

CLIENT ALERT

ELTIF II — How the European Union Is Going to Update Its Harmonized Regime for Long-Term Investment Funds

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Since the Regulation (EU) 2015/760 of the European Parliament and of the Council of 29 April 2015 on European long-term investment funds (ELTIF Regulation) was originally introduced, only a few European Long-term Investment Funds (ELTIFs) have been established under the regime. More precisely, as of 22 December 2022, the ELTIF register maintained by the European Securities and Markets Authority (ESMA) counts 82 registered ELTIFs.

ELTIFs that are established in accordance with the ELTIF Regulation have one key advantage: They come with a pan-European marketing passport for retail investors comparable to the one the European undertakings for collective investments in transferrable securities (UCITS) can make use of. However, strict requirements regarding eligible assets, portfolio composition and employment of leverage limited the ELTIF's suitability to implement investment strategies for both retail and institutional investors.

The revision of the ELTIF Regulation introduces significant changes which may make the ELTIF an interesting structuring option for asset managers developing products in the illiquid space. The revised ELTIF Regulation is expected to enter into force in Q1 2023 and to apply from late 2023 or early 2024, at the latest.

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Here are the ten important changes compared to the current ELTIF Regulation:

1. **Two Tiers:** The ELTIF Regulation will provide for two tiers of ELTIFs: A retail ELTIF and an ELTIF that is solely marketed to professional clients. The professional client ELTIF is not subject to risk diversification or concentration rules and benefits from a higher loan to value ratio.
2. **Master / feeder structures** become available for ELTIFs introducing both master and feeder ELTIFs, which expands structuring options when catering for specific investor needs.
3. **Qualifying portfolio undertakings:** The eligibility requirements for qualifying portfolio undertakings will only apply at the time of acquisition, which gives more flexibility for buy and hold strategies. Also the maximum market cap for listed portfolio companies is increased from EUR 500m to 1.5bn expanding the pool of potential target companies. Also financial institutions not older than five years (FinTechs) will qualify as eligible portfolio undertakings.
4. **More flexibility for fund of fund strategies:** In addition to ELTIFs, European Venture Capital Funds (EuVECAs) and European Social Entrepreneurship Funds (EuSEFs), ELTIFs will also be allowed to invest in general alternative investment funds (AIFs) and UCITS.
5. **Investments in real assets:** ELTIFs will be allowed to invest in real assets like real estate, communication, environment, energy, transport and social infrastructure like retirement homes and hospitals, intellectual property, vessels, aircraft and rolling stock. The category shall also include water rights, forest rights, building rights and mineral rights. Also the current minimum value requirement of EUR 10m will be removed.
6. **Securitizations:** Investments in securitizations structured as simple transparent and standardized securitizations in accordance with Regulation (EU) 2017/2402 will be eligible investments, albeit limited to 20% for retail ELTIFs.
7. **Indirect investments in minority holdings:** Indirect investments in portfolio companies via SPVs will no longer require that the portfolio company is majority-owned by that SPV.
8. **Portfolio composition and diversification:** The minimum investment in eligible assets is reduced from 70% to 55% to facilitate liquidity management. Furthermore, the investment limits for single assets (other than transferrable securities) are increased from 10% to 20%. However, they will not apply where the ELTIF is solely marketed to professional investors.
9. **Borrowing:** The loan to value (LTV) ratios are increased from 30% to 50% for retail ELTIFs and even to 100% for ELTIFs eligible for professional investors. Furthermore, outstanding capital commitments from investors reduce the loan amount for LTV calculation. Further flexibility is added with regard to short-term borrowing.

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10. Green ELTIF at the horizon: Two years after application of the revised ELTIF Regulation, it will be assessed whether a “Green ELTIF” label should be introduced and reserved for ELTIFs fulfilling certain sustainability criteria under the Sustainable Finance Disclosure Regulation (SFDR).

We have consolidated a convenient reading version of the ELTIF Regulation which shows the proposed changes marked against the version currently in force. You can download the convenient reading version [here](#).

If you have any questions regarding this client alert, please contact the following attorneys or the Willkie attorney with whom you regularly work.

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