

ELTIF II: Draft Regulatory Technical Standards issued

The European Securities and Markets Authority ("ESMA") has released a consultation paper ("CP") on draft regulatory technical standards ("RTS") to be adopted for European Long Term Investment Funds ("ELTIFs") under the applicable revised regulation which will be fully applicable from 10 January 2024 .

Background

Following concerns over the success of the ELTIF, or European Long Term Investment Fund, and its lack of attractiveness to market participants, a regulation providing for revisions to the applicable terms was approved and published in the Official journal of the EU in March 2023 (the "Revised ELTIF Regime").

Key Revisions

Key aspects of the Revised ELTIF Regime include a broadening in the scope of the eligible assets definitions, less prescriptive investment and diversification rules, a relaxation of the borrowing limits, distinguishing retail and professional investor funds and enhanced liquidity provisions. These amendments to this fund vehicle are expected to make it a significantly more attractive option for both investors and those structuring investment products.

Requirement for RTS

The Revised ELTIF Regime includes requirements for ESMA to develop new RTSs specifying certain aspects of the redemption policy to be applied and detailing the circumstances under which the new "matching" mechanism for units can be applied (including information to be disclosed). In addition there was a pre-existing requirement for appropriate RTS to be developed under the former ELTIF regime to address items including the use of derivatives, the length of life of an ELTIF, the disposal of ELTIF assets, facilities

to be made available for retail investors and appropriate cost disclosures. The CP addresses all of these issues.

Contents of Proposed RTS

The draft RTS, contained in Annex IV of the CP, clarifies, among other issues, that:

- derivatives aimed at providing a return can not be considered as hedging risks;
- the factors to determine if the length of an ELTIF is compatible with the life-cycle of its underlying assets;
- the criteria to determine the minimum required holding period;
- required elements of the redemption policy, including use of liquidity management tools;
- circumstances pertaining to the use matching mechanism, including regarding the process, execution price, costs and related disclosure of information;
- valuation of assets to be divested;
- criteria for assessing the market for potential buyers of ELTIF assets; and
- calculation methodologies, definitions and presentation formats for costs.

Next steps

Annex I of the CP contains a summary of the key questions posed in order to elicit relevant feedback from market participants. Submissions on this CP may be made to ESMA until 24 August 2023. Following this it will publish a final report and submit this to the European Commission for endorsement by 10 January 2024 when the revised ELTIF regulation becomes fully applicable.



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