

# 19 December 2022

# Council of EU releases political agreement text of Regulation amending ELTIF Regulation

On 7 December 2022, the Council of the EU (the **Council**) published a copy of the amending regulation to the ELTIF Regulation<sup>1</sup> on which the Council and the European Parliament have reached provisional agreement<sup>2</sup>. This follows the publication of the European Commission's proposal to amend the ELTIF Regulation in November 2021 (the **Commission Proposal**).

# **Background**

# What is an ELTIF?

An ELTIF is a pan-European regime for alternative investment funds which channel the capital they raise towards European long-term investments in the real economy. The ELTIF is aimed at managers who want to offer long-term investment opportunities, such as infrastructure projects, to institutional and private investors across the EU. ELTIFs provide an alternative source of non-bank financing of EU companies and projects that need long-term capital but do not have access to the public capital markets.

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# What are the aims of the proposed amendments to the ELTIF Regulation?

The goal of the ELTIF Regulation when it was introduced in 2015 was to help improve the financing of EU companies and projects that need long-term capital but do not have access to the public capital markets. However, since its introduction, there has only been a modest number of ELTIF launches as a result of several restrictive features of the ELTIF Regulation. The aim of the Commission Proposal is to improve the functioning of the ELTIF and make the ELTIF a more attractive vehicle for both managers and investors and, as a result, increase the level of investment into the EU economy at a time when traditional sources of financing are becoming more challenging for businesses to access.

The changes to the ELTIF Regulation included in the Commission Proposal include:

(i) a proposal to extend the scope of eligible assets including the ability for ELTIFs to invest in assets located in third countries:

<sup>&</sup>lt;sup>1</sup> Regulation (EU) 2015/760 of the European Parliament and of the Council of 29 April 2015 on European long-term investment funds

<sup>&</sup>lt;sup>2</sup> A copy of the proposal is available <u>here</u>

- (iii) the ability to co-invest with other funds and/or accounts managed by the same investment manager;
- (iv) the creation of a differentiated regime between ELTIFs which will be solely marketed to professional investors and ELTIFs that can be sold to both retail and professional investors also;
- increased borrowing limits which will be calibrated depending on whether the ELTIF
   will be made available to retail investors;
- (vi) the simplification of the access requirements applicable to retail investors including the removal of both the €10,000 initial investment requirement and the removal of the maximum 10% aggregate threshold requirement for retail investors whose portfolios are below €500,000;
- (vii) the ability for ELTIFs to pursue fund-of-funds investment strategies as well as the ability for ELTIFs to be established as master-feeder structures; and
- (viii) the introduction of an optional liquidity window mechanism whereby an ELTIF manager would organise the matching of exiting and subscribing investors, provided the ELTIF manager has an appropriate policy in place.

# Further Amendments to the ELTIF Regulation introduced by the Council and the Parliament

Following their consideration of the Commission Proposal, the Council and the Parliament have reached provisional agreement on a text which incorporates a number of changes to the Commission Proposal which include the following:

- (i) the ability for ELTIFs to invest in green bonds issued under the future EU Green Bond Standard and innovative new financial undertakings (such as FinTech entities) which have been regulated more recently than 5 years before the date of investment by the ELTIF;
- (ii) the removal of any limitation on the minimum value of real assets which can be acquired by an ELTIF; and
- (iii) the reduction in the minimum investment threshold in eligible assets, as proposed by the Commission from 60% of the ELTIF capital to 55%.

# What now?

The European Parliament will now consider the finalised legislative text in its plenary session to be held from 1 to 2 February 2023. Once the Council and Parliament formally adopt this text, it will be published in the Official Journal of the European Union and will

enter force 20 days following such publication. The updated regime will apply nine months after its entry into force.

If you would like to discuss any of the topics discussed in this publication, please contact the author or your usual contact in Dillon Eustace.

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