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ELTIF 2.0 – Final RTS Published

Regulatory & Compliance on **July 31, 2024**

Background

On 19 July 2024, the European Commission published final regulatory technical standards (the "**RTS**") in respect of Regulation EU/2023/606 relating to the European long-term investment fund ("**ELTIF 2.0**"). This follows various back and forth between the European Securities and Markets Authority ("**ESMA"**) and the European Commission (which we wrote about here and here).

The RTS is broadly seen as a positive conclusion from the European Commission, accommodating many of the views expressed by market participants.

Key Provisions

Some of the key provisions set out in the RTS include:

Minimum holding periods

In a departure from the previously published drafts, the final RTS does not impose any strict requirements on the minimum holding period of an ELTIF. ELTIF managers are able to determine the minimum holding period themselves, in accordance with criteria set out in the RTS – for example, the long-term nature and investment strategy of the ELTIF, the underlying asset classes of the ELTIF, the liquidity profile, the ELTIF's redemption policy etc.. The ELTIF manager must, however, provide a justification for the appropriateness of their minimum holding period, if requested to do so by the competent authority of the ELTIF.

Derivatives

The use of derivatives solely for hedging purposes is permitted where it is "economically appropriate"' for the ELTIF, consistent with the ELTIF's risk-profile of the ELTIF and aimed at a verifiable reduction of the risks.

Redemptions

Where an ELTIF provides for the possibility of redemptions during its life, at the time of authorisation, the manager shall provide the competent authority of the ELTIF with the information included in Article 4 of the RTS, including details of its redemption policy that sets out:

- the frequency and duration of redemptions;
- a description of the available liquidity management tools, and the conditions for their activation; and
- the conditions and procedures for requesting redemptions and for processing the redemption requests received.

Article 5 of the RTS also sets out further information to be included in the ELTIF's redemption policy – for example, how investors can cancel redemption requests that have not been fully executed.

The redemption policy of the ELTIF must ensure that redemptions are limited to a percentage of its assets. Unlike the draft versions of the RTS, this is to be calculated at the ELTIF manager's discretion, on the basis of either:

- the ELTIF's redemption frequency and notice period (see the three options set out in Annex I of the RTS); or
- the ELTIF's redemption frequency and minimum percentage of liquid assets (see Annex II).

Liquidity management tools

In a change from the draft RTS, the manager of an ELTIF shall not be required but may, at its discretion, select and implement at least one anti-dilution liquidity management tool from (i) anti-dilution levies (ii) swing pricing; and (iii) redemption fees. The manager of an ELTIF may also select and implement other liquidity management tools at its discretion.

Costs disclosures

Article 12 of the RTS sets out common definitions, calculation methodologies and presentation formats of costs of the ELTIF.

Next Steps

Its adoption by the European Commission now begins a three-month period in which the European Parliament and European Council may object to the RTS. Following this period (unless it is extended), the RTS will come into force on the day following publication. On this basis, the current expectation is that the RTS will come into force in Q4 2024.

This latest development is broadly seen as a step in the right direction, but we are yet to see whether there will be a large uptake from sponsors in the use of ELTIFs, arising from ELTIF 2.0. Fund sponsors should continue to monitor these developments, which will be of particular interest to those seeking to market alternative assets via private wealth and retail channels.

For further information, please reach out to the Proskauer UK Regulatory team.

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Related Professionals

- **John Verwey**
  Partner
- **Rachel E. Lowe**
  Partner
- **Sulaiman I. Malik**
  Associate
- **Michael Singh**
  Associate