

## **Amundi's answer to CBI Discussion Paper on Exchange Traded Funds**

(August 11, 2017)

It is not usual for Amundi to participate to consultations launched by the CBI, but we welcome the opportunity to answer to this Discussion Paper. The current discussion on ETFs echoes the previous work on ETFs conducted by the French AMF, as well as other discussions on liquidity issue conducted by several international bodies such as OICV. Having been a pioneer of the European ETF market, Amundi is clearly interested and involved in all changes of regulations that would impact ETFs.

The ETF, Indexing and Smart Beta business line is one of the group's strategic business areas and as of June 2017, it has more than €75bn in assets under management<sup>1</sup> Amundi offers first-class replication on more than 100 indices to a wide-range of internationally renowned institutions. Its extensive experience and strong pricing power reinforces its position as a leading name in the industry. Amundi continues to build upon its Indexing and Smart Beta expertise in the search for value-added sources, whilst maintaining a strict risk framework.

Last year, Amundi's ETF business achieved record results with more than 4 billion euros inflows and this year it is sustaining this positive trend with +€6.8bn of net new assets between January and end June 2017, ranking 3<sup>rd</sup> best collector in Europe over the first quarter of 2017. Investors recognize our ability to offer low cost solutions and relevant innovation for the different market challenges posed by the fast-changing current economic environment.

As of today, Amundi is the fifth largest ETF provider in Europe with 100 ETFs and more than 500 listings across Europe. Amundi ETF has succeeded in becoming a major ETF provider in Europe with a complete range of low cost plain vanilla exposures and relevant innovation to face allocation challenges.

Amundi is Europe's largest asset manager by assets under management and ranks in the top 10<sup>2</sup> globally. Thanks to the integration of Pioneer Investments, it now manages over 1.3 trillion<sup>3</sup> euros of assets across six main investment hubs<sup>4</sup>. Amundi offers its clients in Europe, Asia-Pacific, the Middle-East and the Americas a wealth of market expertise and a full range of capabilities across the active, passive and real assets investment universes. Headquartered in Paris, and listed since November 2015, Amundi is the 1st asset manager in Europe by market capitalization and the 5th globally<sup>5</sup>.

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<sup>1</sup> Source: Amundi ETF, Indexing & Smart Beta as of 30.06.2017

<sup>2</sup> Source IPE "Top 400 asset managers" published in June 2017 and based on AUM as of end December 2016.

<sup>3</sup> Data combined for Amundi and Pioneer Investments at 30/06/2017 prior to harmonisation of accounting methods for AuM

<sup>4</sup> Investment hubs: Boston, Dublin, London, Milan, Paris and Tokyo

<sup>5</sup> Based on market capitalization as of April 30, 2017

Leveraging the benefits of its increased scope and size, Amundi has the ability to offer new and enhanced services and tools to its clients. Thanks to its unique research capabilities and the skills of 5,000 team members and market experts based in 37 countries, Amundi provides retail, institutional and corporate clients with innovative investment strategies and solutions tailored to their needs, targeted outcomes and risk profiles.

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## General comments

1. European ETFs are already highly regulated by some important reference texts: the “UCITS” European Directive, the “ESMA Guidelines” (*“ESMA guidelines on ETFs and other UCITS issues”* issued in December 2012), EMIR (for derivatives) and SFTR (for efficient portfolio management techniques).
2. We believe that this regulatory concern is a good thing since the ETF market is expanding and changing over time, but we strongly believe that ETFs – that are UCITS mutual funds first - are already very well regulated and very transparent products. As a result we do not see any need to “re-open” some “old debates” such as those that led to the publication of the ESMA Guidelines (debates around liquidity and correlation issues in collateral, or risks within physical and swap-based ETFs). In addition we do not support any additional rule making that could impact ETF structuration/investment management again.
3. ETFs should not face “over regulation” compared to other “traditional” funds structures, nor specific restrictions.
4. The Consultation Paper is based on a dense academic research work. It includes lots of examples, assertions and references to academic studies. Nevertheless sometimes there is not a clear evidence nor conclusion on the questions raised (e.g. Section 1). To that extent some regulatory proposals of the CBI appear to be disproportionate to those supposed issues.
5. When analysing ETF structures (Section 2) there is a clear imbalance in the way physical and synthetic ETFs are analysed. We regret the fact that there is only little mention to securities lending (just mentioned once with the same concern as forex hedging techniques) and its impact in terms of risks and liquidity. We all know that securities lending is an important management activity that can bring additional risks within a fund’s portfolio, and therefore we do believe it has to be analysed in a same way as the use of derivatives in a swap-based ETF. As ESMA concluded in the ESMA Guidelines, both physical and swap-based replications have to be analysed in parallel; regulatory safeguards (if decided) should apply the same to both derivatives structures and those using securities lending. To illustrate, we do not understand why the proposal to require correlation between the index components and the assets bought within the swap would apply to synthetic ETFs, and why there would not be similar measure with securities lending in physical ETFs (by requiring correlation between securities lent and the received collateral). Suggesting such regulatory evolution is clearly re-opening those “old regulatory debates”, and we do think it is detrimental to the European ETF industry.

In addition:

- Counterparty risk has to be emphasized in the same way for both replications. The clear distortion of treatment might lead to a wrong risks understanding by the investors. For the sake of example, in § 88-89 (Section 2), the risk of under-collateralization is only mentioned in a synthetic model, whereas this risk still exists in the physical replication, where securities lending can represent up to 100 per cent of the net asset value of many EU-domiciled ETFs. Similarly the risk of permanent capital impairment noted in § 90 is not only related to synthetic ETF but also and in the same extent to physical ETFs.
  - Collateral risk as highlighted in § 101 is to same way and extent linked both to physical and synthetic ETFs. Then, why elaborating on the collateral risk raised from swap models while ignoring a description of the risks connected to physical models? It is another illustration of the unequal and discriminatory treatment between synthetics and physical models. Similarly, in § 114, the risk of correlation of the collateral received by the ETF from the counterparty is only seen by the CBI as being linked to unfunded swaps, whereas this risk still exists in the physical replication.
  - Liquidation of the collateral in case of failure of the counterparty as described in § 115 and 116 is not only an option in the case of synthetic ETFs but also an option for physical ETFs entering into securities lending transactions.
6. ETFs are based on an index. The ETF liquidity is at least the one of its underlying index... not less... And therefore the main liquidity issues are linked to the benchmark. We regret the fact that the discussion paper does not develop on this aspect, and especially on the index composition, quality, liquidity etc. The quality of the underlying ETF is key.
  7. UCITS ETFs are UCITS funds first, and they benefit from current liquidity management tools like other UCITS; the listing appears to be an additional way of distribution; there is always the wrong perception that an ETF should be always liquid no matter its underlying index and the time of trading. An ETF does not give any additional liquidity guarantee on the ETF underlying. "Liquidity at all costs" does not exist. There is no premium that can ensure a kind of "absolute liquidity" of the product.
  8. The ETF market is expanding but it remains very small compared to the asset management as a whole and the volumes traded on stock markets. Total ETFs worldwide represent around 5.5% of the overall global fund management industry AuMs... and European ETFs less than 1%
  9. ETFs face some issues due to the fragmented European market (issues that are mainly linked to the ETF eco-system and not the UCITS itself):
    - heterogeneity in the way stock exchanges work (especially regarding the maximum spreads limit, the iNav use, post trades reports)
    - the crossborder distribution issues
    - the delivery/settlement organization, but not specific to ETFs (identification of final investors, how to allow retail investors to sell their ETF in case of liquidity crisis etc.)

A. Is public disclosure of the identity of APs and OLPs of an ETF of benefit and should regulators have a clearer view of the interconnectedness of the AP / OLP ecosystem? Should remuneration models of OLPs (and if relevant APs) be disclosed?

The list of APs, OLPs and other market makers is already public. ETF providers do publish this information on marketing materials and on their websites. ETF providers usually have a large number of APs, OLPs and market makers (at Amundi as of today there are more than 50). Public disclosure of the identity of APs and OLPs is not a problem as such. It could be seen as an improvement of ETF transparency, which is positive from an ETF provider's perspective.

We definitely reject the disclosure of remuneration data or model for several "concrete" reasons:

- this remuneration changes over time
- the model depends on the structuration type
- and, more important, the listing costs are born by the asset manager himself (who appoints a market maker to list his products in order to have "efficient products"). Therefore it is not a cost paid by the final investor.

We could also argue that remuneration models are private information, and that could also be misunderstood by final investors...

In synthetic ETFs there are not "explicit remuneration costs". In synthetic ETFs, the main AP is also the main swap counterparty and in this case for example interconnectedness between this AP and the fund (i.e. AP being the swap counterparty) is a good thing: being the swap counterparty the AP/swap counterparty has a major benefit of having large swap nominal amounts. To achieve that objective there is a real incentive for him to offer investors a competitive pricing with tight spreads. Globally this is what we measure on ETFs markets: synthetic ETFs globally have more competitive market making.

In synthetic ETF the AP/swap counterparty offer a large range of services to the ETF provider and thus to the fund. It could be hard to isolate each costs.

In physical ETFs there are explicit costs paid by the asset manager when appointing a main market maker.

Regarding interconnectedness of the Authorized Participants and the Official Liquidity Provider ecosystem, we agree with the distinction made in the discussion paper. We think that OLP should also have an AP status. Indeed, the situation that should be avoided would be the one in which OLPs would not be able to access the primary market..

Finally, regarding remuneration models, we see no added value in making them public. Indeed, it is suitable to maintain confidentiality on these elements that have no impact on the costs borne by final investors. Therefore, transparency here seems neither useful, nor appropriate.

B. Transparency is described as the feature which enables a tight secondary market price (by comparison to net asset value) to be maintained. It also provides certainty to investors in terms of exposure achieved through the ETF. It might be the case that there are other mechanisms which achieve the same goal as transparency? If ETFs are not transparent does this have unintended consequences?

Increasing transparency is a good thing. Nevertheless, regarding portfolio composition of ETF we would like to underline that complete transparency is not necessarily suitable, notably on actively managed ETFs. For passively managed ones, transparency is granted at the index level. Complete transparency

should only be granted to final investor on exposure and costs of the ETF. However we may see merit in providing APs and OLPs with a higher degree of transparency on other issues in order to ensure an optimal functioning of the ETF setup, in the interest of final investors.

C. Is the idea of secondary market investors dealing directly with an ETF when the AP arrangements breakdown unworkable in practice or unnecessary? Is there a better way of enabling secondary market investors to dispose of their ETF shares at a price close to the next calculated net asset value when secondary market liquidity is impaired?

The ESMA Guidelines already consider the suggested solution: ETF providers have scheduled process in order to accept orders outside the AP sphere in case of a market liquidity. This mechanism would be useful to face technical issues blocking the secondary market (issue related to the market functioning itself, such as the absence of market makers for example). We must recognize that any “emergency plan” would be very difficult to implement in practice for operational reasons, but, more important, it would not solve issues arising due to liquidity constraints on the underlying securities of an ETF (issue that would also impact other UCITS mutual funds on similar investment exposure).

D. Should ETFs warn investors that the ETF may temporarily become a closed-ended fund in certain market conditions? Would requiring an ETF to remain open-ended in a stressed market be disadvantageous to existing investors or have other unintended consequences?

ETFs are by nature open-ended funds providing exposure to a basket of underlying securities. Should these securities no longer be tradable under certain market conditions, the transfer of liquidity operated at the primary market level by the creation/redemption mechanism could no longer take place. It would therefore be detrimental to existing investors for the fund to remain open-ended, given that creations could no longer be covered by the purchase of underlying securities, and redemptions could no longer be covered by the sale of these securities – both for lack of tradable prices.

Under market conditions negatively impacting the liquidity of underlying instruments, or causing these to no longer be tradable, it is logical that the ETF becomes a closed-ended fund – until conditions return to normal or the fund can be liquidated. If a market becomes “unliquid” it should be detrimental to final investors to require the ETF to remain “open” by all means.

We believe that the most important is transparency towards Investors. They need to be aware that such a situation can arise and be informed through the ETF prospectus. Specific disclosures already exist in the prospectus of Amundi ETFs, which detail that under certain market circumstances no Net Asset Value will be published for a fund, triggering in turn a suspension of creations and redemptions.

As mentioned under question N below, and for the avoidance of doubt, it should always be kept in mind that an ETF asset manager is not in a position to be responsible in case of secondary market disruption. In such a context the asset manager, pursuant to ESMA Guidelines (2014/937) could only be in a position to accept subscription and redemption orders from final investors. Amundi ETF prospectuses detail such a process.

E. Is it correct to permit share classes to be structured having regard to the operational concerns of APs and the impact this may have on secondary market pricing? Are there factors (other than those noted above) that could be relevant to ETF structuring?

We understand that this flexibility is currently permitted by ESMA (as defined in the ESMA guidance on share classes). So this possibility is welcome from our point of view, as it may improve functioning of the ETF without disrupting necessary equality between shareholders.

F. What are the benefits or disadvantages of permitting listed and unlisted share classes within the same investment fund? Do listed and unlisted share classes create unfairness as between investors in the same investment fund and if so, can these be mitigated or addressed?

From the time being it is possible to have both listed and non-listed share classes within a same fund (the Amundi Index Solution Sicav is working this way). The co-existence of such share classes within a same fund addresses different investors' needs. Equal treatment between shareholders is granted as long as shareholders invested within the same share class are treated alike in equivalent circumstances. On the contrary, investors in different share classes may be treated differently, in accordance with the legal documentation of the fund.

The main benefit to have those different share classes within the same fund is TE, cost and liquidity: the fund can be bigger and therefore have a better tracking error, a lower cost structure and a better liquidity (because the bigger it is, the more likely subscriptions and redemptions may match).

It is important that investors are aware of the specificities of each share class (through the legal documentation of the fund), that those share classes have different NAV, iNAV, dealing process as well as other operational functioning. There is no "unfair" treatment in having listed and unlisted share classes in a same fund.

G. Are conflicts of interest rules effective for dealing with concentrations of activities within an ETF provider's financial group (e.g. group entities could act as promoter, investment manager, AP and swap counterparty or SFT counterparty)? Are other approaches worthy of consideration?

No. There is no conflicts of interests with "concentrations of activities" within and ETF provider's financial group. ETF promoter, AP, swap counterparty etc. refer to very distinct activities and such organization does not differ from other "traditional" funds.

UCITS legal frameworks, ESMA Guidelines on ETFs and other UCITS and EMIR/SFTR regulations already regulate the European ETF business. Conflicts of interest have been strictly regulated by the UCITS regulations. Potential conflicts of interests between manager/swap counterparty/lending agent is managed and properly mitigated by the best execution obligation. The "UCITS V" Directive brought important additional safeguards (duties, responsibilities, conflicts of interest management) regarding depositaries activities.

In addition ETF asset managers are regulated entities that have to comply with strict best execution rules. At Amundi for example swap counterparties are selected through an RFP (that gathers the swap aspect but also other services such as market making), and entities are selected on many criteria so as to ensure investors best interests. Our legal documentation (fund's prospectus) mentions that RFP and the swap counterparty's name is fully disclosed.

Finally ETF providers have put in place internal guidelines in terms of risks management, disclosure to investors (management rules, securities lending policy, swap management with daily, risks data etc.) on their websites... They go far beyond the applicable regulations by applying best practices. ETF

providers improved their disclosure rules and practices over time, after taking clients expectations into consideration. ETF providers have always listened the ETF market needs (sometimes much before regulators themselves). Today ETF are definitely the “most transparent” UCITS funds.

#### H. Are multiple counterparties necessary, or appropriate for ETFs? Could they expose ETFs to unintended risks and consequences?

From our perspective there is no specific issue relative to the number of counterparties nor unintended risks.

First because counterparties issues refer to risk counterparty. On that field EMIR regulation already reduces counterparty risk.

Synthetic ETF asset managers chose their swap counterparties through a best execution process (RFP). These counterparties (even single counterparties sometimes) are high quality counterparties with a high rating. In addition synthetic ETF asset managers have set internal rules in terms of swap management and disclosure:

- daily reset where the counterparty risk level is set at zero each end of day (whereas over UCITS funds apply the 10% limit per counterparty) with assets buying/selling to reach this target
- daily publication of the assets of the fund
- strict guidelines in terms of assets quality (application of the ESMA Guidelines: quality, liquidity, daily pricing, diversification)

These “best practices” lower the risk to a minimum that other “traditional” funds rarely reach. In unfunded swap ETFs assets bought/sold to the swap counterparty belong to the fund and kept on segregated accounts at the custodian’s.

Finally obviously there is no reason to treat differently ETFs and other “traditional” funds. Any proposals should apply to all UCITS, not only to synthetic ETFs.

#### I. Some academic research suggests that if a synthetic ETF experiences counterparty default, the synthetic ETF is more likely to be able to deliver the performance of its underlying index if the collateral received is correlated to that index. Should collateral received (where a funded model is used) or securities purchased (where an unfunded model is used) be correlated to the index being tracked? Is this practical, particularly for example where the index tracked by an ETF is comprised of securities which may be relatively expensive to access? Is collateral quality sufficiently regulated and disclosed?

First of all it has to be mentioned that the idea of requiring correlation between collateral received and the index was introduced in ESMA Consultation Paper of Sept. 2011 but it was finally abandoned: it appeared that such correlation did not bring additional security to the existing requirements. Moreover, requiring a correlation between collateral and index would jeopardize the benefit of using portfolio management/optimization techniques. In case of securities lending transactions (used by physical ETFs), the benefit of the securities lending would be lost if securities received as collateral by the fund were identical or similar to those lent. The same thing goes for synthetic ETFs: outperformance generated by total return swap would be alleviated or aborted.



As of today we do not consider that provisions on the quality and the type of assets constituting the collateral should be further developed as proposed by the CBI. The ESMA Guidelines already provide for quite stringent collateral requirements for UCITS, and we consider that they are sufficient.

Secondly, it is important to remind that counterparty risk is present in both ETF structures: in the use of securities lending in physical ETFs and in the use of the total return swap in synthetic ETFs. Given these OTC transactions, collateral is a kind of 'security portfolio' that would be sold immediately in case of the OTC counterparty's default. This obviously applies to a swap but also to a securities lending transaction. Therefore the analysis and correlation proposal underlined here should apply the same way to both ETF structures. We fully disagree on considering only synthetic ETFs in this approach.

All that said, what is the purpose of collateral? Collateral is provided to secure a claim and should not be confused with portfolio assets. Collateral is provided as means of secondary recourse with respect to the entitlement to retransfer of portfolio assets. In case of swap default, the collateral would be immediately liquidated and the proceeds used to acquire new securities matching with the UCITS investment strategy. In securities lending operations it seems to assume that the collateral should be a suitable substitute to the portfolio assets on loan which, in case of default of the counterparty would be directly transferred to the UCITS portfolio. Therefore collateral is expected to be highly liquid since it has to be sold quickly and efficiently.

The ESMA Guidelines on ETFs and other UCITS dated 2012 defined a list of criteria applicable to all collateral of UCITS funds in box 43. (in both OTC derivative and securities lending transactions): liquidity, valuation, issuer credit liquidity, diversification and correlation. It is stated that "the collateral received by the UCITS should be issued by an entity that is independent from the counterparty and is expected not to display a high correlation with the performance of the counterparty". We fully agree with this requirement since the risk relies on economic direct link with the counterparty. This guideline is already in place at Amundi with the exclusion of BNP Paribas and Societe Generale exclusion in the eligible funds' assets. The ESMA Guidelines correlation requirement is met.

Now, what are the risks of having collateral that differs very much from the index portfolio? There is only one risk: the risk of not respecting the counterparty risk limit: if the market moves in different directions very strongly, the counterparty risk limits (5% or 10% by counterparty) could be breached. In facts counterparty risk limit creates an incentive for the ETF manager to request some collateral that is well correlated to the index that is replicated. And we see that in practice: equity ETFs have collateral equity, bond ETF have bond collateral. There is a natural tendency to use collateral that is correlated to the index that is replicated.

Regulations in terms of correlation could have a negative effect, because it is in the best interest of investors to give the manager some flexibility in order to optimize the return of his fund. For example, in a securities lending transaction, the fund manager may prefer, in some instances, in order to respect the counterparty limits at all times, to have some over-collateralization, but some badly correlated assets. For another fund, the fund manager may prefer to have well correlated asset, but to be closer to the counterparty limit.

It is also not always possible to have a collateral that is close to the index. For example, this is not possible for commodities indices (according to UCITS diversification rules). There is no possible commodity collateral. There are also cases where it may be easier and preferred by investors, to have a collateral that is not linked to the index; for example in ETFs indexed on emerging markets indices. In



this case having a correlated collateral consisting of emerging securities would significantly increase costs and risks. There are also often tax reasons that make it advantageous to use a specific collateral.

If collateral rules were to be developed, the only requirement should be that the collateral should at least be of an equivalent or better quality than that of the index being tracked. In this situation, an ETF tracking an emerging market index could have collateral comprising the securities from the same index or developed market securities but at the same time an ETF tracking a developed market index could not be backed by collateral comprising emerging market securities.

Finally obviously there is no reason to treat differently ETFs and other “traditional” funds. Any proposals should apply to all UCITS, not only to synthetic ETFs.

J. Are active strategies appropriate for “housing” in an ETF structure and if so, is there a limit to the type of strategy that would be appropriate? If the ETF structure provides opportunities for managers to achieve scale is there a downside to this where the strategy is active (or, if scale is achieved, its potential impact is not otherwise capable of being ascertained)?

From our point of view, it is possible to house active strategies in an ETF structure. The ESMA Guidelines allow that possibility since it is stated that it is possible to create “actively managed ETFs”. Regarding the possible limits in terms of implementable strategies, it is the asset manager’s role and responsibility to decide whether or not a strategy can be implemented through an ETF structure. The key element to justify this choice is the liquidity of the assets in which the ETF invests.

It is important to note that within smart beta strategies there is a distinction to make between passive smart beta strategies (for which there are smart beta indices and where methodologies are systematic and non-discretionary) and active smart beta strategies (that are to be considered like other active funds management strategies); it is wrong to consider that smart beta are not compatible to ETFs; there are already lots of passive smart beta solutions structured through ETFs.

K. Similar to the question posed in Section I, is portfolio transparency fundamental to the nature of an ETF or are there are other mechanisms which achieve the same goal as transparency? In the context of an active ETF, is transparency essential in order to achieve a liquid market and to facilitate efficiency in pricing?

First of all it is important to remind that ESMA already considered this issue in 2012 and concluded that it was not necessary to impose portfolio transparency requirements on ETFs.

Portfolio transparency should be granted by the asset manager to the market makers and to the relevant regulators. Indeed, necessity of such transparency towards regulators cannot be contested. Transparency is also needed by the market makers in order for them to be able to fulfill their own obligations towards trading venues (exchanges) on which they ensure ETF liquidity.

Still it is not suitable at all to provide full portfolio transparency to final investors. It should be kept in mind that active strategies are based on a fund manager inner conviction and skill and should not be made fully transparent. In fact, in the context of actively managed ETF, the strategy deployed by the asset manager should be considered as its intellectual property, on which full transparency should therefore

not be granted. Indeed such transparency would create real retro-engendering risks and would endanger the asset manager activity as such.

L. Some commentators are concerned that ETFs are tracking indices of underlying stocks which are not sufficiently liquid to match the intra-day liquidity on the secondary market which the ETF offers. This statement is quite simplistic and does not, for example, reflect that there may be much secondary market activity but very little primary market activity. UCITS, including UCITS ETFs, are subject to general liquidity management rules which should ensure that ETFs track indices of underlying stocks that are sufficiently liquid to allow the ETF to meet creation and redemption requests. Is this sufficient? What liquidity practices do ETFs follow? Are there other practices that might be appropriate for ETFs?

The liquidity of the ETF is at least the one of the underlying index. There are already several liquidity management tools available for UCITS, and they could be used for ETFs as well. ETF providers should have flexibility in the time and the way they implement them. They would react quickly and efficiently depending on the market liquidity issue, and therefore allow liquidity transmission between ETFs and the underlying securities. To conclude we do believe that current UCITS rules are sufficient in this respect.

M. One of the potential impacts from greater investment in index-tracking ETFs is decreased informational efficiency of underlying securities as well as increased non-fundamental volatility of underlying securities. However, these may not be risks *per se* or, at any rate, may not be risks that ETF providers or regulators can mitigate, manage or eliminate. Is this assessment correct or could measures be taken to address this impact?

Yes it is correct. But as the discussion paper shows there is no conclusive evidence of the impact of ETFs on informational efficiency or non-fundamental volatility. In addition, ETFs would not be any different from much larger index funds in that regard, and should be looked at in a similar light.

N. One of the key issues in the context of support by ETF providers is investor expectation. Investors' views about purchasing ETFs and their ability to sell may be informed by whether or not the ETF provider will support the ETF in the face of stress events. There are, however, divergent views amongst ETF providers as to whether they would support their ETFs. Is provider support a desirable objective?

First we would require clarification on what "support" mean. What does the CBI consider under this wording? To support the market making activity (in finding other market makers/APS) in case of stressed markets? Or to find an alternative way of disposing ETFs units to the asset manager if there is no secondary market? Or to provide a kind of financial guarantee to ETF investors if there is a fail/default of an entity in the "ETF chain/ecosystem"? This section is unclear.

Secondly new regulations such as EMIR and SFTR are supposed to cover the ETF liquidity risks in case of counterparty's default. In addition if we consider that requiring counterparty's default indemnity should be a standard, we should look carefully at the "guarantor": he should be regulated as a banking entity and justify that it has enough equities to proceed.

If a regulatory development were to be envisaged in order to improve such a support, it should be kept in mind that secondary market is not under asset manager's responsibility. Trading venues/exchanges

on which the ETFs are traded should remain fully responsible for these aspects, and therefore should ensure they have satisfying and secure rules in this regard.

O. The Central Bank is primarily interested in risks associated with Irish authorised ETFs and European ETFs more generally yet much of the available academic literature, analysis and data relates to US ETFs. The concern is that any analysis of Irish authorised and European ETFs may be adversely affected by reliance on US-centric materials. Is this valid? Are Stakeholders aware of EU ETF specific information that might lead to different conclusions? Will MIFID II resolve these data issues?

European ETFs and US ETFs work differently on certain aspects. Looking at the European ETFs more precisely, it must be said that both UCITS and MIFID regulatory frameworks do create a satisfying level of investor protection.

Looking at the MIFID 2 improvements, the “ETF post trade reporting” is a very positive evolution indeed. It will bring transparency on the volumes traded on secondary market and will be a major indicator of the ETF liquidity. Nevertheless we regret the fact that all those data - that will be published on exchanges - will not be consolidated at a unique entity level. Therefore assessing the ETF liquidity will remain a painful task... We could suggest an evolution on that reporting, designing a European body using a unique standard report format and consolidating all data reports.

P. Does the nature of an ETF have peculiarities (and therefore risks) that neither the UCITS nor MiFID regulatory frameworks, either in isolation or in conjunction, address and which we have not examined here?

We do not share the view that ETFs would have peculiarities and specific risks compared to other “traditional” funds. Current UCITS and MIFID regulations already address the debated issues. We also would like to underline that in our view the present discussion paper globally examines all relevant topics related to ETFs.

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