

# ARENDDT UCITS Webinar SERIES 2024



## UCITS eligible assets & market trends

21 October 2024

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# The speakers



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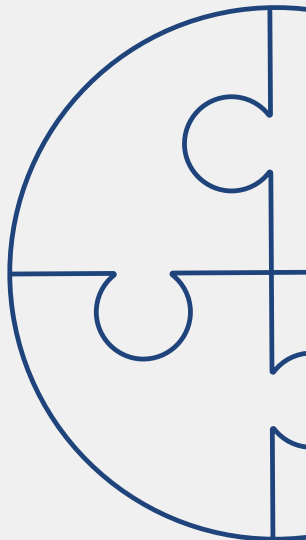
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# Regulatory update

## UCITS Eligible Assets Directive



### ▪ **Rationale of review of the UCITS Eligible Assets Directive**



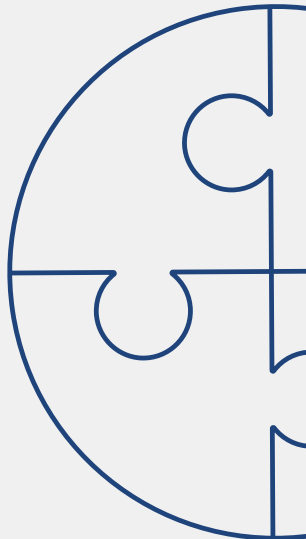
- Formal Request from European Commission to ESMA
- ESMA to carry out assessment of the implementation of the Eligible Assets Directive
- ESMA to produce preliminary assessment and to make suggestions of Level 1 and Level 2 legislative amendments

### ▪ **ESMA Call for Evidence**



- **Convergence issues and clarity of concepts** (notions of “*ancillary liquid assets*”, “*efficient portfolio management*” or “*embedded derivatives*”)
- **Direct and indirect exposure to certain asset classes** (merits of allowing investments in loans, CLOs, Cat Bonds, CoCos, unrated bonds, distressed securities, unlisted equities, crypto assets, commodities, ETCs, real estate, SPACs, delta-one notes, ABS/MBS, amongst others.)

## UCITS Eligible Assets Directive

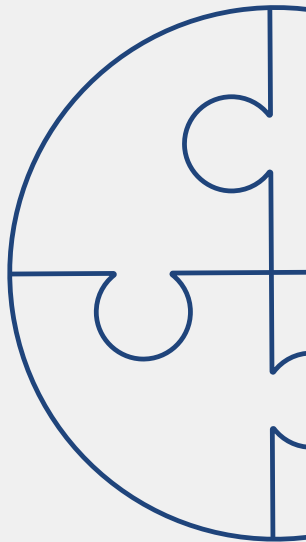


### Timeline



- European Commission's Formal request: **6 June 2023**
- **Call for Evidence** published on **7 May 2024** (submission of comments until **7 August 2024**)
- ESMA technical advice initially expected by **31 October 2024** but postponed to **April 2025**

# UCITS Eligible Assets Directive



## ■ EFAMA FEEDBACK – extracts

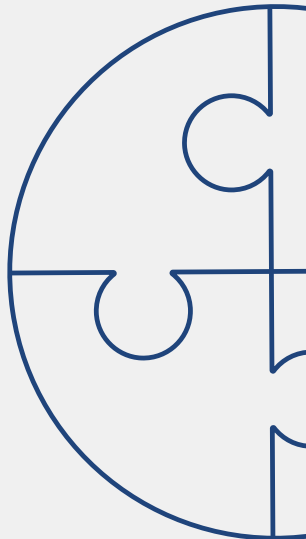
- Further clarity and consistency in the application of UCITS rules would be welcomed
  - ELTIFs
    - Beneficial to include investments in certain UCIs within the 10% trash ratio: increase of diversification?
    - Suitability of new products that have been incorporated after the Eligible Assets Directive came into force shall be assessed
  - 100% on TS issued or guaranteed by the Member States governments with at least 6 different issues
    - May be beneficial from reduction of market risk (through diversification of interest rate exposure)
    - May be seen as overly cumbersome as it does not intrinsically mitigate credit risk
  - Delta-one instruments
    - Eligibility may be questioned as could be seen inappropriate for UCITS



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# CSSF administrative practice

## Recent CSSF positions



### Collateral without transfer of title:

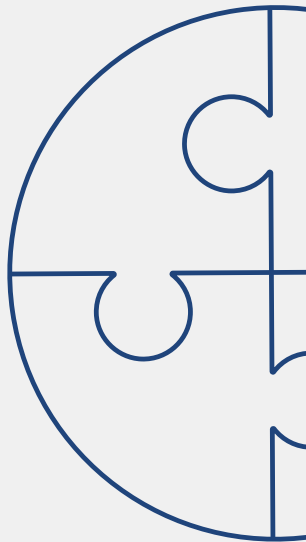
- The CSSF has confirmed that in case of reuse of assets (e.g. securities lending transactions), collateral should be received via a title transfer arrangement
  - **The flexibility given by the ESMA Guidelines 2014/937 cannot be relied upon in such circumstances**

### Securitisation Regulation:

- The CSSF has confirmed that a UCITS management company can delegate the initial due diligence on securitised instruments to a non-EU investment manager
  - **It is no longer needed to ensure that the due diligence is performed at management company's level in case of delegation of portfolio management function to non-EU entity**



## Ongoing discussions



### Start of the ramp up period:

- CSSF's position as to the starting date of the ramp up period still to be confirmed following the update of ESMA's Q&A



### OFAC sanctioned assets:

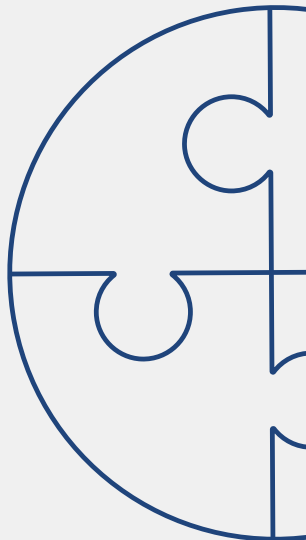
- CSSF and Luxembourg Ministry of Finance do not consider themselves as competent authority regarding assets under OFAC sanctions
- Cooperation agreements for Luxembourg-other Member State UCITS mergers – may be accepted by other NCAs?
- Ongoing discussions with the CSSF on the treatment of assets in case of Luxembourg-Luxembourg UCITS mergers



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# Market trends

## Market trends



### **CLOs:**

- Growing interests for UCITS investing substantially in CLOs
  - No strict limit applied by the CSSF
  - Securitisation questionnaire to be submitted and proper stress-testing to be made
  - Potential restrictions applied with regard to target investors



### **Fixed maturity products:**

- UCITS offering pre-defined cycles: pre-investment phase, investment phase and pre-liquidation phase
  - What about the 20% limit applicable to holding of cash?
  - What about the ESG commitments?



# Upcoming UCITS webinars

# Upcoming UCITS Webinars

**Governance best practices for UCITS, with a focus on co-sec activities**

18 November 2024

online

**Are you ready for UCITS tokenisation?**

2 December 2024

online

**UCITS State of Play**

January 2025 (date tbc)

hybrid seminar

# Your contacts



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