

Amendment of Regulation on European Long Term Investment Funds (“ELTIFs”)

On 20 March 2023, Regulation (EU) 2023/606 of the European Parliament and of the Council of 15 March 2023, amending the ELTIF Regulation (EU) 2015/760 (the “Amended ELTIF Regulation”) was published in the Official Journal of the European Union, after the European Parliament had voted on 15 February 2023 in favour of the Amended ELTIF Regulation.



1. New Scope of Eligible Assets and Investments

The Amended ELTIF Regulation extends the scope of eligible investment assets as follows:

- **Target Funds:** The Amended ELTIF Regulation enables ELTIFs to invest in UCITS and EU AIFs managed by EU AIFMs based on the assumption that these AIFs invest in eligible assets applicable for ELTIFs. This new “look-through” approach will allow for certain fund-of-funds strategies that were not available before.
- **Real Assets:** The definition of real assets has been upgraded. Real assets are defined as assets that have an intrinsic value due to their substance and properties. The

purpose of the revised definition of real assets is to also cover assets that cannot be identified as such at first sight. Aside from the assets that provide cash flows and investment returns, real assets have value due to their nature or substance, being social, communication, and environmental facilities, energy or transport infrastructures, as well as educational, health, social welfare or industrial facilities.

- **Simple, transparent and standardized (STS) securitisations:** The Amended ELTIF Regulation finally introduces the long-awaited possibility to invest up to 20% of the principal value in simple, transparent and standardised securitisations pursuant to Article 18 of Regulation (EU) 2017/2402 of the European Parliament and of the Council, if the underlying assets represent long-term risk positions.

These long-term exposures may include for example securitisations of residential real estate loans secured by one or more mortgages on residential immovable property (residential mortgage backed securities (RMBS)) or securitisations of loans secured by one or more mortgages on commercial real estate, corporate loans, including loans made to small- and medium-sized enterprises (SMEs).

2. Qualifying Portfolio Undertakings

Issuers of the type of eligible investment assets such as equity / quasi-equity, debt instruments and loans, have to fulfil the requirement of a qualifying portfolio undertaking. The maximum market capitalisation for qualified portfolio companies has been increased from EUR 500 million to EUR 1,5 billion. The qualifying portfolio undertaking rules also cover FinTech investments, provided that the qualifying portfolio undertaking is a financial undertaking that has been authorised or registered more recently than five years before the date of the initial investment.

3. Diversification Requirements and Concentration Limits

The Amended ELTIF Regulation introduces several changes with regard to the diversification requirements and concentration limits. In particular, the requirement for ELTIFs to invest at least 70% of their assets in ELTIF-eligible investments has been lowered to 55%. In addition, the Amended ELTIF Regulation now provides that certain diversification requirements and concentration limitations shall not apply to ELTIFs marketed solely to professional investors.

4. Borrowing of Cash

The limit of borrowing of cash has been raised from 30% to a maximum of 50% of the net asset value of the ELTIF (100% for ELTIFs marketed solely to professional investors). Furthermore, cash may now be borrowed in a currency other than that of the assets to be acquired when currency exposure has been appropriately hedged. When borrowing cash, an ELTIF may encumber assets to implement its borrowing strategy (the requirement that assets encumbered must not represent more than 30% of the value of the capital of the ELTIF has been eliminated). In addition, it has been clarified that borrowing arrangements that are fully covered by the investors' capital commitments shall not be considered as any kind of borrowing.

5. ELTIF Master-Feeder

With the Amended ELTIF Regulation, the restriction on master-feeder structures has been dropped. However, master-feeder structures are only permitted if the feeder ELTIF invests in a master ELTIF, in other words, both of these funds have to be ELTIFs. Also, other information requirements have to be fulfilled, in particular, sharing information between master and feeder funds is mandatory if these two funds have different depositories.

6. Minimum Holding / No Cap for Retail Investors

The purpose of the Amended ELTIF Regulation is to simplify the access to ELTIF investments for retail investors while maintaining investor protection, evidence of which is *inter alia* the removal of the minimum investment holding of EUR 10,000 and the 10% exposure cap for those retail investors with a financial portfolio below EUR 500,000.

7. Entry of Application and Interim Period

The Amended ELTIF Regulation will enter into force on 9 April 2023. However, the Amended ELTIF Regulation will only become applicable starting on 10 January 2024. For ELTIFs launched before 10 January 2024, the current regulations will apply until 11 January 2029. If the ELTIFs subject to the current regulation do not raise any further additional capital, no compliance with the new regulations is required (grandfathering). Notwithstanding this transitional arrangement, an ELTIF authorised before 10 January 2024 may decide to become subject to the Amended ELTIF Regulation, provided that the competent authority of the ELTIF is informed thereof.

8. Impact on the Fund Landscape in Europe

The Amended ELTIF Regulation offers retail and other investors the opportunity to invest in more attractive portfolios. The usage of ELTIFs can most of all promote and develop smarter, more sustainable and inclusive growth in the European markets. ELTIFs are in particular suitable for infrastructure investments in the area of renewable energy and can therefore contribute to the energy transition and green transformation. In the long term, ELTIFs have the potential to establish themselves as a new standard instrument in the financial market.

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