efficiency, and reduce counterparty risks. Greater transparency and efficiency in margin collection also would significantly aid in improving overall market preparedness to manage liquidity needs.

In conclusion, the existing regulatory framework for UCITS already addresses the key concerns of excessive leverage, liquidity mismatch, and interconnectedness. The current microprudential measures are sufficient to mitigate systemic risks in OEFs, and the introduction of macroprudential tools is unnecessary. Rather than imposing additional regulatory measures, policymakers should prioritise improving data sharing mechanisms and modernising market infrastructure to enhance liquidity transmission. This would be a more effective way to support financial stability and the resilience of the broader financial system.

Q2. What are the most significant risks for credit institutions stemming from their exposures to NBFIs that you are currently observing? Please provide concrete examples.

As it relates to regulated OEFs, such as UCITS, we find limited risks from OEFs for credit institutions. Credit institutions, such as banks, typically do not extend credit to OEFs in any significant way or use them for investment purposes.

Further, the structure of OEFs is such that they do not "fail" in the same sense that a bank might, in which a bank becomes insolvent. While the value of an OEF's portfolio of assets may rise or fall, fund shareholders bear those gains or losses. Even when OEFs close and liquidate (e.g., due to insufficient investor interest), shareholders receive their pro rata portions of remaining fund assets in an orderly way. Given the diverse nature of the OEF ecosystem, with nearly 30,000 UCITS on offer in Europe, investing across many different investment classes, the closure of one, or even several, OEFs is unlikely to have a meaningful impact on the broader financial system.

Although both banks and the NBFI sector in Europe have grown in absolute terms, in relative terms, banks and NBFI represent nearly the same proportion of total financial assets that they did almost a decade ago. Within the category of NBFI, OEFs also represent a significantly smaller share of total financial assets in Europe (about 17.2 percent) than the banking sector (35 percent). [1]

Taken together, the evidence indicates that exposure to regulated OEFs, such as UCITS, does not pose a significant risk to credit institutions.

[1] See Shelly Antoniewicz and Shane Worner (Antoniewicz and Worner), Financial Policymakers Need to Look at the Facts About the 'Growing Threat' of NBFI (6 August 2024), available at https://www.ici.org/viewpoints/24-view-nbfi-growth

Q3. To what extent could the failure of an NBFI 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 NBFI 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.

The questionnaire requests a rating and a response. The selected rating is "1. To a very low extent."

Our response to question 3 focuses on regulated OEFs such as UCITS.

The answer to this question depends heavily on how one defines a "critical function" for the real economy or financial sector. If critical functions are viewed to be connected to core banking sector functions, such as payments systems and deposit taking, then regulated OEFs pose very little risk.

Banks typically do not extend credit to OEFs in any significant way or use them for investment purposes. Further, the structure of OEFs is such that they do not "fail" in the same sense that a bank might, in which a bank becomes insolvent. While the value of an OEF's portfolio of assets may rise or fall, fund shareholders bear those gains or losses. The assets of each OEF also are separate and distinct from each other, and not available to claims by creditors of other funds or the fund manager. Finally, even when OEFs close and liquidate (e.g., due to insufficient investor interest), shareholders receive their pro rata portions of remaining fund assets in an orderly way. Given the diverse nature of the OEF ecosystem, with nearly 30,000 UCITS on offer in Europe, investing across many different investment classes, the closure of one or even several OEFs would not have a meaningful impact on the broader financial system.

Taken from the standpoint of providing financing for the real economy, however, OEFs do play a very important role. OEFs are a core pillar of well-functioning capital markets, helping individuals to invest and save for their futures and serving as effective and efficient channels for capital to flow to economically productive uses. By pooling money from investors to build diversified portfolios of stocks, bonds, or other securities, investments from OEFs enable businesses to fund expansion, research and development, and other capital-intensive projects. OEFs also help governments finance infrastructure and essential services on which individuals rely.

The potential application of macroprudential tools to the sector, however, represents a significant risk to the ability of OEFs to continue providing these important services to the real economy and help facilitate the growth of the EU capital markets. Macroprudential tools that place restrictions on OEFs' ability to invest and trade on equal terms with other market participants would distort the market, disadvantaging OEFs and their investors relative to other market participants, while creating incentives for capital to flow through other potentially less well-regulated channels.

Q4. 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.

Regulated OEFs, such as UCITS, have shown considerable resilience during periods of market stress, thanks to robust regulatory frameworks governing liquidity management, leverage limits, and concentration controls. UCITS managers are required to assess liquidity risks continuously, forecast liquidity needs, and conduct stress tests to ensure that liquidity can be effectively managed, even under adverse market conditions. These rules ensure that UCITS operate with minimal leverage and hold highly liquid assets, reducing the likelihood of liquidity issues spreading through the broader financial system.

The recent amendments to the UCITS Directive have further strengthened liquidity risk management, mandating that funds implement at least two LMTs. The European Securities Market Authority (ESMA) is currently working on regulatory standards to ensure the effective application of these tools. Moreover, the updated recommendations from the International Organization of Securities Commissions (IOSCO) and the Financial Stability Board (FSB) underscore the importance of proper liquidity management across all OEFs.

While we support regulators' efforts to enhance liquidity risk management, we believe that an overemphasis on the potential liquidity risks posed by OEFs could lead to unintended consequences. Particularly when it relates to the proposed use of macroprudential tools, such a focus risks distorting market dynamics by creating policies that disproportionately affect certain types of funds, potentially diverting capital to less-regulated areas. This could undermine both financial stability and investor protection, as liquidity issues may arise in less transparent or less regulated channels.

In our view, systemic liquidity risk is more likely to emerge from structural market vulnerabilities, particularly during periods of stress when traditional liquidity providers, such as banks, reduce their intermediation. Recent episodes of market volatility, such as those witnessed in March 2020, have demonstrated that banks, under certain regulatory and market pressures, may be unable or unwilling to meet liquidity demands, exacerbating liquidity shortages across the financial system. Therefore, policymakers should carefully assess the impact of regulations on market participants that serve these roles and ensure that nonbank liquidity providers are well-supported.

Policymakers should also consider ways to modernise market structures to enhance liquidity supply and resilience. For instance, accelerating the settlement cycle for stocks and bonds in Europe would improve market liquidity and efficiency while reducing counterparty risks. This would strengthen the overall financial system and enable OEFs to perform their essential role of channelling capital efficiently, even in times of stress.

In conclusion, we recommend focusing on improving liquidity transmission throughout the financial system and modernising market infrastructures to mitigate potential systemic liquidity risks. Such measures would create a more resilient and adaptive financial system, supporting stability in times of market stress.

Q5. Where in the NBFI sectors do you see build-up of excessive leverage, and why? Which NBFIs could be most vulnerable? Please provide concrete examples.

The build-up of excessive leverage is not a concern in the OEF sector. As the Consultation observes, "on average EU OEFs are not highly leveraged." [1]

It is important to distinguish among types of NBFI and types of funds, and not to assume that the activities that may take place in one part of the NBFI sector could be taken across all NBFI sectors. The examples of excessive leverage provided in the Consultation [2] did not involve regulated OEFs and, in fact, existing regulatory restrictions on leverage risk for OEFs would not have allowed OEFs to engage in the activities referenced in the Consultation's example.

OEFs, such as UCITS, are subject to strict limits on leverage, inhibiting OEFs from "building-up excessive leverage," in turn making it very unlikely that OEFs' use of leverage could pose a risk to financial stability. Existing tools under EU legislation are adequate to address the risks associated with UCITS use of leverage, as leveraged exposure of UCITS is already subject to stringent restrictions that place guardrails around the amount of leverage that can be taken and limit the economic risk a fund could take when using leverage.

For example, UCITS' ability to take on debt is significantly constrained. The borrowings must be temporary and cannot exceed 10 percent of total assets. The restrictions on UCITS' ability to enter into reverse repurchase agreements require a fund to be able to recall the assets or the full amount in cash at any time, subject to certain arrangements.

Some UCITS use derivatives as important and practical portfolio management tools that can hedge risks, improve efficiency, enhance liquidity, and reduce costs for their shareholders. UCITS' derivatives usage must comply with strict limitations on the resulting exposure to leverage and UCITS are obligated to document detailed derivatives risk guidelines, governance, and perform stress testing and back testing.

In addition, management of leverage is fully incorporated as a component of UCITS' broader risk management, with existing regulations providing comprehensive and specific risk management obligations for fund managers that are subject to detailed oversight requirements.

Data on global leverage trends further demonstrate that OEFs' leverage is low. IOSCO compiles and analyses these data annually, and in the most recent report, found that "all leverage measures for OEFs remain low," [3] which echoes the findings of earlier reports. IOSCO has further observed that OEFs mainly have long exposures to cash securities assets and that their "[t]otal borrowings represent a trivial amount in terms of the total NAV [net asset value] of OEFs." [4] Similarly, in its annual UCITS Risk Reporting Dashboard, the Commission de Surveillance du Secteur Financier (CSSF) reports that Luxembourgish UCITS' "usage of leverage remain[s] generally low in comparison to the regulatory limit" and that UCITS' usage of reverse repo and securities lending is low. [5]

Ensuring compliance with the existing supervisory and oversight framework can address any risk that "excessive leverage" could arise for an OEF, rather than attempting to do so through macroprudential tools. ESMA has assessed UCITS managers' compliance with liquidity risk management obligations, finding that most UCITS managers have implemented and applied sound processes. [6] Given that excessive leverage is not a concern across all OEFs, the use

of macroprudential tools, which can have significant market impacts and unintended consequences, would be an unnecessary and counterproductive approach to address the risk of non-compliance or specific outliers among OEFs.

[1] See Consultation at 26.

[2] See, e.g., Consultation at 10.

[3] IOSCO, 2023 Investment Funds Statistics Report (30 January 2024) at 25, available at https://www.iosco.org/library/pubdocs/pdf/IOSCOPD761.pdf

[4] IOSCO, 2022 Investment Funds Statistics Report (27 January 2023) at 27-28, available at https://www.iosco.org/library/pubdocs/pdf/IOSCOPD725.pdf

[5] CSSF, UCITS Risk Reporting Dashboard (31 December 2023) at 7, available at https://www.cssf.lu/wp-content/uploads/UCITS_Risk_Reporting_dashboard_31122023.pdf

[6] ESMA, Public Statement, ESMA Presents the results of the 2020 Common Supervisory Action on UCITS liquidity management (24 March 2021) (ESMA UCITS Liquidity Management Statement) at 2, available at https://www.esma.europa.eu/sites/default/files/library/esma_34-43-880-_public_statement_-_2020_csa_ucits_liquidity_risks_management.pdf

Q7. 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.

OEFs, such as UCITS, play a vital role in supporting European economic growth by providing individuals with accessible, diversified investment opportunities. UCITS allow European savers to invest in well-regulated portfolios of stocks, bonds, and other securities, which in turn channel capital into economically productive areas such as business expansion, research, and infrastructure development. By pooling savings and allocating them to productive investments, UCITS help individuals grow their wealth while contributing to the deepening of European capital markets.

Currently, much of the EU's household wealth is tied up in bank deposits. Banks often transfer significant amounts of these deposits to the central banking system, where they are not used to finance private sector growth. Shifting a portion of these savings into regulated UCITS would better serve EU citizens and businesses by channelling capital into investments that fuel innovation and development. The strong regulatory framework governing UCITS supports the prudent management of these funds, offering both opportunities for investors and efficient capital flows to the economy.

UCITS are well-suited to support the goals of the SIU by enabling businesses to access funding and by helping individual investors participate in economic growth. By creating diversified investment opportunities, UCITS can help strengthen the competitiveness of the European financial markets.

However, the introduction of macroprudential tools to UCITS could undermine their ability to continue fulfilling this important role. Such tools, if applied to OEFs, could inadvertently create new risks. For example, if investors fear that restrictions will be placed on their ability

to redeem from UCITS, they may engage in pro-cyclical selling, rushing to redeem before those restrictions are imposed. This could exacerbate market instability, especially during times of stress.

Moreover, macroprudential restrictions could limit UCITS' ability to trade and invest on equal terms with other market participants, putting them at a competitive disadvantage. Such policies could distort the market and discourage investment in regulated funds like UCITS, potentially driving capital to less-regulated, higher-risk channels or leaving it in bank deposits. This would not only reduce the efficiency of capital markets but also hinder the growth of individual wealth and the success of the SIU.

In conclusion, while macroprudential tools may have their place in certain other areas of financial regulation, applying them to UCITS would unnecessarily impede the ability of these funds to help European individuals grow their wealth and drive capital market growth. Instead, policymakers should focus on working with the funds industry to further develop capital markets and support economic growth.

Q8. 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.

Q8.2 Please explain what are the cons?

We do not support competent authorities' discretionary authority to adjust liquidity buffer requirements, either on an individual or collective basis. Providing discretion to public authorities to tighten or loosen requirements across a range of funds would introduce new uncertainties.

Money market funds (MMFs) play an important role in the capital markets by facilitating an efficient means for institutional and retail investors to access the short-term funding markets and providing low-cost short-term financing to the private sector.

It is crucial that regulatory requirements for MMFs be balanced so that MMFs are resilient but their ability to perform their important function for the economy is not diminished. In the EU, MMFs are highly regulated and subject to strict liquidity management requirements, which include portfolio diversification, restrictions on leverage and minimum liquidity requirements for portfolio assets.

Any new requirements should be carefully assessed, consulted, and informed by data. New rules, if not properly calibrated, could lead to unintended consequences, including the acceleration of pro-cyclical investor behaviour in stressed markets.

Additionally, MMF policies must be considered in the context of the broader financial markets. Although MMFs are an important source of financing in the short-term funding markets, they are not the only participants, and their resilience is tied to the broader quality of short-term funding markets. Recent episodes of market stress have demonstrated that reforms to underlying funding markets, rather than reforms targeting MMFs, are a better way to address financial stability risks.

We have grave concerns about the potential for competent authorities' discretionary central management of liquidity buffer requirements, either on an individual or collective basis. The tool relies on the questionable assumption that public authorities would be best positioned to successfully time when and how to introduce or release the requirements. In addition, authorities would need to specify the types of assets that would qualify to meet the increased buffer requirements; a determination that is not necessarily straightforward or simple.

Discretionary powers for authorities could also create signalling effects that trigger further distress, making the design of such measures, and the conditions for their timely and effective activation, very challenging. Investors might view releasing add-ons as a signal of deeper distress. The application of the tool (or the anticipation thereof) could trigger heavier redemptions and induce additional purchases of liquid assets during market upswings and additional sales during market downturns.

Even if this tool is not used, it can disadvantage investors based on their choice of product and result in outcomes that are contrary to financial stability and investor protection goals. Targeting individual funds or groups of funds could distort the market and risks being viewed as arbitrary and discriminatory. Investors may divert activity to less regulated channels, knowing that authorities have the discretionary authority to change regulatory requirements.

There is also no clear necessity for the tool. As noted in the Consultation, the European Commission concluded that existing Money Market Fund Regulation (MMFR) safeguards "are effective and successfully passed the test of liquidity stress experienced by MMFs in March 2020" and "a large majority of EU MMFs have maintained their levels of liquidity buffers well above the current regulatory minimum." [1]

We would, however, support a reform that removes the tie between the 30 percent weekly liquid asset threshold and the imposition of fees and gates (also known as suspension of redemptions). The regulatory tie between liquidity fee and gate thresholds made MMFs more susceptible to financial market stress in March 2020 and would likely do so again in future periods of stress. Since investors could not predict how a fund manager might act if the fund reached this threshold, the 30 percent weekly liquidity asset requirement in effect became a hard liquidity floor rather than a liquidity cushion to absorb higher-than-usual redemptions, as it was meant to be.

Similar requirements have been removed in the United States and have been proposed to be removed in the United Kingdom. The European Commission has endorsed removal, stating that there could be scope to further increase the resilience of EU MMFs, notably by decoupling the potential activation of LMTs from regulatory liquidity thresholds. [2]

[1] Consultation at 17.

[2] See European Commission, Report on the functioning of MMFR (20 July 2023) at 11, 21, available at https://finance.ec.europa.eu/document/download/26bd5442-fe36-436d-a11b-82857953d170_en?filename=230720-report-money-market-funds_en.pdf

Q9. 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.

We do not support the use of discretionary power by competent authorities to adjust liquidity buffer requirements for MMFs, as it introduces unpredictability and could lead to unintended market consequences. Rather, we suggest ESMA and the European Systemic Risk Board (ESRB) prioritise structural reforms to strengthen the resilience of underlying short-term funding markets. Focusing on these foundational reforms would address the root causes of liquidity stress, avoiding unpredictable regulatory adjustments for MMFs and fostering long-term market stability.

Q10. 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?

Under the MMFR, MMFs already provide regular data to NCAs and other regulators, which allows authorities "to identify potential unmitigated liquidity mismatches." [1] We agree that it is important for authorities to focus on maximising the effective use of this existing data. In fact, recent revisions to the UCITS Directive require ESMA to develop a report promoting more harmonised UCITS reporting requirements, with a focus on reducing duplication and inconsistencies between reporting frameworks in the asset management sector and other areas of the financial industry.

Efforts to standardise data reporting would not only reduce administrative burdens and compliance costs for the industry but also improve the quality of risk monitoring and supervision for NCAs. Streamlining reporting would facilitate better data sharing and aggregation, allowing authorities to gain a clearer understanding of risk exposures across financial sectors. This aligns with broader EU initiatives to enhance the use of existing data in financial services regulation. [2]

Authorities should avoid expanding MMF reporting requirements specifically to monitor risks in other NBFI segments or credit institutions. Instead, any efforts to fill gaps in monitoring other segments should focus directly on those areas, rather than relying on MMF data for these purposes.

[1] Consultation at 17.

[2] See, e.g., European Commission Staff Working Document, Progress report on the strategy on supervisory data in EU financial services (EU Supervisory Data Progress Report) (28 February 2024), available at https://finance.ec.europa.eu/document/download/ecb4c2c5-08e0-4c0a-a8ab-6e6b4f3e72d5_en?filename=240229-supervisory-data-strategy-progress-report_en.pdf; European Parliament, Legislative proposal(text adopted by Parliament) Amending certain financial services and investment support Regulations as regards certain reporting requirements, 2023/0363 (COD) (2023 Reporting Requirement Legislative Proposal) (12 March 2024), available at https://oeil.secure.europarl.europa.eu/oeil/popups/printsummary.pdf?id=1780110&l=en&t=E

Q11. 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?

As the Consultation indicates, the EU rules already require robust stress testing. MMF managers must conduct stress testing twice a year and, if stress tests reveal vulnerabilities, the MMF manager must report and come up with a 'proposed action plan' to be communicated to their respective NCA.

The Consultation does not provide sufficient details on the proposals to enhance the stress testing framework for us to fully evaluate and respond to the proposals, as it is unclear how the existing requirements would be refined. For example, while the Consultation proposes to add new elements on the knowledge of the investor base and investor concentration, we note that MMFR Article 27 already obliges MMFs to establish and implement procedures and exercise due diligence to address investor concentration and concurrent redemptions by investors. Given the robust requirements already in place, we question the benefits of imposing additional and potentially costly requirements.

The Consultation also proposes strengthening supervision and improving reporting for supervisory purposes. We note that adding new stress testing or reporting requirements may require MMFs to make complex updates of risk management systems and operational processes. Developing and implementing new stress tests at the fund level for MMFs would require significant resources, including time, money, and expertise.

It also is important to recognise that the utility of stress tests differs between MMFs and banks. In the banking context, stress tests help regulators assess capital adequacy and bank solvency by examining responses to extreme scenarios. For MMFs, stress tests are used by fund managers to understand the impact of risks on the fund with responses to a wide range of scenarios used to guide portfolio management.

MMFs play an important role in the capital markets by facilitating an efficient means for institutional and retail investors to access the short-term funding markets and providing low-cost short-term financing to the private sector.

It is crucial that regulatory requirements for MMFs be balanced so that MMFs are resilient but their ability to perform their important function for the economy is not diminished. In the EU, MMFs are highly regulated and subject to strict liquidity management requirements, which include restrictions on leverage and diversity and minimum liquidity requirements for portfolio assets. Article 28 of the MMFR sets forth stress testing requirements for MMFs. ESMA also recently revised the guidelines for MMF stress test scenarios. [1]

Any new requirements should be carefully assessed, consulted, and informed by data. New rules, if not properly calibrated, could lead to unintended consequences including the acceleration of pro-cyclical investor behaviour in stressed markets. Such an outcome would be contrary to financial stability and investor protection goals.

[1] ESMA, Final Report, Guidelines on stress test scenarios under the MMF Regulation (19 December 2023), available at https://www.esma.europa.eu/sites/default/files/2023-12/ESMA50-43599798-9011_Final_Report_MMF_ST_Guidelines.pdf

[2] See, e.g., EU Supervisory Data Progress Report, available at https://finance.ec.europa.eu/document/download/ecb4c2c5-08e0-4c0a-a8ab-6e6b4f3e72d5_en?filename=240229-supervisory-data-strategy-progress-report_en.pdf; 2023 Reporting Requirement Legislative Proposal, available at https://oeil.secure.europarl.europa.eu/oeil/popups/printsummary.pdf?id=1780110&l=en&t=E

Q12. What are the costs and benefits of introducing an EU-wide stress test on MMFs? Should this stress test focus mainly on liquidity risks?

The costs and benefits of introducing an EU-wide stress test for MMFs would largely depend on the specifics of its design, implementation, and the intended use of its results. Without more detailed information, it is challenging to fully assess the potential value and drawbacks of such an exercise.

While such exercises could have benefits for MMFs in providing additional insights on counterparty behaviours and risk profiles, the stress testing results would not be appropriate for setting policy at either a system-wide level or at the level of individual market participants. A system-wide exercise would need to account for the substantial complexity of the market dynamics, and for national context across Member States. Even when performed carefully, outputs from such an exercise would be heavily dependent on the underlying assumptions, while the data collection, modelling, and analysis processes likely would be time-consuming and financially burdensome.

MMFs play an important role in the capital markets by facilitating an efficient means for institutional and retail investors to access the short-term funding markets and providing low-cost short-term financing to the private sector. It is crucial that regulatory requirements for MMFs be balanced so that MMFs are resilient but their ability to perform their important function for the economy is not diminished.

Given the uncertainty regarding the utility and limitations of an EU-wide stress test, it is inappropriate to use such tests to influence policy and premature to adopt regulatory changes to support these exercises.

Q13. What are your views on the EU ban on a reverse distribution mechanism by MMFs?

We do not support the EU's ban on a MMF's ability to use a reverse distribution mechanism (RDM). Prohibiting funds' ability to use an RDM eliminates a tool that could effectively and flexibly be used in a negative interest rate environment and could unnecessarily limit investor choice for funds with stable NAVs.

As a practical matter, an RDM has an economically identical effect on an MMF shareholder as the conversion to a floating NAV per share. This is because the reduction in the number of shares held by a shareholder in an MMF that uses RDM would be equal to the reduction in the market-based NAV per share held by a shareholder in a floating NAV MMF caused by its realisation of negative net income. In other words, the effect of RDM would be to simply incorporate a stable NAV MMF's realisation of negative net income that would otherwise be reflected in the market-based NAV per share of a similarly situated floating NAV MMF.

Recognising that a negative interest rate environment could be a short-term phenomenon, the flexibility of implementing an RDM may better promote the interests of certain investors than

other tools and allows for greater investor choice. It also could be challenging and ultimately more confusing to some investors to transition between a floating and stable NAV.

Notably, a negative interest rate environment does not just impact stable NAV MMFs, but also affects other short-term cash management products. During the recent period of negative interest rates in Europe (June 2014 – September 2022), European MMFs saw significant inflows starting from 2015. This trend contrasts with the typical positive correlation between interest rates and the size of the MMF sector and highlights the importance of relative values. When the European Central Bank (ECB) further reduced interest rates in September 2019, MMFs continued to attract substantial inflows despite offering negative yields. This is because MMF yields were relatively more attractive compared to other wholesale money-market rates available to institutional investors. For instance, the Euro Overnight Index Average and the Euro Short-Term Rate, which reflect the cost of wholesale unsecured overnight borrowing in euros for institutional investors in the euro area, were even lower than the yields provided by euro-denominated MMFs during the negative rate period, making MMF yields appealing in comparison.

If interest rates turn negative, investors may face charges on bank deposit accounts and other costs associated with holding their cash. In this scenario, a stable NAV MMF using an RDM may be preferable from a cash flow perspective for certain investors. [1] There may also be advantages from regulatory and operational perspectives if these investors accordingly retain their assets in the MMF rather than shifting them into other instruments such as bank accounts.

RDM was used successfully in Europe following the 2008 global financial crisis and ensuing sovereign debt crisis, when the ECB began lowering interest rates and eventually adopted a negative interest rate policy for many years beginning in 2014. We are not aware of any issues raised by European MMF shareholders that invested in MMFs that used RDM and their continued use of these products at that time suggests that those shareholders preferred this mechanism over a floating NAV per share.

In 2020, ICI prepared a paper that considers the characteristics and recommended practices for the successful implementation of a reverse distribution mechanism, should it become necessary to apply a negative yield quickly. [2] As another example, in its most recent amendments to the rules governing MMFs in the United States, the Securities and Exchange Commission (SEC) adopted changes which would permit the use of RDM in specified circumstances.

[1] Letter from Eric J. Pan to Vanessa Countryman, re: Money Market Fund Reforms Proposal (11 April 2022) at 35, available at https://www.sec.gov/comments/s7-22-21/s72221-20123254-279522.pdf

[2] ICI, Reverse Distribution Mechanism and Negative Yields: Considerations and Recommended Practices (ICI RDM Considerations) (December 2020), available at https://www.ici.org/system/files/attachments/20_ppr_rdm_considerations.pdf

Q14. Can you provide insights and data on how the reverse distribution mechanism has impacted in practice the stability and integrity of MMFs?

As a practical matter, an RDM has an economically identical effect on a shareholder as the conversion to a floating NAV per share. This is because the reduction in the number of shares held by a shareholder in an MMF that uses RDM would be equal to the reduction in the market-based NAV per share held by a shareholder in a floating NAV MMF caused by its realisation of negative net income. In other words, the effect of RDM would be to simply incorporate a stable NAV MMF's realisation of negative net income that would otherwise be reflected in the market-based NAV per share of a similarly situated floating NAV MMF.

In practice, RDM was used successfully in Europe following the 2008 global financial crisis and ensuing sovereign debt crisis, when the ECB began pursuing a negative interest rate policy. We are not aware of any issues raised by European MMF shareholders that invested in MMFs that used RDM and their continued use of these products at that time suggests that those shareholders preferred this mechanism over a floating NAV per share.

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[1] ICI RDM Considerations, available at
https://www.ici.org/system/files/attachments/20_ppr_rdm_considerations.pdf

Q15. 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.

When considering additional regulatory requirements for MMFs, such as mandating investments in instruments traded on regulated markets or trading venues, it is important to assess both the availability of suitable assets and the potential for unintended market distortions. The proposal raises important questions about the impact on market liquidity and the diversity of investment opportunities available to MMFs.

The Consultation does not provide sufficient detail regarding the scope and criteria for determining which instruments would qualify as permissible investments under this requirement. Without this information, it is difficult to evaluate whether the proposal would meaningfully enhance the resilience of MMFs, especially during periods of market stress. Additionally, it is unclear how restricting MMF investments to instruments traded on certain venues would contribute to the overall stability or risk management of these funds.

Furthermore, any restrictions must carefully balance the need for resilience with the operational flexibility of MMFs, ensuring they can continue to meet their liquidity needs and provide essential short-term financing to the broader economy. Imposing too narrow of a limitation on the types of permissible assets could reduce diversification and potentially lead to unintended market consequences.

At this stage, without further information, we are unable to fully assess the potential benefits or risks of this proposal.

Q16. 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?

OEFs are highly regulated, providing an extraordinary amount of data to NCAs and other authorities through several mechanisms including the Alternative Investment Fund Directive (AIFMD), European Market Infrastructure Regulation (EMIR), jurisdiction-specific and European-level UCITS reporting, and bank exposure data. In 2025, additional European-level UCITS reporting requirements will go into effect. The new UCITS Article 20a will require a UCITS management company to report detailed information on the instruments and markets in which it trades, as well as the liquidity and risk profile of the fund. ESMA is developing regulatory technical standards (RTS) specifying the details of such reporting.

Given these substantial enhancements, it is premature and unnecessary for NCAs to seek additional data specifically to monitor liquidity mismatches in OEFs. Allowing time for recent regulatory changes to take effect will provide a clearer picture of any remaining gaps, ensuring that the regulatory framework can operate as intended without creating redundant requirements or additional burdens. Acting now could duplicate efforts, create undue burdens, and undermine the effectiveness of the regulatory framework recently developed by both EU and international bodies, such as the FSB and IOSCO.

To better monitor the liquidity profile of OEFs, we believe it would be more productive for regulators to enhance the effective use of existing data, particularly through greater data sharing and improved coordination. ESMA's upcoming report, aimed at promoting more harmonised UCITS reporting requirements, will explore ways to streamline and standardise data across asset management and other financial sectors. By reducing duplication and inconsistencies, such initiatives would ease compliance burdens and improve NCAs' ability to monitor liquidity and risk profiles through enhanced data sharing and aggregation. This is aligned with the broader EU goal of making better use of existing data across the financial services industry. [1]

To the extent NCAs seek to address broader data gaps related to other NBFI segments or credit institutions, we recommend focusing efforts on those areas directly rather than expanding OEF data reporting, which could lead to regulatory overreach and inefficiencies.

[1] See, e.g., EU Supervisory Data Progress Report, available at https://finance.ec.europa.eu/document/download/ecb4c2c5-08e0-4c0a-a8ab-6e6b4f3e72d5_en?filename=240229-supervisory-data-strategy-progress-report_en.pdf; 2023 Reporting Requirement Legislative Proposal, available at https://oeil.secure.europarl.europa.eu/oeil/popups/printsummary.pdf?id=1780110&l=en&t=E

Q19. 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?

OEFs such as UCITS are highly regulated and subject to extensive public oversight. UCITS managers must stringently manage risks, including liquidity risks. The robust and specific UCITS framework requires managers to (a) formulate forecasts and perform analyses concerning each investment's contribution to portfolio composition, liquidity, and risk and reward profile prior to investment; (b) adopt and maintain procedures that enable managers to assess market, liquidity, and counterparty risk exposure; (c) periodically assess and review the effectiveness of their risk management policies and notify NCAs of material changes; and (d) conduct tests at least annually that enable assessment of the liquidity risk of each fund under exceptional circumstances.

Regulators have focused extensively on OEF liquidity risk management in recent years. In prior assessments, ESMA characterised the risk as "low" that liquidity mismatch could jeopardise a UCITS' capacity to meet redemption requests or otherwise honour liabilities and only identified potential asset/liability mismatch risks for a very limited number of UCITS. [1] During March 2020, the overwhelming majority of UCITS continued to operate normally and redeem shares upon demand. [2]

IOSCO and the FSB updated their recommendations for liquidity risk management for OEFs in 2023. The EU further strengthened UCITS liquidity risk management requirements, including with regard to LMTs. ESMA is currently developing RTS and guidelines for LMT use, which are intended to ensure consistent and harmonised UCITS liquidity risk management and to facilitate supervisory convergence.

In 2025, UCITS management companies will be required to report detailed information on the instruments and markets in which each UCITS trades, as well as the liquidity and risk profile of the fund. ESMA is developing RTS specifying the details of such reporting.

We have generally welcomed this work on liquidity management, including the acknowledgement that OEF managers are best positioned to manage liquidity risk. OEF managers, who are professionals and fiduciaries, have a long history of prudently and effectively managing liquidity risk in the best interest of investors. Liquidity risk management is inherently fund-specific, involving multi-faceted and highly individualised determinations for each fund. OEFs do not operate as organised cohorts, and there is no one-size-fits-all approach for funds when selecting, activating, calibrating, and deactivating LMTs.

Given the substantial enhancements to the regulatory framework for liquidity management already underway, it is premature and unnecessary for NCAs to seek additional tools to regulate a low-risk area. Acting now could duplicate efforts, create undue burdens, and undermine the effectiveness of the recently updated regulatory framework and international standards. Allowing time for recent regulatory changes to take effect will provide a clearer

picture of any remaining gaps, ensuring that the regulatory framework can operate as intended without redundancy or additional burdens.

Any remaining concerns from authorities related to liquidity management by OEFs can be addressed by ensuring compliance with the existing supervisory and oversight framework, rather than through macroprudential tools. ESMA has assessed UCITS managers' compliance with liquidity risk management obligations, finding that most UCITS managers have implemented and applied sound processes.[3] Considering the use of macroprudential tools, which can have significant market impacts and unintended consequences, would be an unnecessary and counterproductive approach to address the risk of non-compliance or specific outliers among OEFs.

A more productive approach would be to focus on enhancing liquidity supply and modernising market structure. For example, accelerating the settlement cycle for stocks and bonds in Europe could reduce the quoted spreads and improve market liquidity [4], thereby reducing the liquidity demands associated with trading and reducing the potential for liquidity mismatch. Greater transparency and efficiency in margin collection also would significantly aid in improving overall market preparedness to manage liquidity needs.

[1] ESMA UCITS Liquidity Management Statement, available at https://www.esma.europa.eu/sites/default/files/library/esma_34-43-880-_public_statement_-_2020_csa_ucits_liquidity_risks_management.pdf

[2] ICI, Experiences of European Markets, UCITS, and European ETFs During the COVID-19 Crisis (December 2020), available at https://www.ici.org/doc-server/pdf%3A20_rpt_covid4.pdf

[3] See note 1.

[4] See Aniket Bhanu, Golaka Nath, and Tirthankar Patnaik, Unlocking Liquidity through Shortened Settlement Cycle: Empirical Evidence from India (8 March 2024), available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4745303

Q20. [To asset managers] What measures do you find particularly effective to measure and monitor liquidity risk in stressed market conditions?

Liquidity risk management is dynamic and multi-faceted. Ongoing assessment, management, and review of this risk is essential, and funds have many tools and sources of data at their disposal to understand their liquidity risk factors (e.g., the fund's investment strategy, liquidity of portfolio assets, use of leverage, investor base, fund flows, etc.). Funds use data related to these liquidity risk factors in order to identify sources of potential liquidity strains, manage liquidity risk, and ensure resilience. Underlying market data is relevant, and funds may consider bid/ask spreads of portfolio securities, trading volumes, and market bids and offers on an ongoing basis, as well as potential ranges of these metrics (e.g., in normal and stressed market conditions). In addition, funds may also consider fund-level data, such as historical redemptions (in normal and stressed conditions), investor concentration, and leverage.

Q21. [To asset managers] 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?

The current EU regulatory framework provides a comprehensive set of tools for measuring and monitoring liquidity risks, allowing asset managers to manage liquidity effectively across diverse market conditions. Regulations such as AIFMD and UCITS include strict liquidity management and reporting requirements, which ensure that liquidity risks are continually assessed and that funds maintain sufficient liquidity to meet investor needs.

EU regulations also offer sufficient LMTs, including swing pricing, redemption gates, and notice periods, which allow asset managers to manage and mitigate liquidity mismatches effectively. The flexibility of these tools enables fund managers to tailor their approach to different fund strategies and market environments, supporting both investor protection and market stability.

In summary, while market conditions may occasionally pose practical challenges, the EU regulatory framework provides the necessary tools and flexibility to address liquidity risks and manage potential mismatches effectively. No additional regulatory measures are needed at this time, as the current framework sufficiently supports fund managers' ability to navigate liquidity risks.

Q22. [To asset managers] What are the challenges in calibrating worst-case and stress-case scenarios related to redemptions and margin calls?

The lack of transparency and standardisation in central counterparty (CCP) methodologies and processes for initial margin (IM) and variation margin (VM) can create challenges in calibrating worst-case and stress-case scenarios.

However, greater transparency and efficiency in margin collection—especially in cleared markets where CCP methodologies for IM remain opaque—would allow participants to better calibrate scenarios and thereby anticipate and plan for margin changes. The push for enhanced transparency in cleared and non-centrally cleared markets, led by initiatives from the Basel Committee on Banking Supervision (BCBS), the Bank of International Settlement's Committee for Payment and Market Infrastructures (CPMI), IOSCO, and the FSB, would significantly aid in improving overall market preparedness.

We recommend that regulators implement measures to: (1) increase the predictability of intraday margin calls through guidance for planned calls and restrictions on ad hoc calls; (2) broaden eligible collateral types based on risk-based eligibility; and (3) mitigate operational risks and liquidity strains through standardisation of VM processes and more predictable payment flows. By addressing these areas, market participants across sectors—such as investment funds, insurance companies, and pension funds—could enhance their preparedness to manage liquidity needs and meet margin calls under stress and worst-case conditions.

Q26. 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?

Our response to this question refers specifically to regulated OEFs such as UCITS.

OEFs are generally well prepared to meet margin calls and have many tools to monitor and mitigate liquidity risks and foster margin preparedness. For example, during the market stress of March 2020, consistent with their normal operations, they continued to meet their margin calls when due. [1] Through robust liquidity risk management programmes, internal stress testing, and the flexibility to use a range of liquidity and liability management tools, OEFs were able to appropriately prepare for and meet redemption requests and ensure that margin calls were fully and timely paid.

Nevertheless, regulatory improvements to margin practices in the derivatives and securities markets to make margin collection more transparent and efficient can alleviate downstream stresses on the broader financial system and enhance preparedness to meet margin calls.

Transparency of margin processes is critical to liquidity preparedness. The problem is particularly acute in cleared markets, where IM is the cornerstone of CCP risk management, but the CCP methodologies for calculating cleared IM requirements are relatively opaque. End-users have sought additional transparency to anticipate and plan for changes but have been largely unsuccessful.

To that end, we have long supported efforts to enhance the transparency and governance of margin practices in cleared and non-centrally cleared markets. This includes the recent proposals from the BCBS, CPMI, IOSCO, and the FSB. [2] Across the cleared and non-centrally cleared markets, the increased transparency that these proposals seek to effect could help OEFs and other market participants better prepare for future market stress events. In particular, we note the importance of the work to enhance the transparency and responsiveness of IM in cleared markets, since the transparency issues in cleared markets have been difficult to overcome. [3]

More specifically, we have recommended that regulators: 1) increase the predictability of intraday margin calls through the development of guidance for planned intraday margin calls and restricting ad hoc calls; 2) expand the types of eligible collateral, based on appropriate risk-based eligibility principles; and 3) mitigate operational risks and liquidity demands through enhanced standardisation of VM processes and disclosures and increased alignment of payment flows. [4]

[1] More than 93 percent of intermediaries' clients, including all regulated funds, met margin calls on the day they were due, with no significant changes in these figures across February, March, and April 2020. BCBS-CPMI-IOSCO, Review of margining practices (29 September 2022) at 32, available at https://www.iosco.org/library/pubdocs/pdf/IOSCOPD714.pdf

[2] See, e.g., BCBS-CPMI-IOSCO, Transparency and responsiveness of initial margin in centrally cleared markets – review and policy proposals – Consultative report (16 January 2024), available at https://www.iosco.org/library/pubdocs/pdf/IOSCOPD757.pdf; BCBS-IOSCO, Streamlining VM processes and IM responsiveness of margin models in non-centrally cleared markets (17 January 2024), available at

https://www.iosco.org/library/pubdocs/pdf/IOSCOPD762.pdf; CPMI-IOSCO, Streamlining variation margin in centrally cleared markets – examples of effective practices (14 February 2024), available at https://www.iosco.org/library/pubdocs/pdf/IOSCOPD762.pdf; FSB, Liquidity Preparedness for Margin and Collateral Calls: Consultation report (17 April 2024), available at https://www.fsb.org/wp-content/uploads/P170424.pdf

[3] See, e.g., Letter from Jennifer S. Choi to BCBS, CPMI, and IOSCO Secretariats re Consultative Report on Review of Margining Practices (26 January 2022), available at https://www.ici.org/system/files/2022-03/2022-01-34009a.pdf; Letter from Annette Capretta to BCBS, CPMI, and IOSCO Secretariats re Consultative Report on Transparency and Responsiveness of Initial Margin in Centrally Cleared Markets (15 April 2024), available at https://www.ici.org/system/files/2024-04/24_icig_im_response.pdf

[4] For more detail regarding our recommendations, see Letter from Annette Capretta to CPMI and IOSCO Secretariats re Streamlining variation margin in centrally cleared markets – examples of effective practices (15 April 2024), available at https://www.ici.org/system/files/2024-04/24_icig_cpmi-iosco_vm_response.pdf

Q27. 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.

For OEFs such as UCITS, a comprehensive suite of risk metrics and tools is in place to effectively monitor liquidity and margin readiness. These include liquidity ratios, stress testing, and LMTs, each calibrated to meet the specific needs and structures of OEFs. Together, these measures support continuous assessment of liquidity positions, enabling funds to fulfil redemption requests and manage margin calls, even in stressed market conditions.

However, it is important to recognise that these tools are specifically designed for the unique structure of OEFs. The NBFI sector is highly diverse, encompassing a wide range of financial instruments and structures with varying risk profiles. As such, a one-size-fits-all tool would not be suitable for monitoring liquidity and margin preparedness across the entire NBFI sector.

Q30. 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.

We do not have a strong position on whether creating a label for certain money market instruments would be beneficial or potentially counterproductive, but we would encourage policymakers to focus instead on simplifying the regulatory burden on the private sector. Developing new labels or frameworks can be resource-intensive, and those efforts may be more effectively directed toward streamlining existing regulations.

If the European Commission decides to pursue a label or a framework, it is crucial that this be implemented if, and only if, it does not increase the challenges faced by the short-term funding market. We recommend further study to assess the potential impact on market liquidity before moving forward with any framework or labelling approach.

Q31. 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?

Financial stability and resilience in the short-term funding markets primarily depend on maintaining strong market liquidity rather than just the number of issuers in the markets, as was shown in March 2020. A wider range of issuers might bring more securities to the markets and reduce concentration risk, however the overall impact on financial stability remains uncertain, especially regarding liquidity implications. We recommend allowing smaller issuers to determine, based on relative market funding costs, whether to enter these markets or seek alternative funding sources.

Q33. What could be done to improve the liquidity of secondary markets in commercial papers and certificates of deposits?

Improving the liquidity of secondary markets for commercial paper (CP) and certificates of deposit (CD) requires regulations that provide less restrictive constraints on MMF management, as MMFs are key participants in CP and CD markets and need flexibility to respond to changing market conditions effectively. Also, noting the important role that banks play in the trading and distribution of CP and CD, encouraging more active participation by banks would help increase the liquidity of secondary markets. However, creating stronger incentives for banks to trade in these products in the secondary market would likely involve revisiting regulatory capital requirements (i.e., Basel capital requirements) and enhancing the risk-return profile of these instruments for banks.

Q35. Do you think there is a risk with the high concentration of this market in a few investors (MMF and banks)? Please elaborate.

To the extent that concentration can affect market liquidity and become a risk during stressed conditions in any market, including the short-term funding market, we do not see this issue as reflecting a problem with the participation of MMFs or banks in the market. MMFs are key participants in the short-term funding market ecosystem, and banks can play an important role as market makers and liquidity providers.

Rather, a focus on broadening the investor base with additional participants who have varying liquidity needs and risk appetites would help create a more resilient market, as a diversified pool of investors is more likely to maintain activity and provide liquidity even in stressed conditions. Efforts to attract a wider range of investors, while facilitating the key role played by MMFs, would help address concerns about concentration risks and contribute to a more stable short-term funding market.

Q36. 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?

To attract liquidity and a more diverse investor base in secondary markets for money market instruments, creating a regulatory landscape that supports NBFIs, is essential. In particular, policies that facilitate OEFs to participate more actively in these markets—through flexible liquidity and risk management frameworks—would help support their participation in the secondary markets for instruments like commercial paper, reducing reliance on banks for buybacks.

Q38. 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)?

The possibility of trading on a regulated venue might act as a safety valve for funds, such as MMFs, facing strong redemption pressures by facilitating access to a broader pool of liquidity providers. However, the effectiveness of such venues in significantly boosting liquidity during stress periods would depend on market participants' willingness to engage under adverse conditions. We recommend further analysis of the practical impact and operational considerations of regulated venues during systemic events.

Q39. How would you assess the level of preparedness of commodity derivatives market participants in terms of meeting short-term liquidity needs or requests for collateral to meet margins? Please rank from 1 to 5 (lowest to highest) the level of preparedness for the following participants by sector: insurance companies, UCITS funds, AIFs, commercial undertakings, investment firms, pension funds.

The questionnaire requests a rating and a response. Written response provided without a numerical rating.

In general, OEFs, particularly UCITS, demonstrate a high level of preparedness in meeting short-term liquidity needs and managing collateral requirements to meet margins. They employ robust liquidity risk management programs, conduct internal stress testing, and utilise a variety of liquidity and liability management tools, enabling them to manage margin calls effectively, even under market stress, as seen in March 2020.

However, regulatory enhancements to margin practices in the derivatives and securities markets could further improve preparedness across market participants. Greater transparency and efficiency in margin collection—especially in cleared markets where CCP methodologies for IM remain opaque—would allow participants to better anticipate and plan for margin changes. The push for enhanced transparency in cleared and non-centrally cleared markets, led by initiatives from the BCBS, CPMI, IOSCO, and the FSB, would significantly aid in improving overall market preparedness.

We recommend that regulators implement measures to: (1) increase the predictability of intraday margin calls through guidance for planned calls and restrictions on ad hoc calls; (2) broaden eligible collateral types based on risk-based eligibility; and (3) mitigate operational risks and liquidity strains through standardisation of VM processes and more predictable payment flows. By addressing these areas, market participants across sectors—such as investment funds, insurance companies, and pension funds—could enhance their preparedness to manage liquidity needs and meet margin calls under stress conditions.

Q42. 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 questionnaire requests a rating and a response. Written response provided without a numerical rating.

Emerging liquidity risks and market functioning issues have the potential to impact liquidity across various markets. While we do not have a specific view or examples, we would

encourage policymakers to undertake further work and consider the following factors that may contribute to these risks:

1) Existing regulatory burdens: The cost and complexity of regulatory compliance have increased significantly, making it difficult for smaller entities to compete. This regulatory environment often favours larger institutions that have the resources to manage compliance costs.

2) Regulatory changes: Changes in regulations, such as capital requirements for banks, can constrain liquidity. If banks hold more capital against certain assets, their ability to provide liquidity in those markets may diminish, affecting related markets.

3) Economic conditions: Macroeconomic factors, such as interest rate changes or geopolitical events, can influence liquidity. For instance, tightening monetary policy can lead to reduced liquidity across markets.

Q43. 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?

The tools currently available under EU legislation are sufficient to address and contain any perceived systemic risks related to leverage in OEFs, particularly as it relates to UCITS.

UCITS funds are already subject to stringent regulations that impose robust limitations on leverage and ensure comprehensive risk management practices. These include strict caps on borrowing, detailed risk and liquidity management frameworks, and rigorous reporting and oversight requirements, which collectively mitigate the risk of excessive leverage within the sector.

Instead of introducing new tools, enhancing transparency and promoting consistent implementation of existing regulatory measures across EU jurisdictions would be more effective in containing any potential risks. Improved data sharing and continued alignment with international standards can help address any emerging risks without imposing additional layers of regulation. Additionally, improving margin and collateral processes in derivatives markets—such as increased transparency around IM requirements and predictability in intraday margin calls—would further strengthen the sector's resilience to market stress.

Q45. 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.

UCITS funds are highly restricted in their use of leverage. Regulatory limits cap borrowing at 10 percent of assets, and any leverage generated through the use of derivatives is subject to strict exposure limits and comprehensive risk management practices. These safeguards ensure that leverage within UCITS is minimal and closely monitored, in line with the sector's focus on investor protection and financial stability.

The UCITS framework's stringent limitations on leverage, together with detailed reporting and oversight requirements, effectively address any potential for excessive leverage within these products and in the sector. This robust regulatory structure provides strong safeguards for both the funds and the broader financial system.

Q46. How can leverage through certain investment strategies (e.g. when funds invest in other funds based in third countries) be better detected?

OEFs are already subject to extensive regulation and reporting requirements, providing a wealth of data to NCAs and other authorities. This data is collected through multiple frameworks, including AIFMD, EMIR, jurisdiction-specific requirements, and European-level UCITS reporting, along with bank exposure data. Beginning in 2025, new European UCITS reporting requirements will come into effect under Article 20a, obliging UCITS management companies to report detailed information on the instruments and markets in which they trade, as well as each fund's liquidity and risk profile. ESMA is also developing RTS to further specify these reporting details.

Given these recent enhancements, it is premature and unnecessary for authorities to request additional data specifically to monitor leverage in UCITS, particularly with the existing strict limits on UCITS leverage. Until the latest reforms are fully implemented and their impact is assessed, adding further reporting requirements risks duplicating efforts and potentially undermining the recent regulatory work both in the EU and the international standard setting work in FSB and IOSCO.

Rather, we believe it would be more productive for regulators to enhance the effective use of the data already available. The recent UCITS revisions direct ESMA to promote more harmonised UCITS reporting requirements and to address duplication and inconsistencies across reporting frameworks within asset management and other financial sectors. [1]

Increased data standardisation and alignment would reduce administrative burdens, lower compliance costs, and improve supervision through better data sharing and aggregation. This aligns with broader EU initiatives to make more effective use of existing data across the financial services industry.

If NCAs are aiming to close data gaps related to other NBFI sectors, authorities should focus on those sectors rather than expanding OEF data reporting for this purpose.

[1] See, e.g., EU Supervisory Data Progress Report, available at https://finance.ec.europa.eu/document/download/ecb4c2c5-08e0-4c0a-a8ab-6e6b4f3e72d5_en?filename=240229-supervisory-data-strategy-progress-report_en.pdf; 2023 Reporting Requirement Legislative Proposal, available at https://oeil.secure.europarl.europa.eu/oeil/popups/printsummary.pdf?id=1780110&l=en&t=E

Q50. 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?

Effective reconciliation of leveraged positions across entities requires a combination of robust data reporting and enhanced data sharing practices among competent authorities. UCITS are already subject to extensive reporting requirements under EU regulations, including detailed disclosures of derivative positions, exposures, and counterparty information. The upcoming 2025 UCITS reporting enhancements under Article 20a, which require detailed information on the instruments and markets in which a fund trades, will provide competent authorities with even greater transparency into these leveraged positions.

To improve reconciliation efforts, we recommend that authorities focus on increasing the interoperability of data across different reporting frameworks and enhancing data standardisation. This approach would allow authorities to cross-reference positions more easily across funds, funds of funds, and other legal entities, thereby gaining a clearer view of ultimate exposures at the beneficiary level. Additionally, creating a centralised database or standardised reporting platform for cross-entity positions could facilitate more efficient tracking and aggregation of leveraged exposures across various funds and structures.

These measures, alongside existing reporting practices, would significantly enhance authorities' ability to monitor and reconcile leveraged positions effectively.

Q51. What role do concentrated intraday positions have in triggering high volatility and heightening risks of liquidity dry-ups? Please justify your response and suggest how the regulatory framework and the functioning of these markets could be further improved?

Concentrated intraday positions can potentially contribute to heightened volatility and liquidity dry-ups, particularly during periods of market stress. When significant positions are built or unwound quickly, they can create sharp price movements, impacting market stability. To mitigate these risks, the regulatory framework could be improved by introducing more consistent guidance around intraday margin calls and improving the predictability of margin requirements, which would help funds anticipate and manage liquidity needs, reducing the likelihood of unanticipated pro-cyclical selling.

Q52. Do you have concrete examples of links between banks and NBFIs, or between different NBFI sectors that could pose a risk to the financial system?

In the case of OEFs, such as UCITS, we find little evidence to support the notion that unique risks to the financial system exist due to the links between banks and OEFs or between OEFs and other financial sectors.

Banks typically have limited exposure to OEFs, using them infrequently for investment purposes. While some OEFs maintain lines of credit with banks, these arrangements did not present interconnectedness risks during stress events like the market turmoil in March 2020. This is largely due to the structure of OEFs, where gains or losses in asset values directly affect shareholders rather than the broader financial system. Unlike banks, OEFs do not "fail" by becoming insolvent; instead, in the event they close and liquidate, they do so in an orderly manner, returning assets to shareholders on a pro rate basis without impacting other funds. The diverse structure of the OEF sector, with nearly 30,000 UCITS across various asset classes, limits the impact of any single fund's closure.

Moreover, while both banks and the NBFI sector have grown in absolute terms, their relative share of total financial assets has remained stable over the past decade. Focusing specifically on OEFs, OEFs hold a much smaller share of total financial assets in Europe (about 17.2 percent) compared to the banking sector's 35 percent. Open-end bond funds, which some policymakers suggest could pose risks due to their role in credit intermediation and potential liquidity mismatches, represent only 3.9 percent of financial intermediation in the Euro area—a proportion that has remained relatively unchanged for a decade.[1]

Our research, which includes an in-depth empirical analysis of UCITS and other OEFs, provides further insights. First, data do not support the view that OEFs are prone to "run risks" due to a first-mover advantage. The potential for dilution in OEFs is generally

minimal, even during stressed markets, and does not provide a strong incentive for mass redemptions. Additionally, OEF investors' redemption behaviour aligns with that of direct bondholders, indicating that redemptions are driven by market conditions rather than concerns over fund liquidity. [2] During the pandemic-related market volatility in March 2020, for instance, net sales by core bond mutual funds in the U.S. made up only a small portion of investment-grade bond trading volumes and had a negligible impact (7 basis points) on the 313-basis-point rise in BBB yield spreads. [3]

In conclusion, the evidence suggests that links between OEFs and other financial sectors, including banks, do not present a systemic risk. Therefore, imposing additional macroprudential measures on top of the existing regulatory framework for OEFs is unwarranted and would not effectively mitigate systemic risk.

[1] See Antoniewicz and Worner, available at https://www.ici.org/viewpoints/24-view-nbfi-growth

[2] See Christof W. Stahel, First-mover Advantage Among Direct Investors Holding Overlapping Positions and its Implication for Mutual Funds, working paper (6 March 2024), available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3952125

[3] See Sean Collins and Shelly Antoniewicz, Policymakers Need to Focus on Economic Fundamentals and Not Blame Bond Mutual Funds: Examining the Evidence of Investment Grade Corporate Bond Yield Spreads in March 2020 (6 July 2022), available at https://www.ici.org/viewpoints/22-view-bondfund-survey-4

Q53. What are the benefits and costs of a regular EU system-wide stress test across NBFI and banking sectors? Are current reporting and data sharing arrangements sufficient to perform this task? Would it be possible to combine available NBFI data with banking data? If so, how?

The costs and benefits of a regular EU system-wide stress test will depend heavily on the details of how it is constructed and performed as well as the intended purpose and use of its results. Without additional information, we are unable to fully evaluate the potential exercise and its benefits and costs.

Given the diversity of market participants, sectors, and cross-border elements involved, conducting such an exercise would likely be highly resource-intensive and complex. A system-wide stress test would need to address the substantial intricacies of market dynamics across the Member States. Even with meticulous execution, the outcomes of such an exercise would heavily depend on the underlying assumptions. Moreover, the data collection, modelling, and analysis required would be extremely challenging to coordinate across the extensive array of EU market participants, leading to significant costs.

The recurring nature of a system-wide stress test would further amplify these costs, making them permanent and ongoing. Additionally, the reliance on assumptions about the interactions between various elements could diminish the utility of the results. To the extent that authorities consult with a representative sample of market participants during the course of the exercise, this could help to improve the assumptions.

The results of such an exercise could potentially be useful for market participants to gain additional insights into the likely behaviour of counterparties during times of stress.

However, the results would not be useful for setting policy at either a system-wide level or at the level of individual market participants, due to the inherent uncertainty involved with such an exercise. As such, we urge the authorities to proceed cautiously in considering conducting a regular EU system-wide stress test and to be clear that such an exercise, if conducted, would be used to help inform market participants and not as a basis for specific policy actions.

Regardless of the potential for a system-wide stress test, we see significant value in the authorities reviewing how they could more efficiently share and use the extensive data that industry participants currently report. OEFs provide an extraordinary amount of data to NCAs and other authorities through several mechanisms including AIFMD, EMIR, and jurisdiction-specific and European-level UCITS reporting. Under recent EU regulatory reforms, even more reporting requirements will go into effect for UCITS in 2025. The new UCITS Article 20a will require a UCITS management company to report detailed information on the instruments and markets in which it trades, as well as the liquidity and risk profile of the fund. ESMA is developing RTS specifying the details of such reporting.

We note that ESMA already has been directed to address ways to reduce duplication and inconsistencies between reporting frameworks in the asset management sector and other sectors of the financial industry. We welcome this work and would, for example, see value in greater standardisation of the required data reporting across Member States. Changes such as increased data standardisation would not only ease administrative burdens and compliance costs but would also facilitate supervision through improved data sharing and aggregation. This effort is consistent with a broader EU effort to improve the use of existing data throughout the EU financial services industry. [1]

We urge the authorities to review and improve data sharing, and to allow for recent reforms to be fully implemented, before considering the potential for additional reporting requirements.

[1] See, e.g., EU Supervisory Data Progress Report, available at https://finance.ec.europa.eu/document/download/ecb4c2c5-08e0-4c0a-a8ab-6e6b4f3e72d5_en?filename=240229-supervisory-data-strategy-progress-report_en.pdf; 2023 Reporting Requirement Legislative Proposal, available at https://oeil.secure.europarl.europa.eu/oeil/popups/printsummary.pdf?id=1780110&l=en&t=E

Q54. Is there a need for arrangements between NBFI supervisors and bank supervisors to ensure timely and comprehensive sharing of data for the conduct of an EU-wide financial system stress tests? Please elaborate.

Arrangements for timely and comprehensive data sharing between NBFI supervisors and bank supervisors could help improve the effectiveness of an EU-wide financial system stress test. Enhanced data sharing arrangements to allow supervisors to access and integrate existing sector-specific information—such as leverage, liquidity, and exposure data—would be necessary to gain insights across NBFI and banking sectors without altering existing sector-specific data standards.

Q55. What governance principles already laid out in existing system-wide exercises in the EU, such as the one-off Fit-for-climate risk scenario analysis or the CCP stress tests conducted by ESMA, could be adopted in such system-wide stress test scenario?

We see very limited applicability of these other EU stress testing exercises to the proposed EU system-wide stress testing. The scope and complexity of a regular EU system-wide stress test likely would be significantly greater than in these referenced exercises.

For example, the CCP stress tests are focused on a specific core element of the financial sector infrastructure, with a clearly defined and limited number of participating entities, each of which plays a similar role in the financial system. An EU system-wide stress test would be more complex and need to incorporate a wide variety of market participants, sectors, functions, operational models, and types of data, as well as significant cross-border elements.

As such, an EU system-wide stress testing exercise would likely be even more resource intensive and would necessarily require a heavy reliance on assumptions about the interaction between these elements, which may reduce the utility of the outputs.

Q56. [To NBFIs and banks] In your risk management practices, do you run stress tests at group level, and do you monitor the level of interconnectedness with (other) NBFIs (within and beyond your own sector; e.g. portfolio overlaps)?

In the case of OEFs and fund managers, stress testing at the group level would generally not produce meaningful results. In the banking context, stress tests help regulators assess capital adequacy and solvency risk across a banking group by examining responses to extreme scenarios. The structure of an OEF differs from that of a bank. Each OEF is typically a separate legal entity, with its own strategy and shareholders. The assets of the OEF are in accounts that are walled off (in custodian or segregated accounts) from the asset manager's own balance sheet. While the value of the assets in which an OEF is invested may rise or fall, the assets of each OEF are separate and distinct from each other and from the asset manager itself and are not available to claims by creditors of other funds or the fund manager.

At the level of a specific fund, however, the fund manager would routinely monitor a range of risk factors, including through fund-level stress testing, as part of its risk management framework. Such stress-testing and risk management typically would include the assessment of risk factors such as those referenced in this question (e.g., counterparty risks, market liquidity) together with other risk factors as relevant for the given OEF's strategy and circumstances. The results of these tests across a wide range of scenarios help fund managers understand the impact of risks on a particular fund.

Q57. 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.

We disagree with the notion that macroprudential measures should be applied to OEFs, such as UCITS, during periods of market stress. If NCAs are authorised to use macroprudential tools, they should exercise this power cautiously to avoid disrupting markets or causing unintended harm to investors.

While NCAs already have the authority to suspend UCITS redemptions under Article 84 of the UCITS Directive, imposing sector-wide restrictions on redemptions during a crisis could

easily have counterproductive effects. If investors sense that authorities may restrict redemptions, they are likely to redeem preemptively, amplifying market stress rather than alleviating it. In the event of a system-wide suspension, the need for liquidity would merely shift to other areas, transferring rather than reducing liquidity risk within the financial system.

In our view, macroprudential tools developed for banking are ill-suited to NBFIs, particularly OEFs, as they do not align with the distinct structures and regulatory safeguards within the asset management sector. The existing EU framework already ensures effective risk management in OEFs through strict liquidity requirements, leverage limits, and tailored risk controls. Applying additional bank-like macroprudential tools could disrupt OEF operations, increase procyclicality, and constrain fund liquidity in ways that are counterproductive to investor interests and financial stability.

A more effective approach would be to enhance data sharing and transparency initiatives, improving authorities' insights into interconnected risks across sectors without imposing bank-oriented tools on OEFs. EU bodies, including the ESRB, ESAs, and the Joint Committee, could focus on supporting consistent implementation of existing regulations across Member States and fostering collaboration between NBFI and banking supervisors. By improving the use of existing data, authorities can gain a more comprehensive view of systemic risk without disrupting OEF operations.

In summary, we recommend that authorities prioritise refining existing supervisory frameworks and enhancing data sharing practices, rather than introducing additional macroprudential tools that may adversely impact the stability and functioning of OEFs like UCITS.

Q58. 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?

Coordination could be improved by focusing on information sharing and transparency among NCAs and ESAs. This could involve regular exchanges of market data and risk assessments across Member States to ensure that any interventions are based on a comprehensive understanding of market conditions. Such a coordinated approach would enable authorities to address potential issues in a proportionate and informed manner, avoiding unnecessary disruption to OEFs and their investors.

Q59. What are the benefits and costs of introducing an Enhanced Coordination Mechanism (ECM), as described above, for macroprudential measures adopted by NCAs?

In our view, a macroprudential framework applied to OEFs would be counterproductive. Thus, an Enhanced Coordination Mechanism (ECM) is not necessary for implementing macroprudential measures in the context of OEFs. Instead, the focus should be on improving the sharing and utilisation of existing data on OEFs among NCAs and ESAs. The current regulatory framework already provides NCAs with sufficient tools to address specific risks, such as leverage limits and suspension of redemptions, which can be applied as needed without further structural mechanisms.

Enhanced data sharing arrangements would offer a more practical and targeted approach to supporting financial stability across Member States. By facilitating access to data already reported under frameworks like AIFMD, EMIR, and UCITS requirements, NCAs and EU

bodies could more effectively monitor any potential systemic risks in the OEF sector. This approach would promote coordinated supervision and informed decision-making without the need for additional layers of macroprudential intervention.

Ultimately, improving data transparency and collaboration between NCAs and ESAs would be a more efficient way to address financial stability concerns in the OEF sector, without introducing an ECM that could impose unnecessary complexity and administrative burdens on the supervisory process.

Q60. 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?

Rather than focusing on ensuring that National Macroprudential Measures (NMMs) are adopted across Member States, ESMA and the ESRB should focus on enhancing data sharing and analysis to provide NCAs with comprehensive insights into the OEF sector across Europe. By improving access to relevant data, ESMA and the ESRB could facilitate NCAs' understanding of cross-border exposures and risk trends, enabling each NCA to make informed, context-specific decisions on whether any additional measures are needed for funds operating within their jurisdiction.

Q61. 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 NBFI sectors or only for a specific one.

Macroprudential measures designed for the banking sector are not appropriate for UCITS due to the unique structure, regulatory safeguards, and investor protection framework that already govern these funds. Rather than seeking coordination on macroprudential measures, efforts should focus on improving coordination in data sharing and risk assessment processes across Member States and with other European authorities.

For example, regular communication and data exchanges between NCAs, ESMA, and the ESRB would enhance their understanding of sector-wide trends and any emerging risks without imposing bank-like macroprudential constraints. For instance, NCAs could establish a shared platform for standardised reporting of existing data reporting requirements on liquidity management practices, leverage usage, and redemption patterns within UCITS funds. This approach would allow for coordinated oversight and early identification of risks, while respecting the regulatory framework tailored specifically for UCITS.

Additionally, if NCAs identify potential vulnerabilities in the UCITS sector, coordination efforts should focus on facilitating dialogue and sharing best practices rather than mandating reciprocal macroprudential measures. For example, during periods of market stress, NCAs could share real-time data on fund flows and market liquidity, allowing each jurisdiction to make informed, context-specific decisions without imposing blanket measures. This system would enable flexible, proportionate responses that align with the distinct risk profile and regulatory context of UCITS and of individual Member States, ensuring that financial stability is preserved without unnecessary disruption to investors or market functioning.

Q62. 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?

We oppose developing a specific supervisory framework for "large" asset managers, however the term might be defined. The Consultation provides no detail regarding how such a separate supervisory framework would operate beyond suggesting that "ESMA could be given specific coordination powers over large asset management companies."

Additionally, size alone is not a determinative factor regarding the potential for systemic risk. It is unclear whether the Commission contemplates defining an asset manager as "large" based on its assets under management (AUM) or the size of the asset manager's own balance sheet. In any case, the Consultation provides neither examples nor data to support its hypotheses regarding the potential for OEF managers to pose risks to global financial stability at all, let alone as a function of the amount of their AUM. Indeed, the focus on asset managers for the application of any macroprudential measures is inapt. Unlike banking, asset management is an agency business. This means that asset managers manage, but do not own, the assets that they invest on behalf of funds or other clients. Asset managers generally decide where and how to invest assets on behalf of their investors—but any profits or losses belong to the investors, not the manager. Moreover, because the core function of an asset manager is managing assets as an agent on behalf of others, asset managers tend to have small balance sheets, and the forced liquidation of their own assets would not generally create market disruptions.

In conclusion, rather than creating a new framework for "large" asset managers, enhanced data sharing arrangements would offer a more practical and targeted approach to supporting financial stability across Member States. This approach would promote coordinated supervision and informed decision-making without creating an unnecessary, complex regulatory structure for OEFs.

Q63. 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.

The current regulatory framework for asset management in the EU, including UCITS and AIFMD, already provides EU authorities (including NCAs) with adequate tools to supervise large asset management companies effectively. These regulations offer robust oversight through regular reporting, liquidity management requirements, leverage limits, and stress testing, allowing supervisors to monitor large asset managers' risk profiles continuously.

Instead of expanding supervisory powers, the focus should be on enhancing the efficiency of existing data sharing and coordination mechanisms among the relevant EU authorities. For example, a streamlined, centralised platform for data aggregation and risk assessment would allow EU authorities to quickly identify potential emerging risks without introducing new layers of regulatory intervention. Enhanced real-time data sharing among relevant authorities would enable authorities to assess risk across jurisdictions, react more swiftly to early signs of stress, and provide guidance or take action as needed.

Q64. 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)?

A focus on powers to manage a "crisis of large asset management companies" is particularly ill-suited for OEFs and their managers and appears to rely on a bank-centric view of scenarios in which a bank becomes insolvent due to factors such as deterioration of its credit quality.

Unlike banking, asset management is an agency business. This means that asset managers manage, but do not own, the assets that they invest on behalf of funds or other clients. Asset managers generally decide where and how to invest assets on behalf of their investors—but any profits or losses belong to the investors, not the manager.

Asset managers are required to place those assets in accounts that are walled off (in custodian or segregated accounts) from the asset manager's own balance sheet. While the value of the assets in which an OEF is invested may rise or fall, and an OEF could, in some cases, be closed due to insufficient shareholder interest, the assets of each OEF are separate and distinct from each other, and not available to claims by creditors of other funds or the fund manager. Similarly, each OEF typically is a separate legal entity with its own shareholders, so any financial challenges faced by the asset manager do not impact the value of the underlying assets held by the OEF.

The potential costs of such intervention powers include disruption to market confidence, increased procyclicality, and the risk of unintended consequences for investors who might feel pressured to redeem early in anticipation of an intervention. Instead of adopting new intervention measures, we believe that better utilisation of existing data sharing frameworks and enhanced coordination among NCAs and other European authorities would be more effective for monitoring and addressing any potential or perceived financial stability risks. This approach would allow regulators to make informed, context-specific decisions without imposing intrusive measures that could undermine the functioning of UCITS and the broader asset management sector.

Q66. 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.

We disagree with the suggestion that public authorities should apply macroprudential measures to OEFs during market turmoil. Such actions would distort the market and disadvantage fund investors without achieving policymakers' financial stability goals. While such measures may mitigate liquidity risks within specific funds during specific circumstances, OEFs make up only 17.2 percent of Euro area total financial assets, meaning that imposing macroprudential tools across OEFs would surely not be an effective way for policymakers to intervene to stabilise markets during times of stress.

Further, although NCAs already have the power to impose suspension of redemption of units of a UCITS [1], centrally imposing restrictions during a crisis at a sector-wide level to limit or stop fund redemptions could easily backfire. For example, if fund shareholders sense that authorities are considering imposing widespread redemption restrictions, shareholders likely

will seek to redeem in advance of such an announcement, adding to stresses rather than reducing them.

If there is consideration of applying intervention powers to the entire market (e.g., such as the use of circuit breakers), we would need further details on the specific proposals in order to provide appropriate feedback.

[1] See UCITS Directive, Article 84.

Q68. Are there elements of the FSB programme on NBFI that should be prioritised in the EU? Please provide examples.

We encourage policymakers in the FSB to prioritise greater attention on efforts to improve the supply and transmission of liquidity through the financial system, including during times of stress. Recent episodes of market stress have demonstrated that traditional private sector intermediaries of liquidity, such as banks, have become unable, or unwilling, to provide enough liquidity to meet demand in a crisis. Policy work on modernising the market structure for liquidity supply and transmission would be a productive way to enhance the functioning and resilience of capital markets.

We also encourage additional work within the FSB to review how authorities could more efficiently share and use the extensive data that industry participants currently report. We urge the authorities to review and improve data sharing before considering the potential for additional reporting requirements. We would also see value in greater standardisation of the required data reporting. Such changes would not only ease administrative burdens and compliance costs but would also facilitate supervision through improved data sharing and aggregation.

ICI would welcome the opportunity to contribute to the analysis of measures to strengthen liquidity supply, and to review data reporting and data sharing arrangements, providing our expertise and significant research capabilities related to the regulated fund sector. Policies that deepen capital markets in Europe and globally pave the way for the funds our members manage to provide greater opportunities for individuals to prosper and for economies to grow.