

17 May 2024

# Call for Evidence on the Review of the UCITS Eligible Assets Directive

## 1. Introduction

The purpose of this circular is to bring to the attention of the industry the recent [ESMA Call for Evidence on the Review of the UCITS Eligible Assets Directive](#), published on 7 May 2024.

The [UCITS Eligible Assets Directive](#), sets out the types of assets that can be held by Undertakings for Collective Investment in Transferable Securities (UCITS) funds, and is currently under review. ESMA has launched this Call for Evidence to gather feedback from industry stakeholders on potential updates and improvements to the directive, since it was adopted in 2007.

## 2. Contents of the Call for Evidence

### i) Convergence Issues and Clarity of Key Concepts

ESMA is looking to gather input and insights from stakeholders on the clarity of fundamental principles within the UCITS Eligible Assets Directive. This involves identifying potential discrepancies in interpretation and alignment issues within the Directive. ESMA's request for feedback includes several inquiries aimed at understanding stakeholders' practical experience. (Questions 1-19 refer)

### (ii) Direct and Indirect UCITS Exposure to Specific Asset Categories

ESMA aims to also evaluate the potential risks and advantages associated with UCITS acquiring exposure to asset categories where there are differing views on their suitability as UCITS investments. This encompasses both direct and indirect exposures, such as through delta-one instruments, embedded derivatives, and replicating financial indices. ESMA's questions are designed to enhance understanding of the extent to which UCITS have acquired direct or indirect exposures to specific asset categories that could pose risks for retail investors. Acknowledging differing perspectives and interpretations, ESMA is keen to receive stakeholder input to evaluate the merits of allowing UCITS to obtain direct or indirect exposures to various asset categories, notably unlisted equities, commodities, and crypto-assets (Questions 20-25 refer).

### 3. Next Steps

The MFSA encourages all industry participants, including asset managers, service providers, and other relevant stakeholders, to actively engage in this consultation process. Feedback and insights will be crucial in shaping the future of the UCITS regulatory framework and ensuring it remains fit for purpose in a rapidly evolving investment landscape.

The Call for Evidence is open until Wednesday 7 August 2024. You can access the consultation document and submit your responses through the ESMA website. Feedback received will inform the technical advice that ESMA has been requested to deliver to the European Commission by 31 October 2024.

Should you have any queries on the contents of this circular, please contact the Investment Services Supervision Function on [isspolicy@mfsa.mt](mailto:isspolicy@mfsa.mt).