

Version of 20 March 2020

Update – FAQ CSSF – Swing Pricing Mechanism

The present FAQ update will be consolidated with the initial FAQ CSSF – Swing Pricing Mechanism in a next step.

Question: Use of swing pricing (applied similarly to dilution levy) by UCIs (UCITS, UCI Part II & SIFs)

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a) Can UCIs (UCITS, UCI Part II & SIFs) increase the swing factor to be applied on the NAV up to the maximum level laid down in the prospectus?

Answer:

Yes, this can be done without prior notification to the CSSF.

b) Can UCIs increase the applied swing factor beyond the maximum swing factor laid down in the fund prospectus in the following situations:

- where the fund prospectus formally offers the possibility to the Board of Directors of the UCI or, if applicable, the Management Company to go beyond the maximum level under certain predefined conditions?
- where the fund prospectus does not offer the possibility to the Board of Directors of the UCI or, if applicable, the Management Company to go beyond the maximum level laid down in the prospectus?

Answer:

In the first case, the Board of Directors of the UCI or, if applicable, the Management Company can decide to increase the swing factor in accordance with the provisions and conditions of the prospectus. The decision must be duly justified and take into account the best interest of the investors.

In the second case, the CSSF permits on a temporary basis the Board of Directors of the UCI or, if applicable, the Management Company, given the current exceptional market circumstances involved by the COVID-19, to increase the swing factor beyond the maximum level mentioned in the UCI prospectus. This decision must again be duly justified and take into account the best interest of the investors.

In both cases, the Board of Directors must communicate this decision to current as well as new investors through the usual communication channels as laid down in the prospectus.

The UCI has to provide the CSSF (case officer in charge of UCI) with a detailed notification of the resolution, including a specific explanation on the reasons for such resolution.

In addition for the second case, an update of the UCI prospectus to formally provide for the possibility for the Board of Directors of the UCI or, if applicable, the Management Company to go beyond the maximum level under certain predefined conditions, has to be performed at the earliest convenience.

c) To what extent can a UCI increase the applied swing factor beyond the maximum swing factor disclosed in the fund prospectus?

Answer:

The CSSF usually observes that the maximum swing factors laid down in the UCI prospectus vary between 1% and 3%.

In accordance with question b) above, the maximum swing factor could be raised beyond the maximum level laid down in the UCI prospectus on a temporary basis provided the following minimum elements are observed:

- the revised swing factors are the result of a robust internal governance process and are based on a robust methodology (including market / transaction data based analysis) that provides for an accurate NAV which is representative of prevailing market conditions;
- an appropriate communication is made to investors through the usual communication channels, such as the ordinary notice to investors, through the fund's internet website or other way as disclosed in the prospectus.

For a swing factor adjustment going beyond the maximum swing factor laid down in the UCI prospectus in force, the CSSF can ask the UCI to justify on an ex-post basis the level of the swing factor applied and to provide documentary evidence that such factor was at any time representative of the prevailing market conditions.