"DE-MONEYNISING" MMF SHARES: THIRD PARTY SUPPORT IN THE UNITED STATES AND THE EUROPEAN UNION

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I. "DE-MONEYNISING" MMF SHARES

Money market funds (MMFs) became a hot topic in the last decade because they were at the center of the shadow banking system struck in the 2007–08 economic crisis.[1] One of the *topoi* of banking regulation is that the risk of run is associated with the credit, maturity, and liquidity transformation that commercial banks provide. The great financial crisis proved that the shadow banking system, also prone to runs, affects those transformations as well.[2] Furthermore, because MMFs held many short-term opaque securities at the time,[3] they came under immense stress the week after the failure of Lehman Brothers. Investors filed requests to redeem their MMF shares, triggering a run on MMFs. The run stopped only after the government announced several programs that guar-

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1. For an accurate historical account of the crisis that takes in due account the centrality of the shadow banking system and the gross financial flows, see ADAM TOOZE, CRASHED: HOW A DECADE OF FINANCIAL CRISES CHANGED THE WORLD 72–90 (2018).

2. Jeffrey N. Gordon & Christopher M. Gandia, *Money Market Funds Run Risk: Will Floating Net Asset Value Fix the Problem?*, 2014 COL. BUS. L. REV. 313, 360 (2014) (affirming that MMFs engage in a three-way credit transformation: risk transformation, maturity transformation, and liquidity transformation).

3. Gary Gorton & Andrew Metrick, *Regulating the Shadow Banking System* 280 (Brookings Papers on Econ. Activity, No. 2, Fall 2010), https://www.brookings.edu/wp-content/uploads/2010/09/2010b_bpea_gorton.pdf.

anteed the value of MMF shares and restored liquidity to money markets.[4] Given the extension of the dollar activities of the European banks and the interconnectedness of European and American financial systems,[5] the strain of MMFs[6] and their withdrawal from certain activities put stress on the European system, as well as the global financial system as a whole.[7]

As a consequence of this run and the weaknesses MMFs exhibited, a worldwide project of reform took place, aimed at making MMFs safer.[8] Two potential solutions were posed: Recognize that MMFs provide services that are functionally equivalent to bank deposits, and therefore align, at least partially, MMF regulation to bank regulation;[9] or implement reforms that would make MMF shares different than bank deposits, thereby depriving them of their "moneyness."[10] Moneyness

4. For an overview of the Treasury and Fed programs to support MMFs, see Jill E. Fisch, *Tales from the Dark Side: Money Market Funds and the Shadow Banking Debate*, in RESEARCH HANDBOOK ON THE REGULATION OF MUTUAL FUNDS 228, 232 (William A. Birdthisle & John Morley eds., 2018); *see also* Nahoiko Baba, Robert N. McCauley & Srichander Ramaswamy, *US Dollar Money Market Funds and Non-US Banks*, *in* BIS Q. REV., Mar. 2009, at 65, 73 (describing the behavior of investors over time).

5. Claudio Borio & Piti Disyatat, *Global Imbalances and the Financial Crisis: Link or No Link?* 5–6 (Bank for Int'l Settlements, Working Paper No. 346, 2011); for a comparison and empirical assessment of the Asian saving glut and the European banking glut hypotheses, see generally Robert McCauley, *The 2008 Crisis: Transpacific or Transatlantic?*, *in* BIS Q. REV., Dec. 2018, at 39.

6. MMFs both in Europe and the United States are involved in cross-border intermediation. HEIKE MAI, DEUTSCHE BANK RESEARCH, MONEY MARKET FUNDS – AN ECONOMIC PERSPECTIVE: MATCHING SHORT-TERM INVESTMENT AND FUNDING NEEDS 19 (2015). It has been assessed that as half of the U.S. dollar money market funds were invested in European Banks. Stefan Avdjiev, Robert McCauley & Hyun Song Shin, *Breaking Free of the Triple Coincidence in International Finance*, 31 ECON. POL'Y 409, 420 (2016).

7. Baba, McCauley & Ramaswamy, *supra* note 4, at 65–67. **R**

8. For a brief description of regulatory reforms of MMFs around the world, see FIN. STABILITY BOARD, GLOBAL SHADOW BANKING MONITORING REPORT 2017 21–23 (2018).

9. Notably, this was the proposal of the Group of Thirty. WORKING GROUP ON FINANCIAL REFORM, GROUP OF THIRTY, FINANCIAL REFORM: A FRAMEWORK FOR FINANCIAL STABILITY 29 (2009), https://group30.org/images/uploads/publications/G30_FinancialReformFrameworkFinStability.pdf.

10. For a description of the reform process of MMFs and the high political tensions that it generated, specifically in the United States, see MATTHIAS THIEMANN, THE GROWTH OF SHADOW BANKING: A COMPARATIVE INSTITUTIONAL ANALYSIS 205–24 (2018).

is something that is not wholly captured in the standard and functional definition of money as a unit of account, store of value, and medium of exchange. Another core attribute of money is that it promises to trade at par.[11] This promise to trade at par is not unconditional and is not equally guaranteed for every type of money. Money exists along a spectrum[12] and the soundness of the promise to trade at par depends on the proximity of the money claim to the apex of the hierarchy of the money claims.[13] MMF business is inherently unstable insofar as it is located at the end of a chain that performs credit, liquidity, and maturity transformation,[14] and lacks a backstop from the Central Bank. The lack of bank-like regulatory requirements and the moneyness of MMF shares thereby make MMFs prone to runs in times of stress.

The moneyness of MMF shares largely depends on the ability of MMFs to maintain a stable net asset value (NAV)[15]

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11. Zoltan Pozsar, *Shadow Banking: The Money View* 7 (Office of Fin. Research, Working Paper No. 14.04, 2014).

12. *Id.* at 10. For a discussion of money-claims and moneyness, see MORGAN RICKS, THE MONEY PROBLEM: RETHINKING FINANCIAL REGULATION 29–42 (2016). For a narrower definition of shadow money that includes repo but excludes ABCP and MMF shares, see Daniela Gabor & Jakob Vestergaard, *Towards a Theory of Shadow Money* 2 (Inst. for New Econ. Thinking Working Paper, April 2016), https://www.ineteconomics.org/research/research-papers/towards-a-theory-of-shadow-money. For the purposes of this paper, it is not necessary to delve into the dispute of where exactly money starts and ends. In fact, the crucial characteristic of MMF shares targeted by regulators was the perception by investors of MMF shares as being short-term safe assets functionally equivalent to bank deposits, that is, their moneyness. *Supra* at 13.

13. At the top of the hierarchy sit the Central Bank Reserves. For a comprehensive analysis of the hierarchical nature of money, see generally Perry Mehrling, *The Inherent Hierarchy of Money*, *in* SOCIAL FAIRNESS AND ECONOMICS: ECONOMIC ESSAYS IN THE SPIRIT OF DUNCAN FOLEY 394 (Lance Taylor, Armon Rezai & Thomas Michl eds., 2013). The hierarchical nature of money has important repercussions on monetary sovereignty, which is itself hierarchical. Katharina Pistor, *From Territorial to Monetary Sovereignty*, 18 THEORETICAL INQUIRIES L. 491, 492 (2017).

14. At the center of the shadow banking system lies the practice of borrowing short and lending long, allowing the expansion capital markets lending through money markets borrowing. *The American Economy: The Long Hangover*, ECONOMIST (Apr. 10, 2008), https://www.economist.com/taxonomy/term/35/15474075?page=228.

15. John Morley, *The Regulation of Mutual Fund Debt*, 30 YALE J. ON REG. 343, 346–47 (2013) ("One of mutual funds' key features is that they allow their shareholders to 'redeem' their shares. In other words, shareholders

and guarantee that investors will be able to redeem their shares at par at any given time.[16] The United States and the European Union have both discarded the bank-like regulatory framework for MMFs. Reform efforts have instead opted for partially reducing the moneyness (hereinafter referred to as "de-moneynising") of the shares, thus reducing the number of cases wherein MMFs can maintain a stable NAV and redeem shares at a stable $1 value. The stable NAV can only be maintained in the United States for government and retail funds. However MMFs that are addressed to professional investors and that invest in private corporations securities must post a floating NAV.[17] In order to avoid the flow of funds from prime MMFs to public ones, which happened in the United States after the implementation of the 2014 rule,[18] the E.U. regulation provided for three types of MMFs: public debt MMFs, low volatility MMFs, and standard MMFs. Only public debt and low volatility NAV funds, in limited cases, can redeem shares at a price that is equal to the constant NAV.

Much ink has been spilled over the pros and cons of variable NAV, and whether it is adequate to stop a run during a time of distress. But another characteristic, though crucial to supporting the stable NAV of funds and the assimilation of MMF shares to bank deposits, has seen less attention: third-

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can turn over their shares to the funds and receive cash in exchange. The cash amount is equal to the value of the portion of a fund's net assets (i.e., its assets minus its liabilities) that corresponds to each share. This amount is known as a fund's 'net asset value,' or 'NAV.' Mutual funds typically allow their shareholders to redeem every day."). The key accounting strategy to maintain a stable NAV for MMFs before reforms consisted of using the amortized cost method of valuation for their assets. Jonathan R. Macey, *Reducing Systemic Risk: The Role of Money Market Mutual Funds as Substitutes for Federally Insured Bank Deposits* 7 (Yale Law & Econ. Research Paper No. 422, 2011), http://ssrn.com/abstract=1735008.

16. MMFs manage large pools of cash on behalf of conservative cash managers that do not want to be exposed to the credit risk entailed in a large bank deposit, and desire the higher returns that MMFs guarantee. Investors of MMFs are conservative cash pool managers, generally giant corporations, but also financial institutions. The patterns of investors in the E.U. and U.S. MMFs is partially different. MAI, *supra* note 6, at 19; FIN. STABILITY BOARD, *supra* note 8, at 79–84. R R

17. For an assessment of the reform and the details, see Jill E. Fisch, *The Broken Buck Stops Here: Embracing Sponsor Support in Money Market Fund Reform*, 93 N. C. L. REV. 935, 966–969 (2015).

18. THIEMANN, *supra* note 10, at 219. R

party (generally, the sponsor) support of MMFs so that MMFs can maintain the stable NAV.[19] It is clear that the support of a third party that potentially has access to the Central Bank facilities has been crucial in assimilating MMF shares to deposits. The U.S. and E.U. reforms have taken different roads in this regard. The United States has opted for an increased level of transparency, while the European Union has promoted an outright ban of sponsor support.

II. Sponsor Support for MMFs

In order for MMF shares to be functionally equivalent to bank deposits, it is necessary to guarantee that they are redeemable at par. This means that MMFs must allow investors to withdraw their investments at a pre-established value. The guarantee from funds to maintain a constant NAV has satisfied this task. Nevertheless, despite the low volatility and the relative soundness of the securities in which MMFs have invested, sometimes the value of the assets of the funds diverge too much from the value necessary to guarantee redeemability at par. Sponsor support has been crucial to preserving the guarantee of the sound and deposit-like character of MMF shares.[20] Several institutions can "sponsor" MMFs:

> The term "sponsor" is used for an affiliated or parent company of the money market fund's manager. This will usually be an asset management firm running various funds, or a bank. A sponsor is not legally or contractually obligated to support its money market fund in times of financial stress, but might do so in order to avoid reputational damage and to prevent a loss of investor confidence from spilling over to its other lines of business.[21]

19. For an analysis of the important role of sponsors in supporting MMFs, see generally Henry Shilling et al., Moody's Investors Serv., Sponsor Support Key To Money Market Funds (2010); Patrick E. McCabe, *The Cross Section of Money Market Fund Risks and Financial Crises* (Fin. & Econ. Discussion Series, Working Paper No. 2010-51, 2010), https://www.federalreserve.gov/PUBS/feds/2010/201051/201051pap.pdf.

20. Gordon & Gandia, *supra* note 2, at 361–62. **R**

21. Mai, *supra* note 6, at 5; for further enumeration of the reasons for the provision of support, see Shilling et al., *supra* note 19, at 2–3. **R** **R**

It is important to stress that legal prior commitments to provide the support are not generally adopted.[22] The sponsoring entity does not have to report this potential liability in its accounting, nor account for any additional capital or liquidity buffer.

Moreover, support increases the interconnectedness between the nodes of the financial system.[23] In times of stress, the sponsoring entity's efforts to support MMFs can put the balance sheet of the sponsoring entity itself at risk.[24] Further, the support of the sponsor represents a private guarantee of the maintenance of the stable value of the fund and contributes to the assimilation of MMF shares to bank deposits.

All these issues are exemplified by the events that occurred prior to and during the economic crisis. As Moody's reports, MMFs managed to maintain a stable NAV before the crisis also due to sponsor support and repeated intervention to support their funds.[25] Despite the lack of any explicit legal obligation, there is empirical evidence that investors took support for granted because they ran asymmetrically on different funds[26] depending on the solvability of the sponsors.[27]

III. The U.S. Reform

The U.S. process of MMF reform was tortuous and hotly contested at the highest institutional level, which heavily affected the scope of the rules finally adopted.[28] For the pur-

22. Shilling et al., *supra* note 19, at 2 ("Any implicit or explicit expression of support would potentially create regulatory challenges, an undesirable legal obligation, and also have financial reporting ramifications for the sponsoring organization based on the magnitude as well as terms and conditions of any such support provisions."). **R**

23. The main routes to interconnectedness are represented by the creditor-debtor relationship that link MMFs to the other nodes, Fin. Stability Board, *supra* note 8, at 34-44. **R**

24. McCabe, *supra* note 19, at 35. **R**

25. Moody's Inv'r Serv., Sponsor Support Key to Money Market Funds (Aug. 9, 2010).

26. For identification of the causes for the asymmetric run on different sponsors—namely, portfolio, investor, and sponsor risks—see McCabe, *supra* note 19, at 1; the results of McCabe have been confirmed for the European MMFs by Gordon & Gandia, *supra* note 2, at 359. **R** **R**

27. Baba, McCauley & Ramaswamy, *supra* note 4, at 73. **R**

28. Alan S. Blinder, *Financial Entropy and the Optimality of Over-Regulation*, *in* The New International Financial System: Analyzing the Cumulative

poses of this paper, suffice it to say that after some amendments in 2010, the final version of Rule 2a-7 was adopted on July 23, 2014, and officially entered into force in November 2016.

The main characteristics of the reform are the differentiation between retail and institutional funds and the provision for funds that are targeted to institutional investors who want to invest in securities that private entities of a variable NAV issue. Furthermore, the kind of securities that can be purchased were further specified, liquidity requirements provided, and managers of floating NAV funds granted the ability to impose gates and fees for redemptions[29] in times of stress.[30]

The first issue to discuss regarding affiliated party support to MMFs concerns when support that generally (but not always) involves the purchase of a security can be granted. In fact, it is generally prohibited for affiliated persons[31] of an investment company[32] to buy or sell a security and to lend to the MMF.[33] Before the 2010 amendments, such a transaction could only occur if the U.S. Securities and Exchange Commission (SEC) granted to the affiliated party an exemption based on the fairness of the transaction and its consistency with the MMF policy and the purposes of the regulation.[34] These no-action letters, of course, slowed the process for supporting the funds in times of distress.[35] In 2010, a more general exception was introduced, granting the affiliated parties of MMFs the

IMPACT OF REGULATORY REFORM 3, 22 (Douglas D. Evanoff et al. eds., 2015); for an overview of the process, see THIEMANN, *supra* note 10, at 210–16. **R**

29. The discretional, rather than the automatic application of gates and fees when certain liquidity thresholds have been trespassed has been criticized by Gordon & Gandia, *supra* note 2, at 367. **R**

30. For a summary and an evaluation of the amended rules, see Fisch, *supra* note 17, at 963–979. **R**

31. For the definition of "affiliated person," see 15 U.S.C. § 80a-2(a)(3) (2006).

32. MMFs are a category of investment companies. Specifically, they are investment companies regulated according to the Investment Companies Act 1940. *Money Market Funds*, U.S. SEC. & EXCH. COMM'N, https://www.sec.gov/answers/mfmmkt.htm (last updated Jan. 17, 2017).

33. 15 U.S.C. § 80a-17(a) (2006).

34. 15 U.S.C. § 80a-17(b) (2006).

35. For a collection of SEC-issued no-action letters on the topic of MMFs, see *Division of Investment Management Staff No-Action and Interpretive Letters*, U.S. SEC. & EXCH. COMM'N, https://www.sec.gov/divisions/investment/imnoaction.shtml#money (last updated Apr. 26, 2019).

power to buy defaulted securities or securities that had become non-eligible for the MMF.[36] This exception is subject to two conditions related to the consideration for the purchase. The price must be paid in cash and it must be equal to the greater of the market price or the amortized cost price.[37] Furthermore, affiliated parties can buy any kind of security (not limited to defaulted or non-eligible securities), provided that they pay the greater of the market or amortized cost price in cash. If the security is later sold at a higher price, the difference must be promptly paid to the fund itself.[38] Consequently, in 2010, the process for granting sponsor support was relaxed.

In the 2014 reform package, the SEC recognized that external support to MMFs was one of the main factors that induced investors to misunderstand the risks associated with MMFs.[39] Nevertheless, the SEC concluded that the main problem was rooted in the lack of transparency of this support, rather than the support per se; the SEC thus decided that flexibility in providing the support, coupled with disclosure requirements, were in the best interest of MMF shareholders.[40] It is important to note that the disclosure of support may have a contradictory impact on investors. In times of stress, the fact that an affiliated party has provided support would increase the faith in the solvability and liquidity of the fund. On the contrary, in times without stress, previous instances of support could be read as signs of weakness because support is necessary when the management firm cannot maintain the value of the shares.

Disclosure of support should be provided to the market in a timely fashion through disclosure form N-CR. In addition, MMFs should include, in their statements of additional information, the instances and details of affiliated party support within the last ten years. Affiliate party support is defined as follows:

36. 17 C.F.R. § 270.2a-7(a)(11) (2014) (determining the range of securities into which MMFs can invest).

37. 17 C.F.R. § 270.17a-9(a) (2014).

38. 17 C.F.R. § 270.17a-9(b) (2014).

39. Money Market Fund Reform; Amendments to Form PF, 79 Fed. Reg. 47,736, (Aug. 14, 2014) (to be codified at 17 C.F.R. pts. 230, 239, 270, 274, 279) [hereinafter 2014 Final Rule], at 23.

40. *Id.* at 317.

> The term "financial support" includes any capital contribution, purchase of a security from the Fund in reliance on § 270.17a–9 . . . , purchase of any defaulted or devalued security at par, execution of letter of credit or letter of indemnity, capital support agreement (whether or not the Fund ultimately received support), performance guarantee, or any other similar action reasonably intended to increase or stabilize the value or liquidity of the Fund's portfolio; however, the term "financial support" excludes any routine waiver of fees or reimbursement of fund expenses, routine inter-fund lending, routine inter-fund purchases of fund shares, or any action that would qualify as financial support as defined above, that the board of directors has otherwise determined not to be reasonably intended to increase or stabilize the value or liquidity of the fund's portfolio.[41]

The broad definition encompasses the support to both the value and the liquidity. Furthermore, the success of the stabilization is not the defining element of support. Rather, the mere intention to support serves as its defining element.[42] Moreover, the fact that stabilization occurs in a time of stress is not a necessary element of the definition.[43] The carve-outs from the rule also highlight the centrality of the intention to provide support.

The SEC, therefore, assessed that market transparency serves as the best antidote to the opacity of sponsor support. Nevertheless, it is unclear as to whether transparency is helping resolve the moneyness issue of MMF shares, or how this solves the interconnectedness problem that the support creates. To the contrary, the fact that support has been granted in the past should signal to investors that sponsors will support their funds, even in the future.

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41. JAMES D. COX, ROBERT W. HILLMAN & DONALD C. LANGEVOORT, SECURITIES REGULATION: SELECTED STATUTES, RULES, AND FORMS, 2018 (2018).

42. The intentionality standard assures that the catch-all provision does not include actions that do not concern the SEC and investors. 2014 Final Rule, *supra* note 38, at 384.

43. The SEC justified the exclusion of the "during times of stress" requirement from the general case by noting that sponsors may also provide support pre-emptively. *Id.*

IV. The E.U. Regulation on MMFs

In 2017, at the end of long bargaining process between the E.U. institutions, the European Union issued its final regulation on MMFs (the Regulation), which definitively entered into force in 2019.[44] Before the adoption of the Regulation, MMFs operated as "Ucits" or "Aif"[45] and complied with further private standards.[46] The core element of the Regulation is the differentiation between three different groups of funds[47] that can offer redeemability at par or not. Furthermore, liquidity fees and gates can or must be imposed when the liquidity of the fund drops under a specified threshold. MMFs must maintain a specific liquidity buffer. It is therefore clear that the European legislature has also tried to sharpen the difference between MMFs and bank deposits.

Recital 5 of the Regulation affirms that since support could exceed the available reserves of the asset manager and the sponsor, it should be banned.[48] Recital 49 assesses that external support increases the contagion risk between the MMFs and the rest of the financial sector, and that the uncertainty surrounding the extent and amount of the support could fuel rather than stop a run.[49]

Consistent with this approach, Article 35 of the Regulation affirms that an "MMF shall not receive external support" and proceeds to define external support.[50] The definition is very broad and encompasses both direct and indirect third-

44. Regulation 2017/1131, of the European Parliament and of the Council of 14 June 2017 on Money Market Funds, 2017 O.J. (L 169) 8 [hereinafter E.U. MMFs Regulation]. Article 47 of the regulation provides that it shall apply from 21 July 2018 for newly created funds. *Supra* at 45. Art. 44 provides that already existing funds should submit an application to the competent authority to demonstrate compliance with the regulation by January 21, 2019. *Supra* at 43.

45. Regarding the legal structure of European investment funds, see Dirk A. Zetzsche, *The Anatomy of European Investment Fund Law*, *in* Research Handbook on the Regulation of Mutual Funds 302, 318 (William A. Birdthistle & John Morley eds., 2018).

46. Joseph Tanega & Viktoria Baklanova, *European Money Market Fund Regulations and Universal Transparency*, *in* Research Handbook on Shadow Banking 337, 350–57 (Iris H.-Y. Chiu & Iain G. MacNeil eds., 2018).

47. E.U. MMFs Regulation, *supra* note 43, at 19.

48. *Id.* at 8.

49. *Id.* at 15.

50. *Id.* at 39.

party support, including the fund sponsor. The ban encompasses any support that "is intended for or in effect would result in guaranteeing the liquidity of the MMF or stabilizing the NAV per unit or share of the MMF."[51] There are two points worth noting. First, the intention and effect of the support are separated. Therefore, support that is intended to stabilize the MMF but fails to do so, as well as operations not solely intended to support but has the material effect of stabilizing the fund, are both banned. Secondly, the forbidden support entails both the guarantee of the liquidity of the MMF and the stabilization of the NAV per unit or share.

The third paragraph of Article 35 states explicitly that external support shall include cash injections, purchases of the MMF's assets at an inflated price, purchases of units or shares to provide liquidity to the fund, the issuance of an explicit or implicit guarantee for the benefit of the fund, and any action with a direct or indirect objective of maintaining the liquidity and the NAV per unit or share of the MMF.[52] According to the different kinds of support offered to funds in the past, two legal issues warrant discussion: First, does the waiver of the fees constitute an illegitimate third party's support? Second, is it licit for the sponsor to purchase the MMF shares at a non-inflated price?

The waiver of the fee is one of the main avenues for supporting the value of MMF shares or units.[53] The waiver of the fee is a form of direct support to the fund and is explicitly intended to stabilize the NAV. However, the matter of the purchase of MMF shares at non-inflated prices is somewhat different. In fact, Article 35, paragraph 2(c) of the Regulation affirms that external support shall include "purchase by the third party of units or shares of the MMF in order to provide liquidity to the fund."[54] The ban encompasses every purchase, not only purchases made at inflated prices. Since the concept of the third party is not restricted to any specific affiliated entity, the crucial element that defines the forbidden purchases is the purpose behind supporting the fund. Since every purchase has the effect of providing liquidity to the fund, it

51. *Id.*
52. *Id.*
53. Fisch, *supra* note 17, at 980. **R**
54. E.U. MMFs Regulation, *supra* note 43, at 39.

cannot be assumed that the effect of providing liquidity to the fund is sufficient to ban any purchase. Therefore, the key to understanding what constitutes a forbidden purchase is the intent of the purchaser. The purchases should have been made with the specific intent to support the liquidity of the fund. Since no intent is expressed at the moment of the purchase, several elements would allow for the presumption of the aim of the purchases. These elements include the nature of the third party and whether it has an interest in supporting the fund; the extent of the purchases; and the existence of liquidity problems of the MMF.

V. Appraisal and Conclusion

The previous discussion demonstrates that E.U. and U.S. regulators have taken very different approaches toward third-party support of MMFs. In the E.U. context, the broad wording of the ban clearly encompasses all forms of external support and even risks overreaching. The question is, therefore, whether such an encompassing ban is necessary to fulfill the aim of the reform. Any institution that is part of a chain that performs credit, liquidity, and maturity transformation is subject to potential runs. There is no way to prevent that, apart from providing a broad and encompassing public guarantee on the liabilities of these institutions, which generally comes with regulatory requirements that industry leaders have fiercely opposed. Hence, rather than extending bank guarantees, the general reform approach in the United States and European Union is to try to deprive MMF shares of their moneyness, defined as their ability to be converted at par.[55] This regulatory strategy does not decrease the riskiness of MMF shares per se, but seems aimed at altering the perception of investors towards MMFs. Despite the conservative nature and low volatility of investment in MMF shares, the reforms are intended to show that they are not substituted for bank deposits.

Specifically with regard to sponsor support, the U.S. disclosure obligations of past sponsor support risk aggravating this issue rather than solving it. On the one hand, the non-

55. As mentioned above, there are provided liquidity requirements and MMFs' portfolio selection requirements. *See supra* text accompanying note 40.

mandatory nature of the support does not require intervention, and this creates uncertainty. On the other hand, given the pattern of past sponsor support, investors could, assuming that support will be provided again, continue to treat MMF shares as though they are as safe as banks deposits. The E.U. regulation is therefore much more determined and coherent in its purpose of transforming MMF shares from a deposit-like safe store of value into a very safe asset that nevertheless does not promise to trade at par.

The E.U. rules about third-party support and the E.U. and U.S. reforms in general all aim at "de-moneynising" MMF shares. This undoubtedly impacts the ability of MMFs to supply deposit-like security that is not issued by institutions that should comply with onerous regulations and that can access the Central Bank's facilities. Nevertheless, this does not alter the demand for these securities. As highlighted, the demand for these instruments derives partially from the needs of large cash pool managers that do not want to be exposed to the credit risk of having an enormous deposit account at a bank. The entry into force of the amended Rule 2a-7 in the United States has generated a massive shift from prime MMFs towards public MMFs that are allowed to maintain a stable NAV. It is too early to assess the impact of the E.U. regulation on the European market, but it remains clear that the strategy of "de-moneynising" a particular asset can be successful only insofar as the investors in those specific assets accept the shift in the nature of their investment. If they do not accept this shift, it will be interesting to explore which alternative will be crafted to satisfy that safe-assets demand.