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# Review of the Eligible Assets Directive

June 2023

The European Commission (“**Commission**”) has published a **letter** issuing a formal request to the European Securities and Markets Authority (“**ESMA**”) for technical advice on the review of the directive on UCITS eligible assets (the “**EAD**”).

The EAD prescribes the eligibility criteria for assets in which a UCITS is permitted to invest, aimed at ensuring that UCITS are able to meet all their obligations, including in terms of portfolio liquidity, net asset value calculation and limits monitoring. The EAD has been in force since 2007 and the Commission acknowledges that there have been significant market and regulatory developments over the past 16 years. In the letter, the Commission mandates ESMA to carry out a review of the implementation of the EAD to determine if any divergences have arisen and to provide the Commission with recommendations on how the directive should be amended to remain in line with market developments.

Under this mandate ESMA is also tasked with:

- analysing the merits of linking certain definitions and concepts to other items of EU legislation;
- proposing clarifications on key definitions and the criteria against which the eligibility of an asset is assessed;
- assessing the risks and benefits of UCITS gaining exposures to asset classes that are not directly investable in UCITS, eg, by way of derivatives and financial indices;
- conducting a data gathering exercise with national competent authorities (“**NCA**s”), and market participants, where needed, to obtain insights on the manner and extent to which UCITS have gained direct / indirect exposures to certain asset classes that may lead to divergent interpretations and / or risks for investors; and
- providing recommendations regarding Level 2 requirements under the Eligible Assets Directive.

ESMA is tasked with delivering this advice by **31 October 2024**.



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*Full details of the Asset Management and Investment Funds Department, together with further updates, articles and briefing notes written by members of the Asset Management and Investment Funds team, can be accessed at [www.matheson.com](http://www.matheson.com).*

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