

## Regulation (EU) 2017/1131 of the European Parliament and of the Council of 14 June 2017 on money market funds (Text with EEA relevance)

### CHAPTER VIII

#### **Supervision**

##### *Article 38*

#### **Supervision by the competent authorities**

- 1 The competent authorities shall supervise compliance with this Regulation on an ongoing basis.
- 2 The competent authority of the MMF or, where relevant, the competent authority of the manager of an MMF shall be responsible for supervising compliance with Chapters II to VII.
- 3 The competent authority of the MMF shall be responsible for supervising compliance with the obligations set out in the fund rules or in the instruments of incorporation, and the obligations set out in the prospectus, which shall be consistent with this Regulation.
- 4 The competent authority of the manager of an MMF shall be responsible for supervising the adequacy of the arrangements and organisation of the manager of the MMF so that the manager of the MMF is in a position to comply with the obligations and rules which relate to the constitution and functioning of all the MMFs that it manages.
- 5 Competent authorities shall monitor UCITS and AIFs established or marketed in their territories to verify that they do not use the MMF designation or suggest that they are an MMF unless they comply with this Regulation.

##### *Article 39*

#### **Powers of competent authorities**

Without prejudice to powers vested in competent authorities in accordance with Directive 2009/65/EC or 2011/61/EU, as applicable, competent authorities shall, in accordance with national law, have all supervisory and investigatory powers that are necessary for the exercise of their functions with respect to this Regulation. They shall, in particular, have the power to do all of the following:

- (a) request access to any document in any form, and to receive or take a copy thereof;
- (b) require an MMF or the manager of an MMF to provide information without delay;
- (c) require information from any person related to the activities of an MMF or the manager of an MMF;
- (d) carry out on-site inspections with or without prior announcement;
- (e) take appropriate measures to ensure that an MMF or the manager of an MMF continues to comply with this Regulation;

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**Changes to legislation:** There are outstanding changes not yet made to Regulation (EU) 2017/1131 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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- (f) issue an order to ensure that an MMF or the manager of an MMF complies with this Regulation and desists from a repetition of any conduct that could infringe this Regulation.

#### Article 40

##### Penalties and other measures

1 Member States shall lay down the rules on penalties and other measures applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties and other measures provided for shall be effective, proportionate and dissuasive.

2 By 21 July 2018, the Member States shall notify the Commission and ESMA of the rules referred to in paragraph 1. They shall notify the Commission and ESMA without delay of any subsequent amendment thereto.

#### Article 41

##### Specific measures

1 Without prejudice to powers vested in competent authorities in accordance with Directive 2009/65/EC or 2011/61/EU, as applicable, the competent authority of an MMF or the manager of an MMF shall, while respecting the principle of proportionality, take the appropriate measures referred to in paragraph 2 where an MMF or the manager of an MMF:

- a fails to comply with any of the requirements regarding asset composition, in infringement of Articles 9 to 16;
- b fails to comply with any of the portfolio requirements, in infringement of Article 17, 18, 24 or 25;
- c has obtained authorisation through false statements or any other irregular means, in infringement of Article 4 or 5;
- d uses the designation 'money market fund', 'MMF' or of another designation that suggests that a UCITS or AIF is an MMF, in infringement of Article 6;
- e fails to comply with any of the requirements regarding the internal credit quality assessment, in infringement of Article 19 or 20;
- f fails to comply with any of the governance, documentation or transparency requirements, in infringement of Article 21, 23, 26, 27, 28 or 36;
- g fails to comply with any of the requirements regarding valuation, in infringement of Article 29, 30, 31, 32, 33 or 34.

2 In the cases referred to in paragraph 1, the competent authority of the MMF shall, as appropriate:

- a take measures to ensure that the MMF or the manager of an MMF concerned complies with the relevant provisions;
- b withdraw an authorisation granted in accordance with Article 4 or 5.

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## Article 42

### Powers and competences of ESMA

1 ESMA shall have the powers necessary to carry out the tasks attributed to it by this Regulation.

2 ESMA's powers in accordance with Directives 2009/65/EC and 2011/61/EU shall be exercised also with respect to this Regulation and in compliance with Regulation (EC) No 45/2001.

3 For the purpose of Regulation (EU) No 1095/2010, this Regulation shall be included under any further legally binding Union act which confers tasks on the Authority referred to in Article 1(2) of Regulation (EU) No 1095/2010.

## Article 43

### Cooperation between authorities

1 The competent authority of the MMF and the competent authority of the manager of an MMF, if different, shall cooperate with each other and exchange information for the purpose of carrying out their duties under this Regulation.

2 Competent authorities and ESMA shall cooperate with each other for the purpose of carrying out their respective duties under this Regulation in accordance with Regulation (EU) No 1095/2010.

3 Competent authorities and ESMA shall exchange all information and documentation necessary to carry out their respective duties under this Regulation in accordance with Regulation (EU) No 1095/2010, in particular to identify and remedy infringements of this Regulation. The competent authorities of the Member States responsible for the authorisation or supervision of MMFs under this Regulation shall communicate information to the competent authorities of other Member States where such information is relevant for monitoring and responding to the potential implications of the activities of individual MMFs or MMFs collectively for the stability of systemically relevant financial institutions and the orderly functioning of markets on which MMFs are active. ESMA and the European Systemic Risk Board (ESRB) shall also be informed and shall forward that information to the competent authorities of the other Member States.

4 On the basis of the information transmitted by national competent authorities pursuant to Article 37(5), ESMA shall, in accordance with powers conferred on it under Regulation (EU) No 1095/2010, prepare a report to the Commission in light of the review outlined in Article 46 of this Regulation.

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- Regulation power to modify conferred by [2023 c. 29 s. 3Sch. 1 Pt. 1](#)
- Regulation revoked by [2023 c. 29 Sch. 1 Pt. 1](#)

**Changes and effects yet to be applied to the whole legislation item and associated provisions**

- Sch. 1 inserted by [S.I. 2019/394 reg. 18\(5\)](#)
- Signature words omitted by [S.I. 2019/394 reg. 18\(4\)](#)
- Art. 1(1)(a) substituted by [S.I. 2019/394 reg. 4\(a\)\(ii\)](#)
- Art. 2(2) substituted by [S.I. 2019/394 reg. 5\(1\)\(a\)](#)
- Art. 2(3) substituted by [S.I. 2019/394 reg. 5\(1\)\(b\)](#)
- Art. 2(17)(a) word substituted by [S.I. 2019/394 reg. 5\(1\)\(c\)\(i\)](#)
- Art. 2(17)(b) words substituted by [S.I. 2019/394 reg. 5\(1\)\(c\)\(ii\)](#)
- Art. 2(17)(c) words substituted by [S.I. 2019/394 reg. 5\(1\)\(c\)\(iii\)](#)
- Art. 2(23) substituted by [S.I. 2019/394 reg. 5\(1\)\(d\)](#)
- Art. 2(24)-(40) inserted by [S.I. 2019/394 reg. 5\(1\)\(e\)](#)
- Art. 2(24)-(40) words substituted in earlier amending provision S.I. 2019/394, reg. 5(1)(e) by [S.I. 2020/1301 reg. 3Sch. para. 25\(a\)\(i\)](#)
- Art. 2a inserted by [S.I. 2019/394 reg. 5\(2\)](#)
- Art. 2a words substituted in earlier amending provision S.I. 2019/394, reg. 5(2) by [S.I. 2020/1301 reg. 3Sch. para. 25\(a\)\(ii\)](#)
- Art. 4(1)(aa) inserted by [2021 c. 22 s. 26\(2\)\(a\)](#)
- Art. 4(1A)-(1C) inserted by [S.I. 2019/394 reg. 6\(a\)\(iii\)](#)
- Art. 4(1B) word substituted by S.I. 2019/394, reg. 6(a)(iii) (as amended) by [S.I. 2019/1390 reg. 10\(2\)](#)
- Art. 4(1C) words substituted in earlier amending provision S.I. 2019/394, reg. 6(a)(iii) by [S.I. 2020/1301 reg. 3Sch. para. 25\(b\)](#)
- Art. 4(1ZA)-(1ZC) inserted by [2021 c. 22 s. 26\(2\)\(b\)](#)
- Art. 4(2)-(2B) substituted for Art. 4(2) by [S.I. 2019/394 reg. 6\(b\)](#)
- Art. 4(5)(f) word substituted by [S.I. 2019/394 reg. 6\(d\)\(ii\)](#)
- Art. 4A inserted by [2021 c. 22 s. 26\(3\)](#)
- Art. 5(4)(b) words substituted by [S.I. 2019/394 reg. 7\(d\)\(i\)\(aa\)](#)
- Art. 5(4)(c) words substituted by [S.I. 2019/394 reg. 7\(d\)\(i\)\(bb\)](#)
- Art. 5(8) inserted by [S.I. 2019/394 reg. 7\(g\)](#)
- Art. 5(8) words substituted in earlier amending provision S.I. 2019/394, reg. 7(g) by [S.I. 2020/1301 reg. 3Sch. para. 25\(c\)](#)
- Art. 6(1)(aa) inserted by [2021 c. 22 s. 26\(4\)](#)
- Art. 6(3) inserted by S.I. 2019/394, reg. 8(c) (as inserted) by [S.I. 2019/1390 reg. 10\(3\)\(b\)](#)
- Art. 6(3) words substituted in earlier amending provision S.I. 2019/394, reg. 8(c) (as amended by S.I. 2019/1390, reg. 10(3)(b)) by [S.I. 2020/1301 reg. 3Sch. para. 49\(a\)](#)
- Art. 7(1)-(3A) substituted for Art. 7(1)-(3) by [S.I. 2019/394 reg. 9\(a\)](#)
- Art. 7(6) inserted by [S.I. 2019/394 reg. 9\(b\)](#)
- Art. 7(6) words substituted in earlier amending provision S.I. 2019/394, reg. 9(b) by [S.I. 2020/1301 reg. 3Sch. para. 25\(d\)](#)
- Art. 8(3) inserted by [S.I. 2019/394 reg. 10\(1\)\(d\)](#)
- Art. 8(3) words substituted in earlier amending provision S.I. 2019/394, reg. 10(1)(d) by [S.I. 2020/1301 reg. 3Sch. para. 25\(e\)\(i\)](#)
- Art. 9(1)(a) word inserted by [S.I. 2019/394 reg. 10\(2\)\(a\)\(i\)\(aa\)](#)

- Art. 9(1)(a) words inserted by [S.I. 2019/394 reg. 10\(2\)\(a\)\(i\)\(bb\)](#)
- Art. 9(1)(a) words inserted by [S.I. 2019/394 reg. 10\(2\)\(a\)\(i\)\(dd\)](#)
- Art. 9(1)(a) words substituted by [S.I. 2019/394 reg. 10\(2\)\(a\)\(i\)\(cc\)](#)
- Art. 9(1)(g) words inserted by [S.I. 2019/394 reg. 10\(2\)\(a\)\(ii\)](#)
- Art. 10(1)(a) words substituted by [S.I. 2019/394 reg. 10\(3\)\(a\)](#)
- Art. 11(1)(a) words substituted by [S.I. 2021/1376 reg. 29\(3\)](#)
- Art. 11(1)(d) inserted by [2023 c. 29 Sch. 2 para. 40](#)
- Art. 12(c) substituted by [S.I. 2019/394 reg. 10\(5\)](#)
- Art. 12(c) words substituted in earlier amending provision [S.I. 2019/394, reg. 10\(5\)](#) by [S.I. 2020/1301 reg. 3Sch. para. 25\(e\)\(ii\)](#)
- Art. 13(c) word substituted by [S.I. 2019/394 reg. 10\(6\)\(b\)](#)
- Art. 14(c)(i) substituted by [S.I. 2019/394 reg. 10\(7\)](#)
- Art. 15(6)(a) word inserted by [S.I. 2019/394 reg. 10\(8\)\(a\)\(i\)\(aa\)](#)
- Art. 15(6)(a) words inserted by [S.I. 2019/394 reg. 10\(8\)\(a\)\(i\)\(bb\)](#)
- Art. 15(6)(b) words substituted by [S.I. 2019/394 reg. 10\(8\)\(a\)\(ii\)](#)
- Art. 16(4)(a) words inserted by [S.I. 2019/394 reg. 10\(9\)\(d\)\(ii\)](#)
- Art. 16(4)(c) words inserted by [S.I. 2019/394 reg. 10\(9\)\(d\)\(iii\)](#)
- Art. 16(4)(c)(i) words substituted by [S.I. 2019/394 reg. 10\(9\)\(d\)\(iv\)](#)
- Art. 16(4)(c)(ii) words substituted by [S.I. 2019/394 reg. 10\(9\)\(d\)\(iv\)](#)
- Art. 17(1)(b) words substituted by [S.I. 2019/394 reg. 11\(1\)\(a\)\(i\)](#)
- Art. 17(1)(b) words substituted by [S.I. 2019/394 reg. 11\(1\)\(a\)\(ii\)](#)
- Art. 19(4)(e) word substituted by [S.I. 2019/394 reg. 12\(1\)](#)
- Art. 21(1)(a) words substituted by [S.I. 2019/394 reg. 12\(2\)\(a\)](#)
- Art. 38(6) inserted by [S.I. 2019/394 reg. 17\(1\)\(f\)](#)