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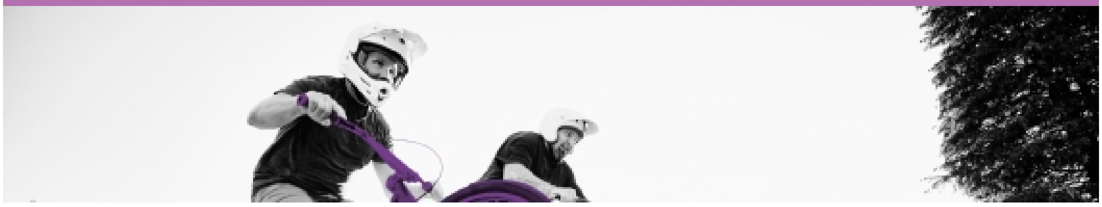

Luxembourg Newsflash - 25 November 2021

Unlocking the potential of the ELTIF

To realise the full potential of the ELTIF regime, the EU Commission is proposing enhancements to the ELTIF legal framework to make it more attractive to investors. These targeted amendments would strengthen the ELTIF's role as a complementary source of finance to the real economy.

Earlier today, the EU Commission published a legislative proposal containing targeted amendments to the ELTIF Regulation. The amendments aim to increase the uptake of ELTIFs across the EU for the benefit of the European economy and investors. The EU Commission is thus proposing a legislative framework that better channels the long-term savings of retail investors into long-term investments and facilitates investments by professional investors. This, in turn, will support the continued development of the Capital Markets Union (CMU), which also aims to facilitate EU companies' access to more stable, sustainable and diverse long-term financing. The legislative proposal published today forms part of a unified package of four proposals prepared by the EU Commission as part of its CMU 2.0 Action Plan.

Key amendments

The proposed amendments to the ELTIF legal framework aim to accelerate the acceptance of ELTIFs as a 'go-to' fund structure for long-term investments. To render this framework more appealing, the following key amendments have been proposed:

- **Broadening of the investment universe.** In principle, the scope of eligible assets remains the same. However, the proposed text contains clarifications, such as a simplified definition for 'real assets' and a definition for simple, transparent and standardised securities, that will effectively broaden the range of investment strategies that ELTIF managers may pursue. Moreover, the proposed text lowers the minimum investment value of real assets to EUR 1,000,000, thereby granting more flexibility to ELTIF managers.

- **ELTIFs for professional investors**. Unlike retail investors, professional investors may have longer investment horizons, more expertise, higher risk tolerance to adverse market conditions and higher capacity to absorb losses. In light of all this, the EU Commission proposes to waive or simplify certain requirements, such as diversification rules and borrowing limits, for ELTIFs marketed exclusively to professional investors.

- **Promoting retail investor access to ELTIFs**. In completely removing the investment restrictions for retail investors, the EU Commission's proposal promotes long-term investments by retail investors. Once adopted, retail investors will neither be limited by the initial minimum investment threshold of EUR 10,000 nor will they be restricted by the 10% aggregate investment gap. Furthermore, the proposed text contains some welcome clarifications, such as a reference to the MiFID suitability test as part of appropriate investment advice under the ELTIF Regulation and the explanation that staff of an ELTIF manager holding interests in a managed ELTIF will not be considered as retail investors. The latter is already a well-known principle in the Luxembourg investment fund toolbox.

- **Fund-of-funds and feeder structures.** The proposed text explicitly recognises fund-of-fund strategies. Once it has been adopted, ELTIFs will be able to invest in EU AIFs managed by EU managers, if those EU AIFs are invested in assets eligible under the ELTIF Regulation. The same applies for master-feeder strategies. However, the EU Commission also proposes that additional requirements apply for fund-of-fund and master feeder strategies, in particular as regards reporting.

- **Conflicts of interests**: The proposed text expressly allows for co-investments. Provided certain organisational and administrative arrangements are in place, the ELTIF manager, affiliated entities in that same group and their staff may invest in the ELTIFs managed by the ELTIF manager.

In addition to the key amendments above, the proposed text foresees further amendments; for example concerning increased thresholds under the diversification rules, borrowing limits, and redemption mechanisms.

Stimulating the ELTIF

Once adopted, the amendments to the ELTIF legal framework as proposed today by the EU Commission will certainly grant ELTIF managers more flexibility, thereby increasing the attractiveness of the ELTIF label. As such, they are a welcome set of rules that will further boost the recent uptake of the ELTIF.

Since the the original ELTIF legal framework was adopted in April 2015, 57 ELTIFs (as of October 2021) have been launched with approximately EUR 2.4 billion in assets under management. These authorised ELTIFs are domiciled in only four Member States: Luxembourg (26 ELTIFs), France (16 ELTIFs), Italy (13 ELTIFs) and Spain (2 ELTIFs).

The EU Commission's proposal forms part of its CMU 2.0 Action Plan, published in September 2019. It follows a report by the CMU High Level Forum, published in June 2020, that stated that a review of the ELTIF regulatory framework with targeted amendments could accelerate the uptake by investors with a long-term investment horizon and increase the flow of long-term financing to the real economy. In October 2020, the EU Commission launched a public consultation that gave all stakeholders an opportunity to voice their views on the risks and opportunities presented by the review of the ELTIF framework and the need for action.

Next steps

Today's publication of the legislative proposal has kicked off the legislative process. The EU Commission's proposal is now under review by the EU Parliament and the Council of the EU. The text in its current version states that once adopted by the EU co-legislators, the amendments to the ELTIF Regulation will become applicable 6 months after their publication in the Official Journal of the EU.

For further information, please reach out to your usual contact within the Fund Formation Group.

To access the EU Commission's legislative proposal for amendments to the ELTIF Regulation, **click here_**

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