

The EU Consults on Operating Conditions for Open-Ended Loan Origination Funds

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The EU has issued its [consultation on Regulatory Technical Standards](#) for open-ended loan-originating AIFs operating under AIFMD II.

As previously flagged, the default position under AIFMD II is that Loan Originating Alternative Investment Funds (“LO AIFs”) should be closed-ended. However, AIFMD II does allow room for LO AIFs able to demonstrate to the competent authorities of the AIFM’s home Member State that the AIF’s liquidity risk management system is compatible with its investment strategy and redemption policy to function as open-ended funds. This is dependent on certain categories of systemic controls being met, including: (i) a sound liquidity management system; (ii) the availability of liquid assets and stress testing; and (iii) an appropriate redemption policy having regard to the liquidity profile of LO AIFs. The requirements must also take account of the underlying loan exposures, the average repayment time of the loans and the overall granularity and composition of the portfolios of loan-originating AIFs, reflecting an overall concern with liquidity mismatches currently observed by a number of international regulators.

Requirements for Open-Ended Status for LO AIFs

Overall, the consultation asks 22 questions and sets forth five substantive Articles as follows:

- Article 1: Sound liquidity management: An AIFM must define an appropriate redemption policy and determine an appropriate portion of liquid assets that the relevant LO AIF targets holding.
- Article 2: Appropriate redemption policy: An AIFM must consider the numerous criteria set out, including the frequency of redemptions, the proportion of liquid assets and the portfolio diversification and liquidity profile of the assets.
- Article 3: Availability of liquid assets: In determining the adequate proportion of liquid assets (which cannot be assumed simply by asset type), an AIFM must exercise a prudent approach and consider as liquid the expected cash flow generated by the loans granted.
- Article 4: Liquidity stress tests: An AIFM must conduct liquidity stress tests “at least on a quarterly basis, unless a higher or lower frequency is justified by the characteristics.”
- Article 5: Ongoing monitoring: An AIFM must conduct ongoing monitoring of these assessments, which must include early-warning signals of loan impairments which in turn affect the level of leverage.

Next Steps

Responses to the consultation are due by 12 March 2025, and the Commission anticipates finalising the RTS in time for Q3/4 2025.