IMMFA

INSTITUTIONAL MONEY MARKET FUNDS ASSOCIATION

14 March 2018

Mike Bolton
Financial Conduct Authority
25 The North Colonnade
London
E14 5HS

Dear Mike,

CP18/4 on The European Money Market Fund Regulation

The Institutional Money Market Funds Association Ltd ("IMMFA") is pleased to submit its comments on the Financial Conduct Authority's consultative document.

IMMFA represents the European institutional money market fund (MMF) industry. Until 2018, IMMFA represented the industry sector for money market funds that provided a constant Net Asset Value (CNAV) per share to investors. From 2018 IMMFA has broadened its remit and now represents, in addition, providers of variable Net Asset Value (VNAV) MMF.

Our members manage EU authorised MMF, domiciled in Luxembourg, Dublin and the UK. All IMMFA-represented MMF are UCITS funds and most use the funds passport for promotion into the UK and elsewhere in Europe. A list of members may be found at www.immfa.org

At end-February 2018, funds under management in IMMFA CNAV funds amounted to £550.2 billion (source: IMMFA Money Fund Report). UK investors have a significant presence in the CNAV funds of about 45% overall. This breaks down to about 70% in Sterling denominated MMF, 31.3% in Euro denominated MMF and 29.1% in USD denominated MMF (source: IMMFA Investor Survey 2016).

The funds offer cash management, effectively intermediating between investors and issuers in the money markets (prime and government), as well as providing credit risk diversification from deposit taking at banks.

Many of the MMF, and all of the constant NAV MMF, offer same day liquidity to the unit/shareholders in the fund (i.e. cash is returned to the investor on the same day that redemption is notified).

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EU transparency register No. 525785119947-01

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Answers to questions

Please find below our answers to your questions.

Q1: Do you agree with our overall approach to amending the Handbook in the light of the MMF Regulation coming into force?

We do not agree entirely with your approach to amending the FCA Handbook to address the introduction of the MMF Regulation. In some areas we think the removal of references to MMF could create confusion for users of the Handbook, in particular for firms that use MMFs for their clients but who are not themselves MMF managers (for example, wealth managers). We suggest that this could be dealt with by including some of the Regulation's product definitions, to ensure that MMF have a presence in the Handbook and to enable users to be guided to the Regulation.

We highlight other issues in our answers to other questions.

Q2: Do you have any comments on the detailed changes that we are proposing to make, as set out in the appendix?

Paragraph 2.7/Glossary

Paragraph 2.7 does not accurately set out what applies in terms of MMF types within the Regulation. Public Debt CNAV MMF and LVNAV MMF may only be Short Term MMF. Variable NAV MMF may be either Short Term or Standard MMF, thus giving 4 options in total. It is important that users of the funds understand that there are distinctions between all four, as the rules applying to any given fund will vary considerably depending into which of the types they are categorised. The mis-statement in the CP, and lack of information in the Handbook, could sow confusion.

For this reason and for clarity generally we suggest that the Glossary should include some new entries, where relevant cross-referring to the Regulation for the full definition. These include the terms Short Term MMF, Standard MMF, Public Debt CNAV MMF, Low Volatility NAV MMF and Variable NAV MMF.

For completeness, please note that we also propose a change to the Glossary definition of *Qualifying Money Market Funds* (QMMF) in our answer to question 3 below.

Please find here proposed new and revised definitions:

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MMF
a *regulated money market fund.*

Short Term MMF
a category of *regulated money market funds* created by the *Money Market Funds Regulation*, as set out in Article 2(14) of that Regulation. *Short Term MMF* are governed in the *Money Market Funds Regulation* by different criteria than *Standard MMF*.

Standard MMF
a category of *regulated money market funds* created by the *Money Market Funds Regulation*, as set out in Article 2(15) of that Regulation. *Standard MMF* are governed in the *Money Market Funds Regulation* by different criteria than *Short Term MMF*.

LVNAV MMF
a type of *regulated money market fund* called a low volatility net asset value money market fund that is established in Article 3 and defined in Article 2(12) of the *Money Market Funds Regulation*. A LVNAV MMF may only be categorised as a *Short Term MMF* under the *Money Funds Regulation*.

Public Debt CNAV MMF
a type of *regulated money market fund* called a public debt constant net asset value money market fund that is established in Article 3 and defined in Article 2(11) of the *Money Market Funds Regulation*. A Public Debt CNAV MMF may only be categorised as a *Short Term MMF* under the *Money Funds Regulation*.

VNAV MMF
a type of *regulated money market fund* called a variable net asset value money market fund that is established in Article 3 and defined in Article 2(13) of the *Money Market Funds Regulation*. A VNAV MMF may be categorised as either a *Short Term MMF* or as a *Standard MMF* under the *Money Funds Regulation*.

Pre-sale notifications

We consider that it is neither appropriate, nor obligatory under EU regulation, for FCA to impose an additional rule on money market funds requiring them to self-identify themselves as *qualifying money market funds* (QMMF) to investors. We

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therefore ask that rule COLL 4.2.5 R 3 (qa) (belonging to COLL 4.2.2R) be removed entirely.

Retaining a rule about QMMF whilst removing the references to the ESMA MMF categories does not anyway make sense, as in practice QMMF are a sub-set of the regulated money market funds.

Key investor information

The Handbook text, as amended at COLL 4.7.3BR, applies Key Investor Information rules to NURS funds that are QMMF but removes any reference to regulated money market funds. However, QMMF are by definition *regulated money market funds*. In consequence we find the FCA's approach confusing and ask that the whole section should be removed.

In respect of 4.7.3B R (1), we note that the MMF Regulation already imposes a requirement for each *regulated money market fund* to be identified by its type, and for ESMA to "keep a central public register identifying each MMF authorised under this Regulation" (see Article 4, MMFR). This will include *regulated money market funds* that are QMMF. There is no requirement for a fund to identify itself as a QMMF.

In respect of 4.7.3B R (2), as mentioned in Pre-sale notifications, we consider it neither appropriate, nor obligatory under EU regulation, for FCA to impose an additional rule on money market funds requiring them to confirm to investors that the fund's objectives and policies will meet the conditions of the QMMF definition. Rather, this is a matter for a user to determine on enquiry.

Dilution adjustments and levies

Paragraph 3.5 refers to suggested amendments to the COLL rules at 6.3.8 to implement Articles 33 and 34 of the Regulation in regard to dilution levies and dilution adjustments. We agree that dilution levies should be allowed and we agree that dilution adjustments would appear to be incompatible with the Regulation. We agree with your wording proposed for COLL 6.3.8R (1) and (1A).

Fund suspensions

We do not agree with the draft wording proposed for COLL 7.2.1R (1). Although we agree that suspensions in some MMF must occur under certain circumstances, effectively where the fund has an acute shortage of liquid assets, we do not believe

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that this precludes those MMF from using fund suspensions in other circumstances, to protect investors. Nor have we found wording in the MMF Regulation that sets aside this particular tool – rather, it specifies one form of required use. We therefore propose a rewording of this rule as follows:

> The *authorised fund manager* may, with the prior agreement of the *depositary*, and must without delay, if the *depositary* so requires, temporarily suspend the *issue*, *cancellation*, *sale* and *redemption* of *units* in an *authorised fund* (referred to in this chapter as "*dealings in units*"), where due to exceptional circumstances it is in the interest of all the *Unitholders* in the *authorised fund*. Where an *authorised fund* is a *regulated money market fund*, such suspensions ~~may only~~must be carried out as specified in ~~to the extent permitted under, and in accordance with~~ the *Money Market Funds Regulation* and may be carried out otherwise in accordance with this rule.

Q3: Are there any Handbook provisions relating to money market funds, or otherwise relevant to the implementation of the MMF Regulation, that we should consider amending?

Yes, we believe that the FCA should make changes to one other Handbook identified in the consultation, namely CASS.

In respect of *qualifying money market funds (*QMMF), there is a risk that FCA could create confusion for users of money market funds that are QMMF simply because MiFID and the MMF Regulation were developed at different times. We would like to make sure that this does not happen.

Clearly, QMMF are and will remain a sub-set of *regulated money market funds.* Section (1) of the Glossary definition requires that a QMMF should be a fund that is:

> "authorised under the *UCITS Directive* or which is subject to supervision and, if applicable, authorised by an authority under the national law of the authorising *Member State*"

This has the effect of bringing QMMF within the remit of the MMF Regulation, either as a UCITS or prospectively as an AIF.

Equally it is clear from the MiFID definition for QMMF that a *Standard MMF* cannot be a QMMF, since the wording of section (1)(b) of the QMMF Glossary definition sets requirements that reflect the MMF Regulation requirements for Short Term MMF. Although in theory it is possible for a Standard MMF to comply with the much tighter regulatory requirements set for Short Term MMF, to do so on a permanent basis would potentially be to mislead investors as to the nature of the fund they are invested in. We understand that the intent of the MMF Regulation, amongst other things, is to prevent arbitrage of this kind between the categories and types of MMF promoted in Europe (see Recitals 39 and 40 and the definitions for these categories in Article 2 of the MMF Regulation).

Given the difficulties that continue to arise over the interpretation of MiFID/QMMF rules in CASS, we therefore believe that it is important that the status of QMMF vis a vis the new MMF Regulation should be made clear in the Handbook. This will help to remove potential confusion deriving from the Handbook over the different definitions subsisting for money market funds. We suggest new guidance could be introduced in CASS as follows:

> **CASS 7.13.9A G (new)**
> Firms should ensure that their consideration of a *qualifying money market fund* takes account of relevant provisions in the *Money Market Funds Regulation*. *Qualifying money market funds* are *regulated money market funds* subject to the *Money Market Funds Regulation.* The definition of *qualifying money market funds* has the effect of excluding the use of *Standard MMF* for client money purposes. Firms that intend to place client money in a *qualifying money market fund* should therefore choose a fund that is authorised as a *Short Term MMF,* to ensure compliance with the requirements for *qualifying money market funds*.

Q4: Do you have any comments on our proposed charges for authorising money market funds?

Application fees (in the FEES Manual)

There is an area of uncertainty over which fees apply.

P.24/28 rules – New MMF appear to have been added to the section for QIS fees, ie double the cost of a UCITS fund application (£2400 vs £1200). Is this intended? The MMF are unlikely to be QIS funds, rather they are usually vanilla UCITS. It is likely that the lay-out of the page has left it unclear which fee applies. We would be grateful if this could be clarified.

We agree that the further authorisation fee for existing MMF at £300 per fund is reasonable (P.27/28 rules).

Q5: Do you have any comments on our proposal to include money market funds in the structure of fees for collective investment schemes?

Periodic fees (in the FEES Manual)

No. The periodic (annual) fee schedule seems reasonable.

Q6: Do you agree with our cost benefit analysis for changes to the Handbook linked to the MMF Regulation?

We agree. The cost of compliance with the MMF Regulation is substantial, but almost wholly connected to the changes set out in the Handbook.

The fees to be raised by the FCA are in addition to fees already paid for UCITS authorisation and our view on whether the CBA is fair on these costs is subject to confirmation of the query raised in Q4.

We are available to answer any questions you may have on specific points we have raised, or generally.

I confirm that our response may be published.

Yours sincerely

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