



EUROPEAN CENTRAL BANK
EUROSYSTEM

Technical working document (3/3)

produced in connection with ECB Opinion [CON/2026/13]¹

Drafting proposals in relation to the proposed amendments to Directive 2009/65/EC (UCITS Directive) and Directive 2011/61/EU (AIFM Directive) (the proposed master directive)

Text proposed by the Commission	Amendments proposed by the ECB ²
Amendment 1	
Recital 11 of the proposed master directive	
<p>‘(11) To recognise the inherently diversified nature and regulatory requirements of securitisations and to allow greater flexibility for UCITS to invest in those products, it is necessary to increase the current 10% limit on debt securities issued by a single entity to 15% for UCITS investing in securitisations issued in accordance with Regulation (EU) 2017/2402.’</p>	<p>‘(11) To recognise the inherently diversified nature and regulatory requirements of securitisations and to allow greater flexibility for UCITS to invest in those products, it is necessary to increase the current 10% limit on debt securities issued by a single entity to 15% 20% for UCITS investing in securitisations issued in accordance with Regulation (EU) 2017/2402.’</p>
<i><u>Explanation</u></i>	
<p><i>The ECB recommends increasing the limits for simple, transparent and standardised (STS) securitisation to further support investor participation in the market. See paragraph 8.3 of the ECB Opinion and Amendment 4.</i></p>	
Amendment 2	
Recital 14 of the proposed master directive	
<p>‘(14) To enhance the efficiency of large asset management groups in structuring their operations and remove barriers to their cross-border activity, it is essential to establish a permanent supervisory framework whereby ESMA, in cooperation with the relevant competent authorities, carries out reviews of the largest asset management groups at least</p>	<p>‘(14) To enhance the efficiency of large asset management groups in structuring their operations and remove barriers to their cross-border activity, it is essential to establish a permanent supervisory framework whereby ESMA, in cooperation with the relevant competent authorities, carries out reviews of the largest asset management groups at least</p>

¹ This technical working document is produced in English only and communicated to the consulting Union institution(s) after adoption of the opinion. It is also published on EUR-Lex alongside the opinion itself.

² Bold in the body of the text indicates where the ECB proposes inserting new text. Strikethrough in the body of the text indicates where the ECB proposes deleting text.

Text proposed by the Commission	Amendments proposed by the ECB ²
<p>on an annual basis to effectively identify and address divergent, duplicative, redundant, or deficient supervisory practices in specific cases. Such annual reviews should be confined to the analysis of data, information and documentation already available to ESMA and national competent authorities through existing reporting channels. This review should aim to remove any obstacle to the functioning of the Single Market for large asset management groups and facilitate their cross-border operations. This framework should therefore not be understood as a mandate for ESMA to develop new group level risk models or new supervisory approaches that do not already derive from Directive 2009/65/EC and Directive 2011/61/EU but instead as an arrangement to enhance supervisory efficiencies for groups of management companies and AIFMs. The scope of this review should be confined to the requirements applicable to management companies and AIFMs within EU groups and is therefore not intended to include any requirements on authorisation or supervision of the investment funds that are managed by those management companies and AIFMs. It is also appropriate and proportional to concentrate these efforts on the largest asset management groups in the EU, where operational and supervisory synergies can be achieved most effectively. ESMA should identify these groups based on the significant size of their market presence and impact within the Union, as measured by their net asset values and the extent of their cross-border operations and activities.'</p>	<p>on an annual basis to effectively identify and address divergent, duplicative, redundant, or deficient supervisory practices in specific cases. Such annual reviews should be confined to the analysis of data, information and documentation already available to ESMA and national competent authorities through existing reporting channels. This review should aim to remove any obstacle to the functioning of the Single Market for large asset management groups and facilitate their cross-border operations, as well as identify risks to investor protection, financial stability, or the integrity of the market. ESMA should carry out the review on a more frequent basis in the event of justified concerns in respect of risks to investor protection, financial stability, or the integrity of the market. This framework should therefore not be understood as a mandate for ESMA to develop new group level risk models or new supervisory approaches that do not already derive from Directive 2009/65/EC and Directive 2011/61/EU but instead as an arrangement to enhance supervisory efficiencies for groups of management companies and AIFMs. The scope of this review should be confined to the requirements applicable to management companies and AIFMs within EU groups and is therefore not intended to include any requirements on authorisation or supervision of the investment funds that are managed by those management companies and AIFMs. It is also appropriate and proportional to concentrate these efforts on the largest asset management groups in the EU, where operational and supervisory synergies can be achieved most effectively. ESMA should identify these groups based on the significant size of their market presence and impact within the Union, as measured by their net asset values and the extent of their cross-border operations and activities.'</p>

Text proposed by the Commission	Amendments proposed by the ECB ²
<p style="text-align: center;"><u>Explanation</u></p> <p><i>The ECB recommends clarifications to ensure that annual reviews take place on a more frequent basis in the event of justified concerns pertaining to ESMA’s responsibilities for the protection of investors, the stability of the financial system or the integrity of the market.</i></p> <p><i>This clarification reflects ESMA’s objective under Article 1(5) of the ESMA Regulation to protect the public interest by contributing to the short, medium and long-term stability and effectiveness of the financial system, for the Union economy, its citizens and businesses by, inter alia, ensuring the integrity, transparency, efficiency and orderly functioning of financial markets, and enhancing customer and investor protection.</i></p> <p><i>While the annual reviews primarily aim at removing obstacles to the functioning of the Single Market for large asset management groups and facilitating their cross-border operations, specific events that could jeopardise the functioning of the internal market, the integrity of financial markets, financial stability or investor protection would warrant the triggering of more regular assessments, in line with ESMA’s objective and competences under the ESMA Regulation.</i></p> <p><i>In that respect, this clarification seeks to highlight the complementarity of annual reviews with ESMA’s supervisory convergence tools and powers, to address risks to the integrity of financial markets, financial stability or investor protection. Examples include ESMA’s new power to address supervisory failures under Article 17aa, as introduced by the proposed master regulation.</i></p> <p><i>See paragraph 8.4 of the ECB Opinion and Amendments 5, 6, 8 and 9.</i></p>	
<p style="text-align: center;">Amendment 3</p> <p style="text-align: center;">Article 1, point (15), of the proposed master directive (Article 20a(3) of the UCITS Directive)</p>	
<p>‘(15) in Article 20a, paragraph 3 is amended as follows:</p> <p>(a) the first subparagraph is replaced by the following:</p> <p>“The competent authorities of the UCITS home Member State shall ensure that all information gathered under this Article in respect of all UCITS that they supervise is made available to other relevant competent authorities, ESMA, EBA, EIOPA and the European Systemic Risk Board (ESRB), whenever necessary for the purpose of carrying out their duties, by means of the procedures set out in Article 101.”;</p>	<p>‘(15) in Article 20a, paragraph 3 is amended as follows:</p> <p>(a) the first subparagraph is replaced by the following:</p> <p>“The competent authorities of the UCITS home Member State shall ensure that all information gathered under this Article in respect of all UCITS that they supervise is made available to other relevant competent authorities, ESMA, EBA, EIOPA, and the European Systemic Risk Board (ESRB), and the members of the European System of Central Banks, whenever necessary for the purpose of carrying out their duties in</p>

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<p>(b) the third subparagraph is replaced by the following:</p> <p>“The competent authorities of the UCITS home Member State or of the management company's home Member State shall, without delay, provide information by means of the procedures set out in Article 101, and bilaterally to the competent authorities of other Member States directly concerned, if a management company under their responsibility, or a UCITS managed by that management company, potentially constitutes an important source of counterparty risk to a credit institution or other systemically relevant institutions in other Member States, or to the stability of the financial system in another Member State.”;</p>	<p>accordance with Union or national law, by means of the procedures set out in Article 101.”;</p> <p>(b) the second subparagraph is deleted;</p> <p>(b) the third subparagraph is replaced by the following:</p> <p>“The competent authorities of the UCITS home Member State or of the management company's home Member State shall, without delay, provide information by means of the procedures set out in Article 101, and bilaterally to the competent authorities of other Member States directly concerned, if a management company under their responsibility, or a UCITS managed by that management company, potentially constitutes an important source of counterparty risk to a credit institution or other systemically relevant institutions in other Member States, or to the stability of the financial system in another Member State.”;</p>
<p><u>Explanation</u></p> <p><i>It is suggested to clarify the provision in the UCITS Directive concerning the exchange of information between authorities, in order to clarify and improve access for the ECB and other relevant members of the ESCB, which will enable them to fulfil their tasks, including those under the Treaty, of defining and implementing monetary policy and contributing to the stability of the financial system. The relevance of data from the asset management sector for the tasks of the ESCB was explained in respect of detailed data on the AIF sector in ECB opinion CON/2022/26. Such explanations apply mutatis mutandis to UCITS data.</i></p> <p><i>The current drafting of Article 20a(3), second subparagraph, states that the competent authorities of the UCITS home Member State ‘shall ensure that all information gathered under this Article in respect of all UCITS that they supervise is made available, for statistical purposes only, to the ESCB’. This drafting was introduced to the UCITS Directive by Directive (EU) 2024/927 of the European Parliament and of the Council³. While, in principle, this wording does facilitate exchange of information with the ECB and other members of the ESCB, the reference to ‘statistical purposes only’, coupled with the differentiated treatment of the members of the ESCB as compared to other Union bodies and national competent</i></p>	

³ Directive (EU) 2024/927 of the European Parliament and of the Council of 13 March 2024 amending Directives 2011/61/EU and 2009/65/EC as regards delegation arrangements, liquidity risk management, supervisory reporting, the provision of depositary and custody services and loan origination by alternative investment funds (OJ L, 2024/927, 26.3.2024, ELI: <http://data.europa.eu/eli/dir/2024/927/oj>).

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<p><i>authorities, may lead to unintended consequences. In particular, this phrasing may lead to confusion or diverging interpretations by competent authorities and could thus result in unnecessary restrictions being placed on the information shared with the members of the ESCB and how that information can be utilised. In particular, this may impede efforts by the members of the ESCB to analyse funds' exposures, risks and interconnections with other financial entities on a cross-border basis and to assess the financial stability risks of funds cross-investing in each other's shares on a cross-border basis within the Union. See paragraph 8.6 of the ECB Opinion.</i></p>	
<p>Amendment 4</p> <p>Article 1, point (27)(a), of the proposed master directive (Article 56(2) of the UCITS Directive)</p>	
<p>'(a) in paragraph 2, the following subparagraph is added:</p> <p>"2.</p> <p>[...]</p> <p>By way of derogation from the first subparagraph, point (b), a UCITS may acquire no more than 15% of the securitisations issued in accordance with Regulation (EU) 2017/2402 by a single issuing body.";</p>	<p>'(a) in paragraph 2, the following subparagraph is added:</p> <p>"2.</p> <p>[...]</p> <p>By way of derogation from the first subparagraph, point (b), a UCITS may acquire no more than 15% 20% of the securitisations issued in accordance with Regulation (EU) 2017/2402 by a single issuing body.";</p>
<p><u>Explanation</u></p> <p><i>The ECB welcomes the increased limit for UCITS investing in securitisations by a single issuing body as it could support investor participation in the securitisation market. The amendment would increase the existing limit of 10 % to a higher limit of 15 % The ECB notes that the existing limit of 10 % may be constraining the interest of UCITS in securitisations, given the small size of securitisation issuances. This is because the maximum investment by UCITS in individual issuances may be uneconomical, given the comparatively high due diligence costs associated with such investment relative to other assets. Thus, the ECB suggests a further increase of this limit to, for example, 20 %.</i></p> <p><i>That said, the ECB emphasises that this limit should not be entirely removed, or increased excessively, as it serves important policy goals, such as maintaining appropriate safeguards for adequate risk management and investor protection, especially for retail investors. These policy goals also include preventing a single UCITS from becoming a dominant investor capable of influencing an issuer's decisions. While securitisations – by shifting investor rights to a separate special purpose vehicle and a defined collateral pool – do not expose the originator to influence by its investors in the same way as a normal corporate issuer would, excessive concentration of investments by UCITS in single issuing bodies still entails the risk of UCITS exerting disproportionate influence on debt restructuring in the event</i></p>	

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<p><i>of distress of those issuing bodies, which could harm the broader universe of investors. Furthermore, these limits are also intended to prevent individual UCITS from becoming the dominant market for each individual securitisation issuance and to ensure that the UCITS does not own such a large portion of an issuance that the position becomes illiquid, as UCITS should only invest in liquid instruments.</i></p> <p><i>See paragraph 8.3 of the ECB Opinion and Amendment 1.</i></p>	
<p>Amendment 5</p> <p>Article 1, point (47), of the proposed master directive (Article 110b(3) of the UCITS Directive)</p>	
<p>(47) the following Articles 110b to 110d are inserted:</p> <p style="text-align: center;"><i>“Article 110b</i></p> <p>[...]</p> <p>3. ESMA shall, in cooperation with the competent authorities of the home Member States of the management companies and, where relevant, the competent authorities of the home Member States of the AIFMs that are part of the EU group, carry out at least annually a review of each EU group identified pursuant to paragraph 1.</p> <p>During the review referred to in the first subparagraph, ESMA shall assess the supervisory approaches in the application of the requirements of this Directive and of Directive 2011/61/EU that are taken by the competent authorities of the management companies and, where relevant, AIFMs within each EU group. For the purpose of that review, ESMA shall use a methodology that ensures comparability and consistency of those supervisory approaches.</p> <p>[...];’</p>	<p>(47) the following Articles 110b to 110d are inserted:</p> <p style="text-align: center;"><i>“Article 110b</i></p> <p>[...]</p> <p>3. ESMA shall, in cooperation with the competent authorities of the home Member States of the management companies and, where relevant, the competent authorities of the home Member States of the AIFMs that are part of the EU group, carry out at least annually a review of each EU group identified pursuant to paragraph 1.</p> <p>ESMA shall carry out the review referred to in the first subparagraph on a more frequent basis in the event of justified concerns in respect of investor protection, financial stability or the integrity of the market.</p> <p>During the review referred to in the first subparagraph, ESMA shall assess the supervisory approaches in the application of the requirements of this Directive and of Directive 2011/61/EU that are taken by the competent authorities of the management companies and, where relevant, AIFMs within each EU group. For the purpose of that review, ESMA shall use a methodology that ensures comparability and consistency of those supervisory approaches.</p> <p>[...];’</p>
<p><u>Explanation</u></p>	

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See paragraph 8.4 of the ECB Opinion and Amendments 2, 6, 8 and 9.	
<p style="text-align: center;">Amendment 6</p> <p style="text-align: center;">Article 1, point (47), of the proposed master directive (Article 110b(6) of the UCITS Directive)</p>	
<p>‘(47) the following Articles 110b to 110d are inserted:</p> <p style="text-align: center;"><i>“Article 110b</i></p> <p>[...]</p> <p>6. Following each review, as referred to in paragraph 3, ESMA shall, after having consulted the competent authorities of the home Member States of the management companies and, where relevant, those of the home Member States of the AIFMs within the EU group, conclude on whether it identified any diverging, duplicative, redundant or deficient supervisory approaches.</p> <p>ESMA shall include the findings referred to in the first subparagraph in a review report, issued by the Executive Board which shall be addressed to the competent authorities of the home Member States of the management companies and, where relevant, those of the home Member States of the AIFMs within the EU group.</p> <p>[...]”;</p>	<p>‘(47) the following Articles 110b to 110d are inserted:</p> <p style="text-align: center;"><i>“Article 110b</i></p> <p>[...]</p> <p>6. Following each review, as referred to in paragraph 3, ESMA shall, after having consulted the competent authorities of the home Member States of the management companies and, where relevant, those of the home Member States of the AIFMs within the EU group, conclude on whether it identified any diverging, duplicative, redundant or deficient supervisory approaches, in particular those that could jeopardise the functioning of the internal market, the integrity of financial markets, financial stability or investor protection.</p> <p>ESMA shall include the findings referred to in the first subparagraph in a review report, issued by the Executive Board which shall be addressed to the competent authorities of the home Member States of the management companies and, where relevant, those of the home Member States of the AIFMs within the EU group.</p> <p>[...]”;</p>
<p style="text-align: center;"><u>Explanation</u></p> <p>See paragraph 8.4 of the ECB Opinion and Amendments 2, 5, 8 and 9.</p>	

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Amendment 7 Article 2, point (12a), of the proposed master directive (new) (Article 25(2) of the AIFM Directive)	
No text.	<p>‘(12a) in Article 25(2), the first and second subparagraphs are replaced by the following:</p> <p>“2. The competent authorities of the home Member State of the AIFM shall ensure that all information gathered under Article 24 in respect of all AIFMs that they supervise and the information gathered under Article 7 is made available to other relevant competent authorities, ESMA, EBA, the European Supervisory Authority (European Insurance and Occupational Pensions Authority) established by Regulation (EU) No 1094/2010 of the European Parliament and of the Council(*) (known collectively as “European Supervisory Authorities” or “ESAs”), the ESRB, and the members of the ESCB, whenever necessary for the purpose of carrying out their duties in accordance with Union or national law, by means of the procedures set out in Article 50.</p> <p>(*) Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (OJ L 331, 15.12.2010, p. 48).”;</p>
<p><u>Explanation</u></p> <p><i>It is suggested to clarify the provision in the AIFM Directive concerning the exchange of information between authorities, in order to clarify and improve access for the ECB and other relevant members of the ESCB, to enable them to fulfil their tasks, including those under the Treaty, of defining and implementing monetary policy and contributing to the stability of the financial system. See ECB Opinion CON/2022/26.</i></p> <p><i>The current drafting of Article 25(2), second subparagraph, states that the competent authorities of the home Member State of the AIFM ‘shall ensure that all information gathered under Article 24 in respect</i></p>	

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<p><i>of all AIFMs that they supervise is made available, for statistical purposes only, to the ESCB'. This drafting was introduced to the AIFM Directive by Directive (EU) 2024/927. While, in principle, this wording does facilitate exchange of information with the ECB and other members of the ESCB, the reference to 'statistical purposes only', coupled with the different treatment of the members of the ESCB compared to other Union bodies and national competent authorities, may lead to unintended consequences. In particular, this phrasing may lead to confusion or diverging interpretations by competent authorities and could thus result in unnecessary restrictions being placed on the information shared with the members of the ESCB and how that information can be utilised. This may impede efforts by the members of the ESCB to analyse funds' exposures, risks and interconnections with other financial entities on a cross-border basis and assess the financial stability risks of funds cross-investing in each other's shares on a cross-border basis within the Union.</i></p> <p><i>See paragraph 8.6 of the ECB Opinion and Amendment 3.</i></p>	
<p>Amendment 8</p> <p>Article 2, point (21), of the proposed master directive (Article 47a(3) of the AIFM Directive)</p>	
<p>'(21) the following Articles 47a to 47c are inserted:</p> <p style="text-align: center;"><i>"Article 47a</i></p> <p>[...]</p> <p>3. ESMA shall, in cooperation with the competent authorities of the home Member States of the AIFMs and, where relevant, the competent authorities of the home Member States of the management companies that are part of the EU group, carry out at least annually a review of each EU group identified pursuant to paragraph 1.</p> <p>During the review referred to in the first subparagraph, ESMA shall assess the supervisory approaches in the application of the requirements of this Directive and of Directive 2009/65/EC that are taken by the competent authorities of the AIFMs and, where relevant, management companies within each EU group. For the purpose of that review, ESMA shall use a methodology that ensures comparability and consistency of those supervisory approaches.</p>	<p>'(21) the following Articles 47a to 47c are inserted:</p> <p style="text-align: center;"><i>"Article 47a</i></p> <p>[...]</p> <p>3. ESMA shall, in cooperation with the competent authorities of the home Member States of the AIFMs and, where relevant, the competent authorities of the home Member States of the management companies that are part of the EU group, carry out at least annually a review of each EU group identified pursuant to paragraph 1.</p> <p>ESMA shall carry out the review referred to in the first subparagraph on a more frequent basis in the event of justified concerns in respect of investor protection, financial stability or the integrity of the market.</p> <p>During the review referred to in the first subparagraph, ESMA shall assess the supervisory approaches in the application of the requirements of this Directive and of Directive 2009/65/EC that are taken by the competent authorities of the</p>

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[...];'	AIFMs and, where relevant, management companies within each EU group. For the purpose of that review, ESMA shall use a methodology that ensures comparability and consistency of those supervisory approaches. [...];'
<i>Explanation</i> See paragraph 8.4 of the ECB Opinion and Amendments 2, 5, 6 and 9.	
Amendment 9 Article 2, point (21), of the proposed master directive (Article 47a(6) of the AIFM Directive)	
<p>'(21) the following Articles 47a to 47c are inserted:</p> <p style="text-align: center;"><i>“Article 47a</i></p> <p>[...]</p> <p>6. Following each review, as referred to in paragraph 3, ESMA shall, after having consulted the competent authorities of the home Member States of the AIFMs and, where relevant, those of the home Member States of the management companies within the EU group, conclude on whether it identified any diverging, duplicative, redundant or deficient supervisory approaches.</p> <p>ESMA shall include the findings referred to in the first subparagraph in a review report, issued by the Executive Board which shall be addressed to the competent authorities of the home Member States of the AIFMs and, where relevant, those of the home Member States of the management companies within the EU group.</p> <p>[...];'</p>	<p>'(21) the following Articles 47a to 47c are inserted:</p> <p style="text-align: center;"><i>“Article 47a</i></p> <p>[...]</p> <p>6. Following each review, as referred to in paragraph 3, ESMA shall, after having consulted the competent authorities of the home Member States of the AIFMs and, where relevant, those of the home Member States of the management companies within the EU group, conclude on whether it identified any diverging, duplicative, redundant or deficient supervisory approaches, in particular those that could jeopardise the functioning of the internal market, the integrity of financial markets, financial stability or investor protection.</p> <p>ESMA shall include the findings referred to in the first subparagraph in a review report, issued by the Executive Board which shall be addressed to the competent authorities of the home Member States of the AIFMs and, where relevant, those of the home Member States of the management companies within the EU group.</p> <p>[...];'</p>

Text proposed by the Commission	Amendments proposed by the ECB²
<p style="text-align: center;"><u>Explanation</u></p> <p>See paragraph 8.4 of the ECB Opinion and Amendments 2, 5, 6 and 8.</p>	