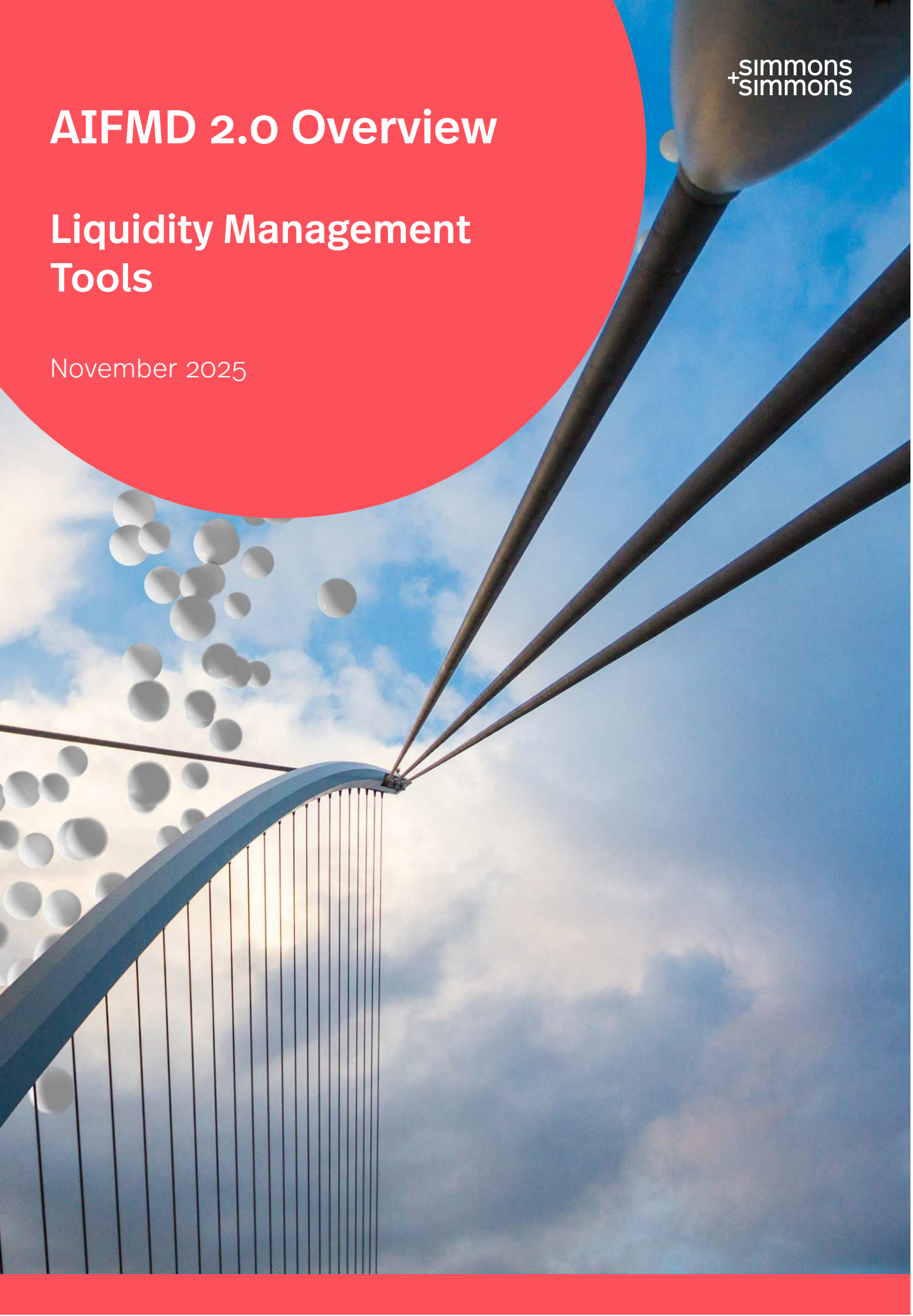


# AIFMD 2.0 Overview

## Liquidity Management Tools

November 2025





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# Executive Summary

In **November 2023**, the European institutions reached a political agreement on the text of a new Directive to amend the existing AIFMD (the **Amending Directive**).

The **Amending Directive** was published in the Official Journal in March 2024. Its provisions will come into effect on **16 April 2026**.

Among the changes it introduces to the AIFMD is a regime for liquidity management tools (**LMTs**).

This Note sets out an overview of the key details of the new LMT measures that are being brought in.

Please note that, where we refer to articles of the AIFMD, we are referring to the articles as amended by the Amending Directive.





## Where will I find the changes?

The elements which make up the **LMT regime** are set out across a number of articles within the amended Level 1 text of the AIFMD, in particular:

<a href="#"><u>Article 16</u></a>	Liquidity management
<a href="#"><u>Article 23</u></a>	Disclosure to investors
<a href="#"><u>Annex V</u></a>	LMTs available to AIFMs of open-ended AIFs

In addition:

- the impact on financial stability of the availability and activation of LMTs by AIFMs will be one of the matters on which the Commission has to report when it comes to conduct its review under [Article 69-a](#) (albeit this won't be until 16 April 2029, i.e., five years after the Amending Directive entered into force); and
- the Amending Directive gives national competent authorities (**NCAs**) certain powers in respect of LMTs – these are set out in:

<a href="#"><u>Article 46</u></a>	Powers of competent authorities
<a href="#"><u>Article 47</u></a>	Powers of ESMA
<a href="#"><u>Article 50</u></a>	Obligation to cooperate

**Clicking on a link above will take you to the relevant section of the note.**

# The new LMT regime

## 1. Article 16 (Liquidity management)

Currently:

- for **every AIF that an AIFM manages**, the AIFM must ensure that the investment strategy, liquidity profile and redemption policy are consistent; and
- for every **unleveraged closed-ended AIF** that an AIFM manages, the AIFM must:
  - employ an appropriate liquidity management system;
  - monitor the AIF's liquidity risk of the AIF;
  - ensure that the liquidity profile of the investments of the AIF complies with its underlying obligations; and
  - regularly conduct stress tests to assess the AIF's liquidity risk.

The Amending Directive incorporates a **new LMT regime** within the AIFMD, with a view to ensuring that an AIFM complies with these obligations.

### (i) Selecting LMTs

- An AIFM that manages an open-ended AIF must:
  - select **at least two** appropriate LMTs from items **2 to 7 in the list set out in Annex V (the List)**, having assessed their suitability in relation to the AIF's investment strategy, liquidity profile and redemption policy; and
  - **include them in the AIF's rules** or instruments of incorporation for possible use in the interest of the AIF's investors.

## The new LMT regime

The list of LMTs from which an AIFM can select is set out in the Section, '**LMTs available to AIFMs of open-ended AIFs**', below.

Note that:

- the AIFM cannot select only the tools set out in **points 5a and 5b** of the List;
- where the AIF is an authorised **money market fund**, the AIFM is permitted to **select only one** LMT from items 2 to 7 of the List.

Member States must ensure that (at least) the LMTs in the List are available to an AIFM managing an **open-ended AIF**.

### (ii) Activating and deactivating an LMT

The AIFM must implement **detailed policies and procedures** for when a selected LMT is to be **activated and deactivated** and for the operational and administrative arrangements for the use of the LMT.

The AIFM must **communicate** to its home NCA (the **Home NCA**):

- which LMTs it has selected; and
- the policies and procedures for their activation and deactivation.

### (iii) Redemption in kind

An AIFM can only activate **redemption in kind** (item 7 in the List):

- to meet redemptions requested by **professional investors**; and
- if the redemption in kind corresponds to a **pro rata share** of the assets that the AIF holds.

# The new LMT regime

However, the AIFM need not comply with the second bullet point above where the AIF is:

- marketed **solely to professional investors**; or
- **an ETF**, the investment policy of which aims to **replicate a given stock or debt securities index**.

## (iv) Suspension and side pockets

An AIFM can **temporarily suspend** the repurchase or redemption of units or shares in the AIF (item 1 in the List) where the AIF is **open-ended** and to do so is in the interest of the AIF's investors.

The AIFM can also activate or deactivate other LMTs selected from items 2 to 7 in the List provided that these are included in the AIF's rules or instruments of incorporation.

The AIFM can also activate **side pockets** (item 8 in the List) if this is in the interest of the investors.

However, the AIFM can only use suspensions or side pockets:

- in **exceptional cases**;
- where **circumstances so require**; and
- where doing so is **justified having regard to the interests of the AIF investors**.

## (v) Notifying the AIFM's Home NCA

An AIFM must notify its Home NCA **without delay** when it:

- activates or deactivates the **suspension of redemptions and subscriptions** LMT;
- activates or deactivates the **side pockets** LMT "in a reasonable timeframe prior to the activation or deactivation" of the LMT.

## The new LMT regime

- activates or deactivates **any other LMT** in a manner **other than “in the ordinary course of business”**, as envisaged in the AIF’s rules or instruments of incorporation.

The AIFM’s Home NCA will then notify:

- any host NCAs of the AIFM (each a **Host NCA**); and
- ESMA,

without delay, of any notifications it receives. ESMA will be able to share any information received under this provision with other NCAs.

If there are potential risks to the stability and integrity of the financial system, the AIFM’s Home NCA will also notify the ESRB.

### (vi) Level 2 and Level 3 measures

#### Level 2 RTS

The Amending Directive required ESMA to develop draft Level 2 regulatory technical standards (**RTS**), specifying the characteristics of the LMTs in the List while:

- taking account of the diversity of investment strategies and underlying assets of AIFs; and
- not restricting the ability of an AIFM “to use any appropriate LMT for all asset classes, in all jurisdictions and in all market conditions”.

ESMA submitted **draft RTS** to the Commission on 15 April 2025. Our summary of the Final Report is **here**.

On **17 November 2025**, the Commission adopted a **legislative proposal** without any substantive changes to ESMA’s draft, though with some minor amendments. The Council of the EU and the European Parliament will next agree a final text, which will be published in the Official Journal.

# The new LMT regime

## Level 3 Guidelines

The Amending Directive also required ESMA to develop **Guidelines on the selection and calibration of LMTs** by AIFMs for liquidity risk management and for mitigating financial stability risks.

The mandate provided that the Guidelines must:

- “recognise that the **primary responsibility** for liquidity risk management remains with the AIFM”;
- include indications on the circumstances in which **side pockets can be activated**; and
- allow **adequate time for adaptation** before they apply, in particular for existing AIFs.

ESMA published its **final Guidelines** on **15 April 2025**.

Following translation into the official languages of the EU, these will be published on the ESMA website and will **come into force** on the same day as the Level 2 RTS.

Managers of funds **which are in existence** before the date of the Guidelines’ application will have an additional **twelve months** in which to comply.

## 2. Article 23 (Disclosure to investors)

**In addition** to the already existing requirements, an AIFM must disclose to investors, **before the investor invests** a description of the possibility and conditions for using the **LMTs which the AIFM has selected** in respect of:

- any EU AIF that the AIFM is managing; and
- any AIF (EU or non-EU) which the AIFM markets in the EU.

# The new LMT regime

## 3. Changes to the powers of NCAs

As well as new provisions applicable to AIFMs, the Amending Directive gave further powers to NCAs. These include:

### Article 46 (Powers of competent authorities)

An NCA can require an AIFM to activate or deactivate the **suspension of redemptions and subscriptions** LMT:

- when this is **in the interest of investors**;
- **in exceptional circumstances**;
- where there are **investor protection or financial stability risks** that, on a **reasonable and balanced** view, necessitate this requirement; and
- after **consulting the AIFM**.

Previously, an NCA could require the suspension of the issue, repurchase or redemption of units when this was in the interests either of the investors or “of the public”.

### Article 47 (Powers of ESMA)

ESMA can require the NCA of (a) a **non-EU AIFM that is marketing an AIF** that it is managing in the EU or (b) an **EU AIFM that is managing a non-EU AIF** to require the AIFM to activate or deactivate the **suspension of redemptions and subscriptions** LMT:

- when this is **in the interest of investors**;
- **in exceptional circumstances**;
- where there are **investor protection or financial stability risks** that, on a **reasonable and balanced view**, necessitate this requirement; and
- after **consulting the AIFM**.

# The new LMT regime

## Article 50 (Obligation to cooperate)

When an AIFM's Home NCA exercises the above power under **Article 46**, it must notify:

- the **AIFM's Host NCAs**;
- **ESMA**; and
- (if there are potential risks to the stability and integrity of the financial system) the **ESRB**.

The Host NCA can also **request the Home NCA** to exercise the above power, specifying the reasons for the request and notifying ESMA and (if there are potential risks to the stability and integrity of the financial system) the ESRB.

(Where the Home NCA disagrees with the request, ESMA, will issue an Opinion without undue delay to the Home NCA and Host NCA, though this Opinion is not binding on the Host NCA.)

## ESMA Guidelines

ESMA will develop **Guidelines** containing indications to the NCAs as to:

- the exercise of their power to require the activation or deactivation of the **suspension of redemptions and subscriptions** LMT; and
- the situations that may lead to **putting forward a request**, as referred to above.

When developing the Guidelines, ESMA must consider the potential implications of supervisory intervention for investor protection and financial stability in another Member State or in the EU more widely.

# LMTs available to AIFMs of open-ended AIFs

The **LMTs from which an AIFM can select** (together with an **explanation of what each term means**) are set out in **Annex V** of AIFMD 2.0 as follows:

## 1. Suspension of redemptions and subscriptions

Temporarily disallowing unitholders or shareholders from redeeming or purchasing the fund's units or shares.

## 2. Redemption gate

A temporary and partial restriction of the right of unitholders or shareholders to redeem their units or shares, so that investors can only redeem a certain portion of their units or shares.

## 3. Extension of notice periods

Extending the period of notice that unitholders or shareholders must give to fund managers, beyond a minimum period which is appropriate to the fund, when redeeming their units or shares.

## 4. Redemption fee

A fee, within a predetermined range that takes account of the cost of liquidity, that is paid to the fund by unitholders or shareholders when redeeming units or shares, and that ensures that unitholders or shareholders who remain in the fund are not unfairly disadvantaged.

# LMTs available to AIFMs of open-ended AIFs

## 5a. Swing pricing

A pre-determined mechanism by which the net asset value of the units or shares of an investment fund is adjusted by the application of a factor ('swing factor') that reflects the cost of liquidity.

## 5b. Dual pricing

A pre-determined mechanism by which the subscription and redemption prices of the units or shares of an investment fund are set by adjusting the net asset value per unit or share by a factor that reflects the cost of liquidity.

## 6. Anti-dilution levy

A fee that is paid to the fund by a unitholder or shareholder when purchasing or redeeming units or shares, that compensates the fund for the cost of liquidity incurred because of the size of that transaction, and that ensures that other unitholders or shareholders are not unfairly disadvantaged.

## 7. Redemptions in kind

Transferring assets held by the fund, instead of cash, to meet redemption requests of unitholders or shareholders.

## 8. Side pockets

Separating certain assets, whose economic or legal features have changed significantly or become uncertain due to exceptional circumstances, from the other assets of the fund.

A low-angle, upward-looking photograph of several modern skyscrapers with glass facades, set against a bright blue sky with scattered white clouds. The buildings are positioned on the left side of the page, creating a sense of height and scale.

## Review

**Article 69-a of the AIFMD** provides for the Commission, with input from ESMA, to review the functioning of a number of the rules in the Directive and the experience acquired in applying them.

That review will include an assessment of the impact on financial stability of the availability and activation of LMTs by AIFMs.

The review, though, isn't due to be started until **16 April 2029** (i.e., **5 years after** the Amending Directive **entered into force**).

**Note:** The Amending Directive **entered into force** on 16 April 2024 - its provisions will **become effective on 16 April 2026**.

## Simmons talking points

- The enhanced rules on liquidity management **only apply to open ended AIFs**. However, the broad definition of “open-ended AIFs” under EU law means that **more funds will be in-scope than expected** (such as semi-liquids, etc.).
- The rules are **generally consistent with the current market practice** for open-ended funds. However, the exact detail and implications will only become clear once the Level 2 measures and guidance implementing the Level 1 text are finalised.
- Given the requirement to **“communicate” the chosen LMTs** as well as the related policies and procedures to the home NCA, AIFMs are advised to review their policies and procedures in light of the rules and using the diligence they would normally exercise whenever communicating such material with their regulatory authority.
- An AIFM should also confirm that any preferred LMTs it may wish to use are **reviewed and assessed** against the rules (i.e., for suitability in relation to the investment strategy, liquidity profile and redemption policy), appropriately incorporated into the fund documents and disclosed to investors in its precontractual documentation.
- The rules are generally also reflective of the **international focus of regulators on liquidity management by funds** (see, for example, our [article](#) on IOSCO’s consultation on anti-dilution LMTs in Open-Ended Funds) and in the UK (see our [alert](#) on the FCA’s ‘Dear CEO Letter’ on liquidity risk in asset managers).

A low-angle, upward-looking photograph of several modern skyscrapers with glass facades, set against a bright blue sky with scattered white clouds. The buildings create a strong sense of height and perspective.

## Simmons talking points

### The powers of ESMA

- As mentioned above, Article 47 empowers ESMA to request the NCA of a non-EU AIFM's Member State of Reference to **require the AIFM to activate or deactivate the suspension of redemptions or subscriptions** in respect of an AIF it manages.
- While this could be regarded as a significant move, the drafting of Article 47(4)(d) suggests (as makes sense) that this provision will only come into consideration **where a non-EU AIFM becomes authorised** under the AIFMD (at which point, it would need to select a Member State of Reference).
- The **process of allowing non-EU AIFMs to become authorised** has been stalled since 2015 and, as things currently stand, there seems to be no political will to progress it in the immediate future.

# Simmons talking points

## The powers of ESMA

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- The **process of allowing non-EU AIFMs to become authorised** has been stalled since 2015 and, as things currently stand, there seems to be no political will to progress it in the immediate future.

## Where can I find more information?

See the other notes in our **Overview of AIFMD 2.0** series:

- **How AIFMD 2.0 applies to non-EU AIFMs**
- **The Loan Origination regime**
- **Authorisation of an AIFM and delegation**
- **Depositaries**

These are available online [here](#) – or ask your usual contact at Simmons & Simmons for a copy

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