

More consistency in investment limits for funds

Examining UCITS diversification rules

Reconsider the 5/10/40 rule

Our response pertains to the limits according to Art. 52 UCITS, commonly referred to as the 5/10/40 rule, which aims to ensure appropriate diversification of the fund's assets. Active asset managers are prohibited from investing more than 10 percent of their assets in one single issuer.

The current limit has a particularly negative impact on high-growth companies. Due to the expansion of their business model and the associated increase in market capitalization, it is likely that they will exceed the 10 per cent limit. As a result, asset managers will have to sell the shares, which will lead to a poorer stock market performance of the companies concerned. Retail investors in these funds are also negatively affected, as their opportunities to participate in the growth of the companies concerned are restricted.

To avoid the above-mentioned problem, different rules apply for passive investors: Art. 53 increases the limit for funds replicate the composition of a certain stock or debt securities index to 20 percent, with a maximum of 35 percent allowed under exceptional market conditions.

For the same reason, providers of financial indices have more generous diversification rules in place, known as capping limits, to restrict the maximum weight of one single issuer. For example, index regulations of the French CAC index family and the Italian FTSE MIB set a cap of 15 percent. In contrast, no such cap is required for the US S&P 500 and the FTSE 100 in the UK.

In Germany, the main index DAX40 had a capping limit of 10 percent, which was increased to 15 percent in March 2024. The index provider had previously consulted the market on the proposed rule change, which was welcomed by most market participants. However, some particularly active institutional investors who were not in favour raised concerns that increasing the capping limit would contradict the 5/10/40 UCITS rule.¹

The legislator should ensure consistency between the limits for passive investors, the rules of index providers and the limits for active investors. This would also address the concerns expressed by active institutional investors. Therefore, we suggest a discussion on the 5/10/40 rule, which should be aligned with the limits set out in Art. 53 UCITS for passive investors.

1 See the results of the market consultation published by STOXX Ltd. in November 2023 ([here](#)).

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