

ATOZ ALERT



Impact of the EU Regulation on Money Market Funds

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We would like to draw your attention to the entry into force, on 21 July of this year, of Regulation (EU) 2017/1131 of the European Parliament and of the Council of 14 June 2017 on money market funds (MMFR). The main objectives of the MMFR are to (i) harmonise the rules applicable to money market funds (MMFs) established, managed or marketed in the EU (ii) enhance the protection of investors and (iii) improve the resilience of MMFs in situations where redemption requests reach such a level that they threaten both the ability of MMFs to honour them and the supply of cash on the money market.

MMFs are an important source of short-term financing for financial institutions, companies and governments throughout the EU. They represent an efficient alternative to bank deposits for investors by providing them with investments offering low returns but that are both safe and easily accessible. The introduction of new EU rules should favour the cross-border development of these funds in the EU and, therefore, enhance credit facilities and available liquidity on the continent.

What you need to know

1. Compulsory application

Unlike the CESR/10-049 guidelines which only applied to funds seeking to market themselves as MMFs, the application of the MMFR is mandatory for all alternative investment funds (AIFs) and undertakings for collective investment in transferable securities (UCITS) that have as main objectives to:

- invest in short term assets; and
- offer returns in line with money market rates **and/or** preserve the value of the investment.

2. Uncertainty as to the scope of the MMFR

The criteria listed above are not sufficient to delineate the scope of the MMFR with an adequate degree of precision and certainty. A general rule that we may infer from certain provisions of the MMFR (including its recitals) is that the criteria listed above should not be construed strictly. Indeed, any UCITS or AIF that has “characteristics which are substantially similar” to the above criteria will also be considered as an MMF governed by the MMFR.

For instance, the return offered by a fund does not need to be perfectly aligned with Euribor, Libor or any other money market rate to be considered as “in line with money market rates”. A fund which seeks to outperform the money market rate by a slight margin will still be considered as meeting this criterion.

3. Prohibited use of the designation “MMF” or “money market fund” for non-MMFs

A fund that does not fall within the scope of the MMFR may not be designated as an “MMF” or “money market fund” or have any other name that might lead investors to believe that it is an MMF. Therefore, it is highly recommended that funds not considered as MMFs for the purpose of this regulation but which use designations referring to money market remove such references from their names as soon as practicable.

4. Mandatory authorisation

UCITS and AIFs falling within the scope of the MMFR must be authorised (please find the authorisation form to be completed and submitted to the CSSF at the following [link](#)) in accordance with the following timeline:

- UCITS existing before 21 July 2018 must apply for an authorisation with the CSSF by 21 January 2019 at the latest;
- UCITS launched as from 21 July 2018 should submit their application to be authorised as MMFs at the same time as their application for an authorisation as UCITS;
- AIFs existing before 21 July 2018 must apply for an authorisation with the CSSF by 21 January 2019 at the latest; and
- AIFs launched as from 21 July 2018 should submit their application to be authorised as MMFs prior to their incorporation.

Heads up for AIFs not managed by fully authorised AIFMs → A management company which is not authorised as a full scope alternative investment fund manager (AIFM) but manages an AIF qualifying as an MMF will not be able to seek an authorisation as an MMF on behalf of the AIF it manages. This means that in practice, a management company that (i) benefits from the parent company exemption (Article 3 paragraph 1 of the AIFM Directive) or (ii) has a level of assets under management which is too low to trigger the application of the full scope AIFM Directive (Article 3 paragraph 2 of the AIFM Directive), will need to appoint an external AIFM fully authorised to manage MMFs. This newly appointed authorised AIFM will then be able to submit the application for the AIF to be authorised as an MMF. Thus, all requirements of the AIFM Directive will apply to these AIFs.

5. Classification of MMFs

Under the MMFR, an MMF automatically falls into one of the following categories:

- variable net asset value MMFs (VNAVs) – either standard or short-term;
- public debt constant net asset value MMFs (Public Debt CNAVs) – always short term; or
- low volatility net asset value MMFs (LVNAVs) – always short term.

Main features:

- Shares of VNAVs are issued or redeemed at fair market value. VNAVs may be qualified as short term or standard depending on whether or not they invest only in money market instruments with a maturity inferior to 397 days.
- Public Debt CNAVs must invest at least 99.5% of their assets in public debt or reverse repurchase agreements secured with government debt and cash. Their shares are issued or redeemed at a price equal to the constant NAV per share. The difference between the constant NAV per share and the NAV per share must be monitored and reported daily by the management company.
- LVNAVs are designed to afford investors the same characteristics as Public Debt CNAVs as long as the difference between the fair market value and the constant redemption and issuance price of shares does not exceed 20 bps. Once this limit is exceeded, the LVNAV will issue and redeem its shares at fair market value.

6. Other obligations

The MMFR contains extensive requirements, some of which are common to all types of MMFs, including, e.g., rules on investment policy (i.e. eligible assets, maturity requirements, prohibited activities, diversification requirements), NAV calculation, valuation rules, redemption price, liquidity management, prohibition of external support, internal procedures (regarding credit risk, risk of high level of redemption requests...), transparency and reporting obligations to the CSSF.

If your fund falls within the scope of the MMFR, its prospectus and articles of incorporation will need to be updated in accordance with these provisions.

Feel free to reach out if you need any assistance.



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