

Reply form

**On the Regulatory Technical Standards on Liquidity Management
Tools under the AIFMD and UCITS Directive**

Responding to this paper

ESMA invites comments on all matters in this paper and in particular on the specific questions summarised in Annex 1. Comments are most helpful if they:

- respond to the question stated;
- indicate the specific question to which the comment relates;
- contain a clear rationale; and
- describe any alternatives ESMA should consider.

ESMA will consider all comments received by **8 October 2024**.

All contributions should be submitted online at www.esma.europa.eu under the heading 'Your input - Consultations'.

Instructions

In order to facilitate analysis of responses to the Call for Evidence, respondents are requested to follow the below steps when preparing and submitting their response:

- Insert your responses to the questions in the Call for Evidence in this reply form.
- Please do not remove tags of the type < ESMA_QUESTION_GLMT_0>. Your response to each question has to be framed by the two tags corresponding to the question.
- If you do not wish to respond to a given question, please do not delete it but simply leave the text "TYPE YOUR TEXT HERE" between the tags.
- When you have drafted your responses, save the reply form according to the following convention: ESMA_CP1_GLMT_nameofrespondent.

For example, for a respondent named ABCD, the reply form would be saved with the following name: ESMA_CP1_GLMT _ABCD.

- Upload the Word reply form containing your responses to ESMA's website (**pdf documents will not be considered except for annexes**). All contributions should be submitted online at <https://www.esma.europa.eu/press-news/consultations/consultation-liquidity-management-tools-funds> under the heading 'Your input - Consultations'.

Publication of responses

All contributions received will be published following the close of the consultation, unless you request otherwise. Please clearly and prominently indicate in your submission any part you do not wish to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with ESMA's rules on access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by ESMA's Board of Appeal and the European Ombudsman.

Data protection

Information on data protection can be found at www.esma.europa.eu under the heading '[Data protection](#)'.

Who should read this paper?

This document will be of interest to alternative investment fund managers, AIFs, management companies, UCITS, and their trade associations, depositories and their trade associations, as well as professional and retail investors investing into UCITS and AIFs and their associations.

1 General information about respondent

Name of the company / organisation	France Post-Marché
Activity	Associations, professional bodies, industry representatives
Country / Region	France

2 Questions

Q1 Do you agree with the proposed characteristics of suspension of subscriptions, repurchases and redemptions? If not, please justify your position.

<ESMA_QUESTION_SLMT_1>

FRANCE POST-MARCHE (previously named AFTI) was created in 1990, with the goal of gathering members of organizations in the Banking and Financial Services industry involved in activities with financial instruments and specifically post trade activities.

FRANCE POST-MARCHE is an integral part of the French, European and international financial ecosystem, supporting the increasingly interdependent players in the French financial marketplace.

FRANCE POST-MARCHE (FPM) is the leading association representing the post-trade business in France and Europe.

FPM represents through its 82 members a wide range of activities: market infrastructures, custodians, account-keepers and depositaries, issuer services, reporting, and data management services, with a total staff of 28,000 in Europe of which 16,000 in France.

Our members acting as financial intermediaries account for 26% of the European market.

We agree with the proposed characteristics of suspension of subscriptions, repurchases and redemptions. |

<ESMA_QUESTION_SLMT_1>

Q2 Do you agree that orders that have been placed but not executed before the fund manager suspends shall not be executed until the suspension is lifted? If not, please explain why these orders shall be executed.

<ESMA_QUESTION_SLMT_2>

|We agree with the fact that orders that have been placed but not executed before the fund manager suspends shall not be executed until the suspension is lifted, as it maintains a fair treatment between unitholders. |

<ESMA_QUESTION_SLMT_2>

Q3 Once the fund is reopened for subscriptions, repurchases and redemptions, what would be your approach to redemption orders that have not been executed before the fund was suspended?

<ESMA_QUESTION_SLMT_3>

|In France, in the CSD model, where investors' custodians, centralizing agents and the Euroclear France platform must jointly manage orders to be executed, the market practice is to cancel orders that have been suspended and not executed on the current NAV.

There are many reasons not to keep orders in the order book until it is reopened after suspension because of many operational risks (automatic triggering of an execution and settlement following publication of a NAV, time constraints to update the order books, information of investors' custodians, potential request for investors to cancel their orders on the new centralization date...).

Thus, we do not want to maintain/report the non-executed orders, and we prefer to cancel them. If the client would like to redeem, he has to send a new redemption, after the reopening of the subscriptions and redemptions. |

<ESMA_QUESTION_SLMT_3>

Q4 Do you think there are circumstances where subscriptions, repurchases and redemptions may not be reopened simultaneously? If yes, what are these circumstances?

<ESMA_QUESTION_SLMT_4>

We believe there are circumstances where subscriptions, repurchases and redemptions may not be reopened simultaneously : if both subscriptions and redemptions were suspended and the asset management company wanted to reopen only the subscriptions, this process would not be problematic (given that the centralizing agent is alerted of the action plan well in advance). In this case, if these subscriptions orders had to be executed, we wouldn't be in favour of a prioritization for these orders' execution.

Please also note that in France, there's a rule that redemptions (not subscriptions) must be suspended once the threshold is under €300,000 (€160,000 for reserved funds if specified in the prospectus). These measures are designed to protect the last investors (to avoid scrapping and/or selling less liquid or illiquid securities, which would penalize the last investors). A period of one month runs from the suspension of redemptions to determine an action plan (recapitalization by the asset manager, merger with another fund, liquidation of the fund).]

<ESMA_QUESTION_SLMT_4>

Q5 Can you think of any further characteristics of suspension of subscriptions, repurchases and redemptions?

<ESMA_QUESTION_SLMT_5>

We do not think of any further characteristics of suspension of subscriptions, repurchases and redemptions.]

<ESMA_QUESTION_SLMT_5>

Q6 Do you think there is merit for the characteristics of suspension of subscriptions, repurchases and redemptions gates to differ between different investment strategies and between AIFs and UCITS? If yes, how?

<ESMA_QUESTION_SLMT_6>

There seems to be a typographical error in this question: we believe that the characteristics that are discussed here do not concern redemption gates.

We believe the suspension must be a tool to be activated as of right, as a last resort, in the interest of investors, before a decision is taken on the future of the fund, regardless of the fund's strategy or type of fund (UCITS or AIF).]

<ESMA_QUESTION_SLMT_6>

Q7 Do you agree with the description of redemption gates and their characteristics? If not, please justify your position.

<ESMA_QUESTION_SLMT_7>

|In France, in the CSD model where custodians, centralizing agents and the Euroclear France platform must manage orders to be executed jointly, the French authority, via AMF instruction 2017-05, has ruled out the prioritization of gated orders (prorated/deferred) over new orders. We validate the fact that we do not have to manage the activation of gates on an order-by-order basis, depending on whether the gate threshold has been reached.

Given the volume processed in the CSD model (industrial model, generally holding fund units/shares in bearer form), we are unable to manage specific requests for cancellations from investors, with tight deadlines and often daily NAV (no knowledge of end investors, custodians orders often globalized).

According to instruction 2017-05, it should be noted that depending on the frequency of valuation of the fund and the type of products applying gates (RE funds for example), different terms (duration of the gate, consecutive number of gated NAV...) may be applied (maximum 20 NAVs, 12 months on RE funds...) .

We agree with the draft RTS concerning the application of gates in the same way for the same fund (or sub-fund/compartiment, since it is a single and same portfolio) and not at the level of share classes, respecting the fair treatment of unitholders. In France, there is no prioritization of orders (fair treatment of investors). |

<ESMA_QUESTION_SLMT_7>

Q8 The draft RTS provides that the redemption gate threshold shall be expressed as a percentage of the NAV of the fund considering the net redemption orders for a given dealing day. Are you aware of any other method that ESMA should consider in the RTS? If yes, please explain.

<ESMA_QUESTION_SLMT_8>

|We are not aware of any other method ESMA should consider in the RTS. |

<ESMA_QUESTION_SLMT_8>

Q9 Do you agree that redemption gates may be either activated automatically when the activation threshold is exceeded or that the fund manager/ fund Boards may decide whether or not to activate the redemption gate? Do you believe that automatic activation of redemption gates could create a first mover advantage?

<ESMA_QUESTION_SLMT_9>

|It is the responsibility of the asset manager to decide on the threshold to be defined in the prospectus and the gate activation as he is the only one to know whether the liquidity of the portfolio is sufficient or not.

The tool must remain a possibility of activation and not an obligation in relation to the threshold indicated in the prospectus. |

<ESMA_QUESTION_SLMT_9>

Q10 Do you think that the automatic activation of redemption gates shall not be permitted for some types of funds. If yes, please explain your position.

<ESMA_QUESTION_SLMT_10>

|We think that the automatic activation should not be applied to any fund, without any exception. |

<ESMA_QUESTION_SLMT_10>

Q11 Do you agree that the activation threshold shall not be expressed at the level of the single redemption order? If not, please justify your position.

<ESMA_QUESTION_SLMT_11>

|We agree that the activation threshold shall not be expressed at the level of the single redemption order. |

<ESMA_QUESTION_SLMT_11>

Q12 In the case of activation of redemption gates, do you agree that investors should have the right to cancel the non-executed part of their redemption orders? In particular, should there be a different approach between UCITS and AIFs?

<ESMA_QUESTION_SLMT_12>

In France, in the CSD model, where investors' custodians, centralizing agents and the Euroclear France platform must manage orders jointly, the French authority, via AMF instruction 2017-05, has indicated that orders are either cancelled or postponed, according to the prospectus. However, a market practice agreed by the French regulator (AMF) sets out that for funds with daily NAV (both UCITS and AIF), orders are automatically postponed and not cancelled by the investor itself since deadlines are too short (AMF DOC 2017-05: automatic postponement mandatory). For funds with another NAV frequency, the mechanism is managed according to the prospectus conditions.

Given the volume of UCITS/open-ended AIF processed using the CSD model (an industrial model which generally involves holding fund units/shares in bearer form), we are unable to manage specific cancellation requests from investors, given the tight deadlines and often daily NAVs (no knowledge of end investors, custodian orders often globalized).

On non-UCITS or PE/RE funds (non-retail funds), where the NAV are quarterly or beyond and when volumes of orders remain low, it is nevertheless possible to cancel deferred orders at the request of investors.

RTS should have a different approach depending on the frequency of NAVs in relation to tight deadlines for interactions and gates processing, but no difference should be made between UCITS and AIF. |

<ESMA_QUESTION_SLMT_12>

Q13 Do you think there is merit in having different characteristics of redemption gates for different investment strategies and between AIFs and UCITS? If yes, how?

<ESMA_QUESTION_SLMT_13>

We think there is a merit in having different characteristics of redemption gates based on the NAV frequency of the funds. However, we do not think a difference is required between UCITS and AIF, even if UCITS are more liquid by nature (and should thus less use this type of LMT). |

<ESMA_QUESTION_SLMT_13>

Q14 In the case of funds with multiple share classes, do you agree that the same redemption gate shall apply to all share classes? If not, please justify your position.

<ESMA_QUESTION_SLMT_14>

|If a fund triggers gates, it is because of liquidity issues. These difficulties affect all share classes that have common assets, so all share classes should be impacted simultaneously by the same redemption gates at the fund/sub-fund level. This participates of a fair treatment of unitholders. |

<ESMA_QUESTION_SLMT_14>

Q15 Can you think of any further characteristics of redemption gates?

<ESMA_QUESTION_SLMT_15>

|We cannot think of any further characteristics of redemption gates except the ones presented in questions 7, 12 and 13. |

<ESMA_QUESTION_SLMT_15>

Q16 Do you agree with the description of extensions of notice period and their characteristics? If not, please justify your position.

<ESMA_QUESTION_SLMT_16>

|In France, based on a high-volume of operations in the industrial CSD model, the notice period can only be extended to funds that do not have close-frequency NAVs (weekly NAV frequency and beyond, whether UCITS or AIF).

Activation should only be triggered on :

- a non-daily NAV frequency, and at the very least for funds with NAVs of a weekly frequency or more ;

- with sufficient time notice to the centralizing agent (before the start of the collection period) to exclude any impact on current inflows, and to enable the centralizing agent's tools to make the necessary adjustments. The process of investors' custodians information should also be addressed.

We have taken note of the fact that the change will affect several NAV dates, but we would like to limit the number of changes, so that the centralizing agent can reapply the standard settings applicable to future NAVs (inflows and future NAVs). The asset manager should have to notify the start date of the extension of the notice period as well as the end date.

It should be specified whether the notice period extension is limited to funds that already have the notice mechanism in the prospectus, or to all funds, even those without notice period. |

<ESMA_QUESTION_SLMT_16>

Q17 Do you agree that the same extension of notice period shall apply to all investors or different extensions of notice periods per share class/unit shall be allowed? Please justify your position.

<ESMA_QUESTION_SLMT_17>

|We agree that the same extension of notice period shall be applied to all investors, to ensure fair treatment between unitholders and limit operational risks. The application must be carried out for the entire fund or sub-fund (one and the same asset) and not by share class. |

<ESMA_QUESTION_SLMT_17>

Q18 Do you agree that extensions of notice period may be applied for a pre-defined period of time (for a pre-defined number of dealing dates)? If not, please justify your position.

<ESMA_QUESTION_SLMT_18>

|We agree that extensions of notice period may be applied for a pre-defined period of time. This should be indicated in the prospectus.

Please note that a period of notice must be given to the centralizing agent, investors' custodians and investors, to enable them to update their respective repositories. |

<ESMA_QUESTION_SLMT_18>

Q19 Do you think there is merit for the characteristics of extensions of notice period to differ between different investment strategies and between AIFs and UCITS? If yes, how?

<ESMA_QUESTION_SLMT_19>

|We think the distinction between AIF and UCITS is not relevant, and should be made according to the fund's valuation frequency: the application should be limited to funds with NAV frequencies of at least two weeks in order to limit the number of activations, and funds to with limited volumes (non-retail funds, for example). |

<ESMA_QUESTION_SLMT_19>

Q20 How would you execute redemption orders that have been placed but not executed before the notice period is extended? Would you execute them under the original notice period, or would you execute them at the following dealing day?

<ESMA_QUESTION_SLMT_20>

|In France, based on a high-volume of operations in the industrial CSD model, activation and deactivation of the notice period extension can only be implemented on future inflows and NAV date, which implies that there are no orders placed on current inflows (no overlapping of orders).

Any change to current inflows would be complex to manage, and above all very manual, given the volumes involved. Moreover, in France, there isn't any direct access to the investor, but only contact with the investors' custodians (in the CSD model), unlike the register mode/nominee model.

In addition, the investor would be subject to new conditions not initially foreseen. The prospectus conditions must be complied with at the time the order is sent, as this is the version that is binding on investors and on the basis of which they have subscribed. |

<ESMA_QUESTION_SLMT_20>

Q21 How would you ensure fair treatment of investors when deactivating the extension of notice period?

<ESMA_QUESTION_SLMT_21>

|Please refer to answer provided for questions 16, 17 and 20. |

<ESMA_QUESTION_SLMT_21>

Q22 Do you agree with the description of redemption fees and the corresponding characteristics? If not, please justify your position.

<ESMA_QUESTION_SLMT_22>

|We do not agree with the description of redemption fees and the corresponding characteristics. We are able to manage the fixed acquired fees stipulated in the prospectus, as well as acquired fees calculated according to order size (scales), but we are not in a position to have to manage acquired fees calculated according to percentage of NAV or combination of order size + NAV.

In an industrial CSD model in France, we would like to see a simple, automatable calculation model, given the volumes handled. In addition, any calculation on the NAV could only be made on an estimated NAV.

Please note that this mechanism is predetermined and must not be modified according to market conditions (see point 51), which would be similar to ADL, another liquidity risk mechanism. |

<ESMA_QUESTION_SLMT_22>

Q23 Can you think of any other redemption fee mechanism than the ones described above? If yes, please provide examples.

<ESMA_QUESTION_SLMT_23>

|We cannot think of any other redemption fee mechanism than the ones described above. |

<ESMA_QUESTION_SLMT_23>

Q24 Do you think there is merit for the characteristics of redemption fees to differ between different investment strategies and between AIFs and UCITS? If yes, how?

<ESMA_QUESTION_SLMT_24>

|We do not think there is merit for the characteristics of redemption fees to differ between different strategies and between AIF and UCITS. |

<ESMA_QUESTION_SLMT_24>

Q25 Do you agree with the description of swing pricing and the corresponding characteristics? If not, please justify your position.

<ESMA_QUESTION_SLMT_25>

|Generally speaking, we agree with the description of swing pricing and the corresponding characteristics, but with the following caveat: in practice, not all NAV calculation tools are ready to handle multiple trigger points with associated factors, nor increasing factors as a function of S/R volumes, nor different factors between subscriptions and redemptions. Consequently, the implementation of multiple trigger levels associated with different swing factors will require some time to allow for IT developments. |

<ESMA_QUESTION_SLMT_25>

Q26 Can you think of any characteristics of swing pricing that the ones described above?

<ESMA_QUESTION_SLMT_26>

|We cannot think of any characteristics of swing pricing than the ones described above. |

<ESMA_QUESTION_SLMT_26>

Q27 Do you think there is merit for the characteristics of swing pricing to differ between different investment strategies and between AIFs and UCITS? If yes, how?

<ESMA_QUESTION_SLMT_27>

We do not think there is merit for the characteristics of swing pricing to differ between investment strategies and between AIF and UCITS. However, if these differences had to happen, please note that our settings are done vehicle by vehicle: that would create operational complexity. |

<ESMA_QUESTION_SLMT_27>

Q28 Do you agree that in the case of funds with multiple share classes, the same swing factor shall be applied to all share classes? If not, please justify your position.

<ESMA_QUESTION_SLMT_28>

We agree that the same swing factor should be applied to all share classes in the same fund. This approach guarantees fair treatment for all unitholders and is easier to implement operationally. Moreover, whatever the share class impacting the fund's liabilities, this translates into a single movement on the fund's assets, thus impacting all existing share classes. |

<ESMA_QUESTION_SLMT_28>

Q29 Do you agree with the description of the dual pricing and the corresponding characteristics? If not, please justify your position.

<ESMA_QUESTION_SLMT_29>

We do not agree with the description of the dual pricing and the corresponding characteristics. In France, the funds' accountants and centralizing agents' tools only allow the calculation of a single NAV per share class per NAV and the integration of a single NAV per share class per NAV respectively.

All players in the chain (fund accountants, investors' custodians, centralizing agents, CSDs, providers) would be heavily impacted by the introduction of this new mechanism. This implementation would generate massive IT development costs and additional costs including for end investors, whereas other ADT are currently functional in several Member States, like the swing pricing which pursues the same purpose. Regulators should also carry out these developments in their current tools (review of all regulatory reporting to the regulator).

Moreover, this system would require broadcasting a "pivot" or reference NAV, which will be needed for various performance calculations (e.g. PRIIPS), portfolio valuation, tax reporting, etc., which would be very hard to manage (subscription NAV, redemption NAV, "pivot or reference NAV"). Finally, an investor who, for tax reasons (to record realized capital gains), places redemption and subscription orders for the same amount on the same NAV will see his orders allocated different NAVs, and thus pay a liquidity cost, without his orders affecting the liquidity of the fund. |

<ESMA_QUESTION_SLMT_29>

Q30 Are there any other calculation methods for dual pricing that should be considered? If yes, please give example.

<ESMA_QUESTION_SLMT_30>

|We do not see any other calculation methods for dual pricing.

As mentioned in answer provided for question 29 (huge developments and associated costs at the end for the final investors), we have to favour other ADTs/LMTs that are already functional or under automation process. |

<ESMA_QUESTION_SLMT_30>

Q31 Do you think there is merit for the characteristics of dual pricing to differ between different investment strategies and between AIFs and UCITS? If yes, how?

<ESMA_QUESTION_SLMT_31>

|Even if we are not in favour of the dual pricing mechanism, we do not see any merit for differentiating between AIF and UCITS. |

<ESMA_QUESTION_SLMT_31>

Q32 Do you agree with the description of the anti-dilution levy and the corresponding characteristics? If not, please justify your position.

<ESMA_QUESTION_SLMT_32>

We do not agree with the description of the anti-dilution levy and the corresponding characteristics.

In France, we process subscriptions/redemptions in a CSD industrial model and are not yet ready to handle ADLs, but we are currently working to eventually enable automatic processing of this new mechanism. This implementation will require the upgrading of all players in the chain: investors' custodians, centralizing agents, CSDs, etc., at a date yet to be determined (very high automation costs). This implies the creation of a market practice and associated work.

Please note that some ADLs are processed on the primary ETF perimeter, where transaction volumes are low.

However, once the market has implemented this automated mechanism, only standard ADLs will be accepted, i.e. modifications to ADL rates by investors could not be managed (point 78) due to the CSD model (globalization of orders, lack of knowledge of end investors, etc.).

<ESMA_QUESTION_SLMT_32>

Q33 Are there any other calculation methods for anti-dilution levy that ESMA shall consider? If yes, please give example.

<ESMA_QUESTION_SLMT_33>

There aren't any other calculation methods for anti-dilution levy that ESMA shall consider in our view.

<ESMA_QUESTION_SLMT_33>

Q34 In the case of funds with multiple share classes, would you see the possibility for different anti-dilution levies depending on share classes? Please justify your position.

<ESMA_QUESTION_SLMT_34>

In France, our approach is rather to process ADLs by fund and not by share class.

Whatever the share class impacting the fund's liabilities, this results in a single movement on the total fund's assets, thus impacting all existing share classes. Thus, a movement on a share

class without ADL will incur liquidity costs for all existing share classes. This creates a problem of fair treatment for unitholders. Such a practice would accentuate the inequality of treatment of unitholders.]

<ESMA_QUESTION_SLMT_34>

Q35 Do you think there is merit for the characteristics of anti-dilution levy to differ between different investment strategies and between AIFs and UCITS? If yes, how?

<ESMA_QUESTION_SLMT_35>

[We do not think there is merit for the characteristics of anti-dilution levy to differ between different investment strategies and between AIF and UCITS.]

<ESMA_QUESTION_SLMT_35>

Q36 Do you agree with the description of redemptions in kind and the corresponding characteristics? If not, please justify your position.

<ESMA_QUESTION_SLMT_36>

[We agree with the description of redemptions in kind and the corresponding characteristics. We agree that this tool should be for institutional investors only, and as long as the nature of the assets received are eligible for direct investment by these investors and also divisible on a pro rata basis (derivates, loans, real estate...).]

<ESMA_QUESTION_SLMT_36>

Q37 Can you think of any characteristics of redemptions in kind?

<ESMA_QUESTION_SLMT_37>

[This tool should be exclusively for professional clients. This mechanism remains highly manual in terms of processing, execution and operational follow-up, and requires the coordination of various players (investor's custodian, custodian/centralizing agent, depositary, auditor, fund administrator, etc.) under tight deadlines. This process is carried out in project mode, and

requires several days' preparation before the redemption in kind can be processed as expected. We recommend that this mechanism be applied on an ad hoc basis only, and reserved for AIFs. |

<ESMA_QUESTION_SLMT_37>

Q38 Do you think there is merit for the characteristics of redemption in kinds to differ between different investment strategies between AIFs and UCITS? If yes, how?

<ESMA_QUESTION_SLMT_38>

|We think that this mechanism should only be applied to AIF. |

<ESMA_QUESTION_SLMT_38>

Q39 Do you agree with the description of side pockets and the corresponding characteristics? If not, please justify your position.

<ESMA_QUESTION_SLMT_39>

|We agree with the description of side pockets and the corresponding characteristics, but we do not agree for a different treatment between AIF & UCITS.

The creation of a side pocket by means of an accounting separation is not currently authorized by French law. A side pocket must be created by splitting the fund and creating a new entity (in accordance with articles L. 214-7-4, L. 214-8-7, L. 214-24-33, L. 214-24-41, L. 214-190-2-1 or L. 214-190-3-1 of the French Monetary & Financial Code "COMOFI").

We agree with all the characteristics mentioned in point 94 of the RTS, except for 2 of them:

- the practice in France is that the fund created adopts the same legal form as the split fund/side pocket, so the side pocket is not closed-ended in the event of a UCITS split (a UCITS cannot be closed-ended by definition, even if in the fact, there is no more subscriptions & redemptions).

- concerning the point "the fund manager shall allocate a proportion of liquid assets to the side pocket in order to fulfil any possible liabilities arising from the management of the side pocket", the AMF doctrine 2011-25 does not explicitly address this point, stating only that "When the split fund or its asset manager deems that the sale of assets is once again in the interests of

the unitholders or shareholders, they are sold. The units or shares of the split fund may then be redeemed immediately or at a later date, the split fund having to ensure that it has the liquidity required for the extensive management of its assets (to meet margin calls, for example)".

We believe that it is important that each Member State, depending on the applicable legal provisions, can keep the option of creating a side pocket either by physical separation (the case of France) or by accounting segregation (we are not aware of any countries applying this option).

Moreover, it seems more logical to us that the liquid portion of assets remain in the existing fund, and the "illiquid" assets are transferred to a new fund (the side pocket) which should immediately enter into the process of dissolution (extinctive management). |

<ESMA_QUESTION_SLMT_39>

Q40 Do you agree that in the case of UCITS, side pockets created by physical separation should only be done with the creation of a new UCITS where the assets for which there are no problems are placed? If not, please explain your position.

<ESMA_QUESTION_SLMT_40>

|The ESMA proposal (item 92) is in line with French doctrine, but operationally, the transfer of liquid assets into a new UCITS created for this purpose remains operationally complex and time-consuming, which delays the creation of the approved healthy fund and is therefore not in the interest of unitholders. The transfer of illiquid assets into a new fund created for this purpose and becoming the side pocket presents fewer technical difficulties.

Hence, we do not agree that in the case of UCITS, side pockets created by physical separation should only be done with the creation of a new UCITS where the assets for which there are no problems are placed.

We suggest that for a UCITS, we could create a new UCITS with the illiquid assets, with the specific derogation allowing this fund not to respect anymore its investment constraints and regulatory ratios. This fund would immediately be under a liquidation process.

Generally speaking, all funds (both UCITS and AIF) that are under a liquidation process should be authorized to derogate to their investment constraints and regulatory ratios. |

<ESMA_QUESTION_SLMT_40>

Q41 Can you think of any other characteristics of side pockets that ESMA should consider? In particular, do you think that the characteristics of side pockets shall differ between UCITS and AIFs (in addition to the creation of side pockets via physical separation of the assets)? If, yes please elaborate.

<ESMA_QUESTION_SLMT_41>

Other characteristics could be added in the interest of investors, as specified in the AMF's 2011-25 doctrine:

"all those assets whose sale would not be in the best interests of the investors in the demerged collective investment undertaking may, a priori, be kept by the demerged collective investment undertaking. It is the duty of the demerged collective investment undertaking or its management company to list the assets to be kept by the demerged collective investment undertaking. However, it should be recalled that the decision to use the side pocket system shall remain exceptional and concern only certain identified assets. Accordingly, mere difficulty in valuing or selling certain assets may not lead them to think that selling them would not be in the interest of the investors."

We do not believe that the characteristics of side pockets should differ between UCITS and AIF. |

<ESMA_QUESTION_SLMT_41>

Q42 Do you see merit in specifying further the characteristics that side pocket created by means of accounting segregation should have? If yes, can you please explain how you have created side pocket via accounting segregation? Have you encountered any legal constraints or are you aware of any legal constraints in your jurisdiction that may limit the use of side pockets via asset segregation?

<ESMA_QUESTION_SLMT_42>

Creation of a side pockets through an accounting segregation is not authorised by French law to date. A side pocket shall be created through a spin-off of the fund / SICAV and the creation of a new entity (in accordance with articles L. 214-7-4, L. 214-8-7, L. 214-24-33, L. 214-24-41, L. 214-190-2-1 or L. 214-190-3-1 of the French monetary and financial code "COMOFI"). |

<ESMA_QUESTION_SLMT_42>

Q43 Do you agree that the assets in the side pocket should always be managed with the view to liquidate them? Or could there be circumstances, where a reintegration with the normal assets could be contemplated? Please explain.

<ESMA_QUESTION_SLMT_43>

We agree that the assets in the side pocket should always be managed with the view to liquidate them.

There aren't any circumstances in favour of a reintegration of side pocket assets with the normal assets. The fund liabilities (register of investors) are frozen at the time of the split to protect the investors in the fund that is composed with illiquid assets. |

<ESMA_QUESTION_SLMT_43>

Q44 Do you agree with the above-mentioned reasoning in relation to the possible costs and benefits of the option taken by ESMA as regards the characteristics of LMTs set out in Annex IIA of the UCITS Directive? Which other types of costs or benefits would you consider in that context?

<ESMA_QUESTION_SLMT_44>

ESMA is positive towards option 3, which favors a high level of prescriptiveness with the aim of convergence and harmonization within the EU, and equivalent treatment between UCITS and AIF. On the depositary/asset servicer side, we're in line with this. If the rules are precise and detailed, this limits local interpretations and creates a level playing field.

The proposed mechanisms are well understood, but are only used occasionally, as some are still very manual and complex to implement. Increasing the use of these mechanisms could require significant IT development costs, such as for the new dual pricing mechanism, which would generate heavy implementation costs on the CSD model in France, where S/R volumes are high. These implementation costs would ultimately be passed on end investors.

Within compliance costs, only the asset manager impact is addressed, no account is taken of custodian/asset servicer adaptations. However, if we want these LMT to fulfill their objective of organizing liquidity and protecting unitholders, they need to be functional, and therefore enable the automation of gates, for example, which would be triggered in large numbers in the event of a market crisis/tension, or swing pricing/ADLs, which would have to be applied under normal market conditions, and therefore potentially in large numbers too. |

<ESMA_QUESTION_SLMT_44>

Q45 Is there any ESG and innovation-related aspects that ESMA should consider when drafting the RTS under the UCITS Directive?

<ESMA_QUESTION_SLMT_45>

|We do not identify any ESG-related aspects. However, we remain vigilant about the emergence of blockchains on which funds are held and which will have to apply these LMTs: will they be able to do so? |

<ESMA_QUESTION_SLMT_45>

Q46 Do you agree with the above-mentioned reasoning in relation to the possible costs and benefits of the option taken by ESMA as regards the characteristics of LMTs set out in Annex V of the AIFMD? Which other types of costs or benefits would you consider in that context?

<ESMA_QUESTION_SLMT_46>

|Please refer to the answer provided for question 44. |

<ESMA_QUESTION_SLMT_46>

Q47 Is there any ESG and innovation-related aspects that ESMA should consider when drafting the RTS under the AIFMD?

<ESMA_QUESTION_SLMT_47>

|Please refer to the answer provided for question 45. |

<ESMA_QUESTION_SLMT_47>

