Frankfurt am Main,
9 July 2021

BVI's[1] feedback to the ESMA Consultation Paper on the EU Money Market Fund Regulation – legislative review

Q1:

i) **Do you agree with the above assessment of the difficulties faced by MMFs during the COVID-19 March crisis? Do you agree with the identification of vulnerabilities?**

Our members didn't experience significant difficulties (e.g. large redemptions from investors on the liability side or a severe deterioration of liquidity of money market instruments on the asset side) during the COVID-19 March crisis and, thus, couldn't identify relevant vulnerabilities.

ii) **What are your views in particular on the use of MMF ratings by investors? Are you of the view that the use of such ratings has affected the behaviors of investors during the March crisis?**

Our members don't see a connection between external ratings and the problems faced by some MMFs in last year's crisis. External MMF credit ratings continue to be in high demand by investors, especially where investor-specific regulations require a risk assessment by external rating agencies.

Q2:

i) **Do you agree with the above assessment on the potential MMF reforms related to the review of the MMF Regulation?**

In our opinion, there is no compelling need for action to change the MMFR. With respect to the MMFs managed by our members, there were neither significant redemptions nor a significant deterioration in the liquidity of money market instruments. However, the money markets need reform, especially the regulation of intermediaries (banks, brokers, platforms) and the money market instruments should be checked, since the intermediaries – from our point of view – did not fulfil their role in market making and providing liquidity during the COVID-19 March crisis.

ii) **What are your views on the abovementioned assessment of the interaction between potential MMF reforms and the behaviour of investors during the MMF March 2020 crisis?**

[1] BVI represents the interests of the German fund industry at national and international level. The association promotes sensible regulation of the fund business as well as fair competition vis-à-vis policy makers and regulators. Asset Managers act as trustees in the sole interest of the investor and are subject to strict regulation. Funds match funding investors and the capital demands of companies and governments, thus fulfilling an important macro-economic function. BVI's 116 members manage assets some EUR 4 trillion for retail investors, insurance companies, pension and retirement schemes, banks, churches and foundations. With a share of 27%, Germany represents the largest fund market in the EU. BVI's ID number in the EU Transparency Register is 96816064173-47. For more information, please visit www.bvi.de/en.

From our point of view, we don't expect a significant impact of potential MMF reforms on the behavior of investors.

Q3: Do you agree with the above assessment of the

i) **potential need to decouple regulatory thresholds from suspensions/gates and the corresponding proposals of amendment of the MMF Regulation**

A loosing of the tie between liquidity and liquidity fees on redemptions/redemption appears sensible, especially against the background of the failure of intermediaries. Under the current framework, MMFs in practice are hardly able to use the weekly liquidity reserves as intended. It would be more helpful to cut such automatisms in regulation and rely on greater discretionary responsibility on the part of the fund management company which is also in constant dialogue with the supervisory authority (NCA) during periods of stress.

ii) **potential reforms of the conditions for the use of redemption gates?**

When you answer this question, please also take into account the grid of criteria listed in paragraphs 76 to 80.

In general, German investment law permits the optional use of liquidity management tools (LMT) like redemption gates and swing pricing for domestic retail investment funds. Today the fund manager is allowed to decide about an implementation of the LMT. In our opinion, and to be consistent with the German law in force, the use of LMT shouldn't be mandatory for MMFs but optional at the will of the fund management company and shall be exercised in the best interest of the fund and investors.

Q4:

i) **Do you agree with the above assessment of the potential need to require MMFs to use swing pricing and / or ADL / liquidity fees and the corresponding proposal of amendment of the MMF Regulation (including the above list of corresponding potential benefits and drawbacks)?**

Our members have reservations about certain aspects of application of swing pricing. The current regulation already requires a conservative evaluation of the bid side. In the case of T+0 funds with several payment cycles per day, swing pricing could also lead to uncertainty among investors, as they might have to wait longer for their money upon a redemption request.

ii) **If you are of the view that swing pricing might not be workable for certain types of MMFs, which instruments would you suggest as an alternative for these types of MMFs going forward?**

When you answer this question, please also take into account the grid of criteria listed in paragraphs 76 to 80.

In general, German investment law permits the optional use of liquidity management tools (LMT) like redemption gates and swing pricing for domestic retail investment funds. The fund management company is allowed to decide about the implementation of the LMT. In our opinion, and to be consistent with the already enacted German law, the use of LMT shouldn't be mandatory for MMFs but optional at the will of the fund management company and be exercised in the best interest of the fund and investors.

Q5:

i) **Do you agree with the above assessment of the potential need to increase liquidity buffers and/or make them usable/countercyclical and the corresponding potential proposal of amendment of the MMF Regulation?**

ii) **With respect to option 1 above, views are sought in particular on the relevant threshold (on the size of redemptions) from which WLA would need to be automatically adjusted.**

When you answer this question, please also take into account the grid of criteria listed in paragraphs 76 to 80.

From the investors' point of view, a MMF is considered a liquid cash-like product, also in periods of market stress. If the MMF liquidity buffer isn't sufficient to cover redemption requests this could lead to a run on MMFs and also evoke liquidity vulnerabilities in the market as well as reputational risk for the fund manager. Therefore, it is in the fund manager's best interest to keep a sufficiently high liquidity buffer and manage the MMF in a conservative way, especially in case of a crisis. The MMFR only provides minimum requirements. Fund managers do not simply satisfy these legal requirements only but regularly assess the need for additional steps in light of market conditions and the fund's investment policy. Hence, the management of the liquidity buffer should remain at the fund manager's responsibility so that decisions can be made in a flexible way taking into account each MMF's individual investment policy.

Q6: What are your views on the potential need to eliminate CNAV and LVNAV funds, in light of the recent market developments, and the corresponding potential proposal of amendment of the MMF Regulation?

When you answer this question, please also take into account the grid of criteria listed in paragraphs 76 to 80.

During the 2020 crisis, some members experienced higher inflows into their LVNAV funds compared to the average for all MMF fund types. We therefore don't consider a reform or even a ban on LVNAV funds to be justified and in any case not in line with the interest of investors.

Q7: What are your views on the extent to which Article 35 of the MMF Regulation should be

i) **clarified**

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ii) **amended?**

When you answer this question, please also take into account the grid of criteria listed in paragraphs 76 to 80.

In the past year we have seen that sponsor support in the USA has made a significant contribution to calming the market, which would speak for a review of Article 35 MMFR. However, in our opinion, other fund related options should be assessed first when dealing primarily with liquidity risk. It is desirable that a MMF is able to withstand significant market stress situations without the need for actions by central banks to support money markets or the fund sponsor to support fund liquidity. Relying on a sponsor support may induce the fund manager to take a less conservative approach to mitigating risks. In addition, a supporting sponsor carries also a potential (concentration) risk of a default triggered by a significant stress event. There could also be a shift of investments from unsupported to supported MMFs with implications for the whole market. It must be ensured that neither the fund manager nor a related party is providing any form of guarantee regarding the MMF.

Q8:

i) **Do you agree with the above assessment of the potential need to assess the role of MMF ratings in light of the difficulties faced by MMFs during the March crisis, and the potential need to introduce regulatory requirements for MMF ratings?**

ii) **In your view, based on your experience, what are the benefits of MMF rating from investors' perspective, having in mind that rules applying to MMFs are already very stringent? What would be the likely consequence on investors from the downgrade of one or several MMFs?**

When you answer this question, please also take into account the grid of criteria listed in paragraphs 76 to 80.

Q9: Do you agree with the above assessment of the potential need to amend the requirements on stress tests included in the article 28 of the MMF Regulation?

When you answer this question, please also take into account the grid of criteria listed in paragraphs 76 to 80.

Our members' stress test results didn't reveal substantial vulnerabilities and corrective measures so far (including the COVID-19 March crisis). Therefore, we don't see a need to amend the requirements on stress tests.

Q10: Do you agree with the above assessment on the potential need to review the reporting requirements under the MMF Regulation?

When you answer this question, please also take into account the grid of criteria listed in paragraphs 76 to 80.

Our members' reporting results (including stress tests) didn't reveal substantial vulnerabilities and corrective measures. Consequently, we don't see a need of a more frequent reporting.

Q11: Do you agree with the above assessment of the potential need to include additional requirements in the MMF Regulation, and/or potentially in other types of EU piece of legislation on the disclosure of money market instruments (MMIs) and main categories of investors to regulatory authorities (e.g. detailed information on liabilities)?

When you answer this question, please also take into account the grid of criteria listed in paragraphs 76 to 80.

Our members didn't identify large shifts in investor types, neither in normal nor in stressed market phases. Therefore, we don't see a need to include additional requirements in the MMFR as our members already disclose certain information on the liabilities and assets within the scope of the quarterly regulatory reporting.

Q12:

i) **Do you agree with the above assessment on the potential creation of a LEF?**

When you answer this question, please also take into account the grid of criteria listed in paragraphs 76 to 80.

ii) **Several open questions related to the creation of the LEF, on which ESMA would specifically welcome feedback from stakeholders, include:**
- **What should be the appropriate size of such a pooling vehicle as the LEF?**
- **In terms of funding, how much MMF would have to pay each year to participate in the pool? How much of the funding would/should be provided by other sources?**
- **How long would it take to establish such a LEF?**
- **Under which conditions would the LEF be activated?**
- **Who would be responsible for activating the LEF?**

In general, other fund management related options should be assessed first when dealing primarily with liquidity risk. It is always desirable that a MMF is able to withstand significant stresses on his own, i.e. without the need of actions by third parties / LEF to support money markets.

Setting up a LEF would be costly and the economic costs would in many cases prevent the further offering of money market funds. In addition, a LEF could lead to moral hazard and procyclical movements by investors. It is more expedient to ensure the continued functioning of the money markets by stressing the roles and obligations of the intermediaries, especially with respect to providing market liquidity.

Q13: Do you agree with the above assessment on the potential need of further clarification of the requirements of articles 1 and 6 of the MMF Regulation?

When you answer this question, please also take into account the grid of criteria listed in paragraphs 76 to 80.

We see benefits in further clarification in terms of harmonising the application of the MMFR in the various EU member states. Our members see diverging interpretations of the MMFR scope by different NCAs, more precisely regarding the demarcation between MMF and other money market oriented/short-term funds.

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