

# ESMA consults on guidance to address leverage risk in the AIF sector

ESMA's draft guidelines aim to promote supervisory convergence in the way National Competent Authorities (NCAs) assess how the use of leverage within the AIF sector contributes to the build-up of systemic risk in the financial system, as well as how they design, calibrate and implement leverage limits.

Steven Maijoor, Chair, said:

"In situations when financial markets are under severe stress, highly leveraged alternative investment funds can further amplify systemic risk. Considering the size of the investment fund sector, achieving supervisory convergence in NCAs' approaches to monitoring and regulating the use of leverage by alternative investment funds is of the utmost importance

"Our proposed Guidelines address the assessment of leverage-related systemic risk and aim at ensuring that NCAs adopt a consistent approach when assessing whether the condition for imposing leverage-related measures are met."

## **Next steps**

ESMA is seeking stakeholders' feedback on the proposed principles to set leverage limits under Article 25 of Directive 2011/61/EU. It will consider the feedback it receives to this consultation by 1 September 2020 with a view to finalising the guidelines for publication

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## Consultation on Guidelines on art 25 of AIFMD

ESMA invites comments on all matters in this paper and in particular on the specific questions summarised in Annex I. Comments are most helpful if they:

- respond to the question stated;
- indicate the specific question to which the comment relates;
- contain a clear rationale; and
- describe any alternatives ESMA should consider.

ESMA will consider all comments received by **01/09/2020**.

All contributions should be submitted online at [www.esma.europa.eu](http://www.esma.europa.eu) under the

heading 'Your input – Consultations'. Please use the dedicated [Response Form](#).

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## Fundamental rights of refugees and migrants at European borders



States have a right to control the entry of non-nationals into their territory. While they have to protect their external borders and safeguard public order and public health, they also have a duty to protect people's human rights.

To support European Union (EU) and Council of Europe member states in their duties, the EU Agency for Fundamental Rights (FRA) and the Special Representative on Migration and Refugees of the Council of Europe (CoE) are publishing a note stating the main fundamental rights safeguards applicable at member states' borders. These safeguards are stemming from EU law and CoE instruments, as they apply at the EU's external borders, bearing in mind that relevant CoE instruments apply to all borders.

The note focuses on questions such as:

1. What duties do member states have when protecting their external

borders?

2. Which remedies should be in place in case of excessive use of force at borders?
3. What are the rules in place when people cross border unlawfully?
4. Can access to asylum be suspended?
5. How to respect the principle of non-refoulement?
6. What can be done to help the most vulnerable, in particular unaccompanied children?

For more information, please have a look at the [Handbook on European law relating to asylum, borders and immigration](#), jointly produced by FRA and the European Court of Human Rights and available in 23 languages.

While recognising the duty of states to safeguard public health amid the COVID-19 outbreak, and acknowledging the safeguards in the [European Commission's guidance](#) on the matter, FRA is currently undertaking a [rapid research exercise](#) focusing on the impact the responses to the pandemic have on people's fundamental rights. The report covers all EU Member States and it will be published in early April.

At the same time, the Council of Europe's European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) stated that [protective measures must never result in ill-treatment of persons deprived of their liberty](#). States should continue to guarantee access for monitoring bodies to all places of detention, including places where persons are kept in quarantine.

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## [ESMA issues guidance on financial reporting deadlines in light of COVID-19](#)

The European Securities and Markets Authority (ESMA), the EU's securities markets regulator, has issued a [Public Statement](#) on the implications of the COVID-19 pandemic on the deadlines for publishing financial reports which apply to listed issuers under the Transparency Directive.

The Statement acknowledges the difficulties encountered by issuers in preparing financial reports and the challenges faced by auditors in carrying out timely audits of accounts due to the COVID-19 pandemic, which may impair the ability of issuers to publish within the legislative deadlines.

On that basis, the Statement recommends National Competent Authorities (NCAs) to apply forbearance powers towards issuers who need to delay publication of financial reports beyond the statutory deadline. At the same time, the



Statement underlines that issuers should keep their investors informed of the expected publication delay and that requirements under the Market Abuse Regulation still apply.

ESMA, together with NCAs, will continue to monitor the situation and reassess the need to extend the forbearance period.

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## [Press release – COVID-19: Parliament approves crucial EU support measures](#)



The urgent measures to help people and businesses tackle the crisis were voted on in plenary less than two weeks after the Commission tabled its proposals.

The approved proposals are:

The [Corona Response Investment Initiative](#). These measures are meant to channel €37 billion from available EU funds as soon as possible to citizens, regions and countries hit the hardest by the Coronavirus pandemic. The funds will be directed towards healthcare systems, SMEs, labour markets and other vulnerable parts of EU member states' economies. The proposal was adopted with 683 votes in favour, 1 against and 4 abstentions.

The [extension of the EU Solidarity Fund](#) to cover public health emergencies. The measures will make up to €800 million available for European countries in 2020. Operations eligible under the Fund will be extended to include support in a major public health emergency, including medical assistance, as well as measures to prevent, monitor or control the spread of diseases. The proposal was adopted with 671 votes in favour, 3 against and 14 abstentions.

[Temporarily suspending EU rules on airport slots](#). This will stop air carriers from operating empty flights during the pandemic. The temporary suspension means that airlines are not obliged to use their planned take-off and landing slots to keep them in the next corresponding season. The 'use it or lose it' rule will be waived for the whole summer season, from 29 March until 24 October 2020. The proposal was adopted with 686 votes in favour, no votes against and 2 abstentions.

### **Next steps**

The Council has to formally approve Parliament's position. The adopted measures will enter into force once published in the Official Journal of the European Union in the coming days.