

The ELTIF Regulation (European Long-Term Investment Funds Regulation)

January 2024



This brochure contains:

- *the **ELTIF Regulation**, i.e. Regulation (EU) 2015/760 of 29 April 2015 on European long-term investment funds, as amended by Regulation (EU) 2023/606 of 15 March 2023 as regards the requirements pertaining to the investment policies and operating conditions of European long-term investment funds and the scope of eligible investment assets, the portfolio composition and diversification requirements and the borrowing of cash and other fund rules ("**Amending ELTIF Regulation**")*; and
- *the draft regulatory technical standards published by ESMA in its final report on 19 December 2023 ("**Draft ELTIF RTS**"). The European Commission shall take a decision on whether to adopt the RTS within three months and once adopted, an additional three-month period is provided for the European Parliament and the Council to object to the RTS. At the request of each of these two authorities, that period can be extended by three months.*

The cross-references to the Recitals of the Amending ELTIF Regulation and of the Draft ELTIF RTS have been inserted each time under the relevant Article of the ELTIF Regulation, as amended.

It should also be noted that the original Recitals have been retained to provide context, however, as a result of changes introduced by the Amending ELTIF Regulation, some are no longer relevant.

This brochure can be printed from our website (www.elvingerhoss.lu) and/or used as an electronic version.

By using the electronic version, you will have direct access to the relevant Recitals under each Article of the ELTIF Regulation, as amended.

This compilation of the European legislative documents has been prepared by our firm for information purposes only. It may be reviewed and improved from time to time. The latest version will be published on our website: www.elvingerhoss.lu

TABLE OF CONTENTS

RECITALS	3
CHAPTER I GENERAL PROVISIONS	11
Article 1 : Subject matter and objective.....	11
Article 2 : Definitions.....	12
Article 3 : Authorisation and central public register	14
Article 4 : Designation and prohibition on transformation.....	15
Article 5 : Application for authorisation as an ELTIF	16
Article 6 : Conditions for granting authorisation as an ELTIF.....	18
Article 7 : Applicable rules and liability.....	19
CHAPTER II OBLIGATIONS CONCERNING THE INVESTMENT POLICIES OF ELTIFS	20
Article 8 : Investment compartments	20
Article 9 : Eligible investments	21
Article 10 : Eligible investment assets.....	23
Article 11 : Qualifying portfolio undertaking	25
Article 12 : Conflicts of interest.....	26
Article 13 : Portfolio composition and diversification.....	27
Article 14 : Rectification of investment positions	28
Article 15 : Concentration limits	29
Article 16 : Borrowing of cash	30
Article 17 : Application of portfolio composition and diversification rules	31
CHAPTER III REDEMPTION, TRADING AND ISSUE OF UNITS OR SHARES OF AN ELTIF AND DISTRIBUTION OF PROCEEDS AND CAPITAL	32
Article 18 : Redemption of units or shares of ELTIFs	32
Article 19 : Secondary market.....	42
Article 20 : Issuance of new units or shares.....	46
Article 21 : Disposal of ELTIF assets	47
Article 22 : Distribution of proceeds and capital	49
CHAPTER IV TRANSPARENCY REQUIREMENTS.....	50
Article 23 : Transparency	50
Article 24 : Additional requirements of the prospectus	52
Article 25 : Cost disclosure.....	53
CHAPTER V MARKETING OF UNITS OR SHARES OF ELTIFS.....	56
Article 26 [Deleted] : Facilities available to investors	56
Article 27 : Internal assessment process for ELTIFs that can be marketed to retail investors	57
Article 28 [Deleted] : Specific requirements concerning the distribution of ELTIFs to retail investors	58
Article 29 : Specific provisions concerning the depositary of an ELTIF marketed to retail investors	59
Article 30 : Specific requirements concerning the distribution and marketing of ELTIFs to retail investors	61
Article 31 : Marketing of units or shares of ELTIFs.....	63
CHAPTER VI SUPERVISION.....	64
Article 32 : Supervision by the competent authorities	64
Article 33 : Powers of competent authorities	65
Article 34 : Powers and competences of ESMA	66
Article 35 : Cooperation between competent authorities	67
CHAPTER VII FINAL PROVISIONS.....	68
Article 36 : Processing of applications by the Commission	68
Article 37 : Review	69

TABLE OF CONTENTS

Article 37a : Review of sustainability aspects of ELTIFs 70
Article 38 : Entry into force 71

Appendix I: Recitals of the Amending Regulation..... **72**
Appendix II: Recitals of the Draft ELTIF RTS..... **82**

REGULATION (EU) 2015/760 of 29 April 2015

on European long-term investment funds

as amended by Regulation (EU) 2023/606 of 15 March 2023 as regards the requirements pertaining to the investment policies and operating conditions of European long-term investment funds and the scope of eligible investment assets, the portfolio composition and diversification requirements and the borrowing of cash and other fund rules

(Text with EEA relevance)

Recitals

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee⁽¹⁾,

Having regard to the opinion of the Committee of the Regions⁽²⁾,

Acting in accordance with the ordinary legislative procedure⁽³⁾,

Whereas:

- (1) Long-term finance is a crucial enabling tool for putting the European economy on a path of smart, sustainable and inclusive growth, in accordance with the Europe 2020 strategy, high employment, and competitiveness for building tomorrow's economy in a way that is less prone to systemic risks and is more resilient. European long-term investment funds (ELTIFs) provide finance of lasting duration to various infrastructure projects, unlisted companies, or listed small and medium-sized enterprises (SMEs) that issue equity or debt instruments for which there is no readily identifiable buyer. By providing finance to such projects, ELTIFs contribute to the financing of the Union's real economy and the implementation of its policies.
- (2) On the demand side, ELTIFs can provide a steady income stream for pension administrators, insurance companies, foundations, municipalities and other entities that face regular and recurrent liabilities and are seeking long-term returns within well-regulated structures. While providing less liquidity than investments in transferable securities, ELTIFs can provide a steady income stream for individual investors

¹ OJ C 67, 6.3.2014, p. 71.

² OJ C 126, 26.4.2014, p. 8.

³ Position of the European Parliament of 10 March 2015 (not yet published in the Official Journal) and decision of the Council of 20 April 2015.

that rely on the regular cash flow that an ELTIF can produce. ELTIFs can also offer good opportunities for capital appreciation over time for those investors not receiving a steady income stream.

- (3) Financing for projects such as transport infrastructure, sustainable energy generation or distribution, social infrastructure (housing or hospitals), the roll-out of new technologies and systems that reduce use of resources and energy, or the further growth of SMEs, can be scarce. As the financial crisis has shown, complementing bank financing with a wider variety of financing sources that better mobilise capital markets could help tackle financing gaps. ELTIFs can play a crucial role in this respect, and can also mobilise capital by attracting third- country investors.
- (4) The focus of this Regulation is to boost European long-term investments in the real economy. Long- term investments in projects, undertakings, and infrastructure in third countries can also bring capital to ELTIFs and thereby benefit the European economy. Therefore, such investments should not be prevented.
- (5) In the absence of a regulation setting out rules on ELTIFs, diverging measures might be adopted at national level, which are likely to cause distortions of competition resulting from differences in investment protection measures. Diverging national requirements on portfolio composition, diversification, and eligible assets, in particular investment in commodities, create obstacles to the cross-border marketing of investment funds that focus on unlisted undertakings and real assets because investors cannot easily compare the different investment propositions offered to them. Diverging national requirements also lead to different levels of investor protection. Furthermore, diverging national requirements pertaining to investment techniques, such as the permitted levels of borrowing, use of financial derivative instruments, rules applicable to short selling or to securities financing transactions, lead to discrepancies in the level of investor protection. In addition, diverging national requirements on redemption or holding periods impede the cross-border selling of funds investing in unlisted assets. By increasing legal uncertainty, those divergences can undermine the confidence of investors when considering investments in such funds and reduce the scope for investors to choose effectively between various long-term investment opportunities. Consequently, the appropriate legal basis for this Regulation is Article 114 of the Treaty on the Functioning of the European Union, as interpreted by consistent case law of the Court of Justice of the European Union.
- (6) Uniform rules are necessary to ensure that ELTIFs display a coherent and stable product profile across the Union. More specifically, in order to ensure the smooth functioning of the internal market and a high level of investor protection, it is necessary to establish uniform rules regarding the operation of ELTIFs, in particular on the composition of their portfolio and the investment instruments that they are allowed to use in order to gain exposure to long-term assets, such as equity or debt instruments issued by listed SMEs and by unlisted undertakings, as well as real assets. Uniform rules on the portfolio of an ELTIF are also required to ensure that ELTIFs that aim to generate regular income maintain a diversified portfolio of investment assets suitable for maintaining a regular cash flow. ELTIFs are a first step towards creating an integrated internal market for raising capital that can be channelled towards long-term investments in the European economy. The smooth functioning of the internal market for long-term investments requires the Commission to continue its assessment of potential barriers that might stand in the way of raising long-term capital across borders, including barriers that arise from the fiscal treatment of such investments.
- (7) It is essential to ensure that the rules on the operation of ELTIFs, in particular regarding the composition of their portfolio and the investment instruments that they are allowed to use, be directly applicable to the managers of ELTIFs and, therefore, these new rules need to be adopted as a Regulation. This also ensures uniform conditions for the use of the designation 'ELTIF', by preventing the emergence of diverging national requirements. Managers of ELTIFs should follow the same rules across the Union in order to enhance the confidence of investors in ELTIFs and ensure enduring trustworthiness of the 'ELTIF' designation. At the same time, by adopting uniform rules, the complexity of the regulatory requirements applicable to ELTIFs is reduced. By means of uniform rules, the managers' cost of compliance with diverging national requirements governing funds that invest in listed and unlisted undertakings and comparable categories of real assets is also reduced. This is especially true for managers of ELTIFs that wish to raise capital on a cross-border basis. The adoption of uniform rules also contributes to the elimination of competitive distortions.

- (8) The new rules on ELTIFs are closely linked to Directive 2011/61/EU of the European Parliament and of the Council ⁽⁴⁾, since that Directive forms the legal framework governing the management and marketing of alternative investment funds (AIFs) in the Union. By definition, ELTIFs are EU AIFs that are managed by alternative investment fund managers (AIFMs) authorised in accordance with Directive 2011/61/EU.
- (9) Whereas Directive 2011/61/EU also provides for a staged third-country regime governing non-EU AIFMs and non-EU AIFs, the new rules on ELTIFs have a more limited scope emphasising the European dimension of the new long-term investment product. Accordingly, only an EU AIF as defined in Directive 2011/61/EU should be eligible to become an ELTIF and only if it is managed by an EU AIFM that has been authorised in accordance with Directive 2011/61/EU.
- (10) The new rules applicable to ELTIFs should build on the existing regulatory framework established by Directive 2011/61/EU and the acts adopted for its implementation. Therefore, the product rules concerning ELTIFs should apply in addition to the rules laid down in existing Union law. In particular, the management and marketing rules laid down in Directive 2011/61/EU should apply to ELTIFs. Equally, the rules on the cross-border provision of services and freedom of establishment laid down in Directive 2011/61/EU should apply correspondingly to the cross-border activities of ELTIFs. These should be supplemented by specific marketing rules designed for the cross-border marketing of ELTIFs to both retail and professional investors across the Union.
- (11) Uniform rules should apply to all EU AIFs that wish to market themselves as ELTIFs. EU AIFs that do not wish to market themselves as ELTIFs should not be bound by these rules, thereby also accepting that they do not benefit from the advantages that ensue. Undertakings for collective investment in transferable securities (UCITS) and non-EU AIFs should not be eligible for marketing as ELTIFs.
- (12) In order to ensure the compliance of ELTIFs with the harmonised rules governing the activity of these funds, it is necessary to require competent authorities to authorise ELTIFs. The harmonised authorisation and supervision procedures for AIFMs under Directive 2011/61/EU should therefore be supplemented with a special authorisation procedure for ELTIFs. Procedures should be put in place to ensure that only EU AIFMs authorised in accordance with Directive 2011/61/EU and capable of managing an ELTIF may manage ELTIFs. All appropriate steps should be taken to ensure that an ELTIF will be able to comply with the harmonised rules governing the activity of these funds. A specific authorisation procedure should apply where the ELTIF is internally managed and no external AIFM is appointed.
- (13) Given that EU AIFs may take different legal forms that do not necessarily endow them with legal personality, the provisions requiring ELTIFs to take action should be understood to refer to the manager of the ELTIF in cases where the ELTIF is constituted as an EU AIF that is not in a position to act by itself because it has no legal personality of its own.
- (14) In order to ensure that ELTIFs target long-term investments and contribute to the financing of a sustainable growth of the Union's economy, rules on the portfolio of ELTIFs should require the clear identification of the categories of assets that are eligible for investment by ELTIFs, and of the conditions under which they should be eligible. An ELTIF should invest at least 70 % of its capital in eligible investment assets. In order to ensure the integrity of ELTIFs, it is also desirable to prohibit an ELTIF from engaging in certain financial transactions that might endanger its investment strategy and objectives by giving rise to risks that are different from those that might be expected for a fund targeting long-term investments. In order to ensure a clear focus on long-term investments, as may be useful for retail investors unfamiliar with less conventional investment strategies, an ELTIF should not be allowed to invest in financial derivative instruments other than for the purpose of hedging the risks inherent to its own investments. Given the liquid nature of commodities and the financial derivative instruments that give an indirect exposure to them, investments in commodities do not require a long-term investor commitment and therefore should be excluded from eligible investment assets. That rationale does not apply to investments in infrastructure or companies related to commodities or whose performance is linked indirectly to the performance of commodities, such as farms in the case of agricultural commodities or power plants in the case of energy commodities.

⁴ Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (OJ L 174, 1.7.2011, p. 1).

- (15) The definition of what constitutes a long-term investment is broad. Eligible investment assets are generally illiquid, require commitments for a certain period of time, and have an economic profile of a long-term nature. Eligible investment assets are non-transferable securities and therefore do not have access to the liquidity of secondary markets. They often require fixed term commitments which restrict their marketability. Nevertheless, as listed SMEs may face problems of liquidity and access to the secondary market, they should also be considered to be qualifying portfolio undertakings. The economic cycle of the investment sought by ELTIFs is essentially of a long-term nature due to the high capital commitments and the length of time required to produce returns.
- (16) An ELTIF should be allowed to invest in assets other than eligible investment assets as may be necessary to manage its cash flow efficiently, but only so long as this is consistent with the ELTIF's long-term investment strategy.
- (17) Eligible investment assets should be understood to include participations, such as equity or quasi-equity instruments, debt instruments in qualifying portfolio undertakings, and loans provided to them. They should also include participations in other funds that are focused on assets, such as investments in unlisted undertakings that issue equity or debt instruments for which there is not always a readily identifiable buyer. Direct holdings of real assets, unless they are securitised, should also form a category of eligible assets, provided that they yield a predictable cash flow, whether regular or irregular, in the sense that they can be modelled and valued based on a discounted cash flow valuation method. Those assets could indicatively include social infrastructure that yields a predictable return, such as energy, transport and communication infrastructure, as well as education, health, welfare support or industrial facilities. Conversely, assets such as works of art, manuscripts, wine stocks or jewellery should not be eligible as they do not normally yield a predictable cash flow.
- (18) Eligible investment assets should include real assets with a value of more than EUR 10 000 000 that generate an economic and social benefit. Such assets include infrastructure, intellectual property, vessels, equipment, machinery, aircraft or rolling stock, and immovable property. Investments in commercial property or housing should be permitted to the extent that they serve the purpose of contributing to smart, sustainable and inclusive growth or to the Union's energy, regional and cohesion policies. Investments in such immovable property should be clearly documented so as to demonstrate the long-term commitment in the property. This Regulation is not seeking to promote speculative investments.
- (19) The scale of infrastructure projects means that they require large amounts of capital to remain invested for long periods of time. Such infrastructure projects include public building infrastructure such as schools, hospitals or prisons, social infrastructure such as social housing, transport infrastructure such as roads, mass transit systems or airports, energy infrastructure such as energy grids, climate adaptation and mitigation projects, power plants or pipelines, water management infrastructure such as water supply systems, sewage or irrigation systems, communication infrastructure such as networks, and waste management infrastructure such as recycling or collection systems.
- (20) Quasi-equity instruments should be understood to comprise a type of financing instrument which is a combination of equity and debt, where the return on the instrument is linked to the profit or loss of the qualifying portfolio undertaking and where the repayment of the instrument in the event of default is not fully secured. Such instruments include a variety of financing instruments such as subordinated loans, silent participations, participating loans, profit participating rights, convertible bonds and bonds with warrants.
- (21) To reflect existing business practices, an ELTIF should be allowed to buy existing shares of a qualifying portfolio undertaking from existing shareholders of that undertaking. In addition, for the purposes of ensuring the widest possible opportunities for fundraising, investments in other ELTIFs, European Venture Capital Funds (EuVECAs), regulated by Regulation (EU) No 345/2013 of the European Parliament and of the Council⁽⁵⁾, and European Social Entrepreneurship Funds (EuSEFs), regulated by Regulation (EU) No 346/2013 of the European Parliament and of the Council⁽⁶⁾, should be permitted. To prevent dilution of

⁵ Regulation (EU) No 345/2013 of the European Parliament and of the Council of 17 April 2013 on European venture capital funds (OJ L 115, 25.4.2013, p. 1).

⁶ Regulation (EU) No 346/2013 of the European Parliament and of the Council of 17 April 2013 on European social entrepreneurship funds (OJ L 115, 25.4.2013, p. 18).

- the investments in qualifying portfolio undertakings, ELTIFs should only be permitted to invest in other ELTIFs, EuVECAs, and EuSEFs provided that they have not themselves invested more than 10 % of their capital in other ELTIFs.
- (22) The use of financial undertakings may be necessary in order to pool and organise the contributions of different investors, including investments of a public nature, in infrastructure projects. ELTIFs should therefore be permitted to invest in eligible investment assets by means of financial undertakings, so long as these undertakings are dedicated to financing long-term projects, as well as the growth of SMEs.
- (23) Unlisted undertakings can face difficulties accessing capital markets and financing further growth and expansion. Private financing through equity stakes or loans are typical ways of raising financing. Because such instruments are by their nature long-term investments, they require patient capital which ELTIFs can provide. Moreover, listed SMEs often face significant obstacles in acquiring long-term financing and ELTIFs may provide valuable alternative sources of funding.
- (24) Categories of long-term assets within the meaning of this Regulation should therefore comprise unlisted undertakings that issue equity or debt instruments for which there might not be a readily identifiable buyer, and listed undertakings with a maximum capitalisation of EUR 500 000 000.
- (25) Where the manager of an ELTIF holds a stake in a portfolio undertaking, there is a risk that the manager puts its own interests ahead of the interests of investors in the ELTIF. To avoid such a conflict of interests, and to ensure sound corporate governance, an ELTIF should only invest in assets that are unrelated to the manager of the ELTIF, unless the ELTIF invests in units or shares of other ELTIFs, EuVECAs, or EuSEFs that are managed by the manager of the ELTIF.
- (26) In order to allow managers of ELTIFs a certain degree of flexibility in the investment of their funds, trading in assets other than long-term investments should be permitted up to a maximum threshold of 30 % of the capital of the ELTIF.
- (27) In order to limit risk-taking by ELTIFs, it is essential to reduce counterparty risk by subjecting the portfolio of ELTIFs to clear diversification requirements. All over-the-counter (OTC) derivatives should be subject to Regulation (EU) No 648/2012 of the European Parliament and of the Council ⁽⁷⁾.
- (28) In order to prevent the exercise of significant influence by an investing ELTIF over the management of another ELTIF or of an issuing body, it is necessary to avoid excessive concentration by an ELTIF in the same investment.
- (29) In order to allow managers of ELTIFs to raise further capital during the life of the fund, they should be permitted to borrow cash amounting to up to 30 % of the value of the capital of the ELTIF. That should serve to provide additional return to the investors. In order to eliminate the risk of currency mismatches, the ELTIF should borrow only in the currency in which the manager of the ELTIF expects to acquire the asset. In order to address concerns related to shadow banking activities, the cash borrowed by the ELTIF should not be used for granting loans to qualifying portfolio undertakings.
- (30) Due to the long-term and illiquid nature of the investments of an ELTIF, the manager of the ELTIF should have sufficient time to apply the investment limits. The time required to implement these limits should take account of the particular features and characteristics of the investments but should not exceed five years after the date of the authorisation as an ELTIF or half the life of the ELTIF, whichever is the earlier.
- (31) ELTIFs, on account of their portfolio profile and their focus on categories of long-term assets, are designed to channel private savings toward the European economy. ELTIFs are also conceived as an investment vehicle through which the European Investment Bank (the EIB) Group can channel its European infrastructure or SME financing. By virtue of this Regulation, ELTIFs are structured as a pooled investment vehicle that responds to the EIB Group's focus on contributing to a balanced and steady development of an internal market for long-term investments in the interest of the Union. Given their focus on categories

⁷ Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201, 27.7.2012, p. 1).

- of long-term assets, ELTIFs can fulfil their designated role as a priority tool to accomplish the Investment Plan for Europe set out in the Commission communication of 26 November 2014.
- (32) The Commission should prioritise and streamline its processes for all applications by ELTIFs for financing from the EIB. The Commission should therefore streamline the delivery of any opinions or contributions on any applications by ELTIFs for financing from the EIB.
- (33) Moreover, Member States, as well as regional and local authorities, may have an interest in making potential investors and the public aware of ELTIFs.
- (34) Notwithstanding the fact that an ELTIF is not required to offer redemption rights before the end of its life, nothing should prevent an ELTIF from seeking admission of its units or shares to a regulated market or to a multilateral trading facility, thus providing investors with an opportunity to sell their units or shares before the end of the life of the ELTIF. The rules or instruments of incorporation of an ELTIF should not prevent units or shares of the ELTIF being admitted to trading on a regulated market or on a multilateral trading facility, nor should they prevent investors from freely transferring their units or shares to third parties who wish to purchase those units or shares. This is intended to promote secondary markets as an important venue for retail investors for buying and selling units or shares of ELTIFs.
- (35) While individual investors may be interested in investing in an ELTIF, the illiquid nature of most investments in long-term projects precludes an ELTIF from offering regular redemptions to its investors. The commitment of the individual investor to an investment in such assets is, by its nature, made to the full term of the investment. ELTIFs should, consequently, be structured in principle so as not to offer regular redemptions before the end of the life of the ELTIF.
- (36) In order to incentivise investors, in particular retail investors, who might not be willing to lock their capital up for a long period of time, an ELTIF should be able to offer, under certain conditions, early redemption rights to its investors. Therefore, the manager of the ELTIF should be given discretion to decide whether to establish ELTIFs with or without redemption rights, according to the ELTIF's investment strategy. When a redemption rights regime is in place, those rights and their main features should be clearly predefined and disclosed in the rules or instruments of incorporation of the ELTIF.
- (37) In order for investors to redeem effectively their units or shares at the end of the ELTIF's life, the manager of the ELTIF should start to sell the portfolio of assets of the ELTIF in good time to ensure that its value is properly realised. In determining an orderly disinvestment schedule, the manager of the ELTIF should take into account the different maturity profiles of the investments and the length of time necessary to find a buyer for the assets in which the ELTIF is invested. Due to the impracticality of maintaining the investment limits during this liquidation period, they should cease to apply when the liquidation period starts.
- (38) In order to broaden retail investors' access to ELTIFs, a UCITS is able to invest in units or shares issued by an ELTIF to the extent that the ELTIF's units or shares are eligible under Directive 2009/65/EC of the European Parliament and of the Council ⁽⁸⁾.
- (39) It should be possible for an ELTIF to reduce its capital on a pro rata basis in the event that it has divested itself of one of its assets, in particular in the case of an infrastructure investment.
- (40) The unlisted assets in which an ELTIF has invested may obtain a listing on a regulated market during the life of the fund. Where that happens, the assets may no longer comply with the non-listing requirement of this Regulation. In order to allow the manager of the ELTIF to disinvest in an orderly manner from such assets that would no longer be eligible, the assets could continue to count towards the 70 % limit of eligible investment assets for up to three years.
- (41) Given the specific characteristics of ELTIFs, as well as of the retail and professional investors they target, it is important that sound transparency requirements be put in place that are capable of allowing prospective investors to make an informed judgement and be fully aware of the risks involved. In addition to complying with the transparency requirements contained in Directive 2011/61/EU, ELTIFs should

⁸ Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (OJ L 302, 17.11.2009, p. 32).

publish a prospectus the content of which should include all information required to be disclosed by collective investment undertakings of the closed-end type in accordance with Directive 2003/71/EC of the European Parliament and of the Council ⁽⁹⁾ and Commission Regulation (EC) No 809/2004 ⁽¹⁰⁾. When marketing an ELTIF to retail investors, it should be mandatory to publish a key information document in accordance with Regulation (EU) No 1286/2014 of the European Parliament and of the Council ⁽¹¹⁾. Furthermore, any marketing documents should explicitly draw attention to the risk profile of the ELTIF.

- (42) ELTIFs may be attractive to investors, such as municipalities, churches, charities and foundations, which should be able to request to be treated as professional clients in circumstances where they meet the conditions of Section II of Annex II of Directive 2014/65/EU of the European Parliament and of the Council ⁽¹²⁾.
- (43) As ELTIFs target not only professional but also retail investors across the Union, it is necessary that certain additional requirements be added to the marketing requirements already laid down in Directive 2011/61/EU, in order to ensure an appropriate degree of retail investor protection. Accordingly, facilities should be made available for making subscriptions, making payments to unit- or shareholders, repurchasing or redeeming units or shares, and making available the information which the ELTIF and the manager of the ELTIF are required to provide. Moreover, in order to ensure that retail investors are not at a disadvantage relative to professional investors, certain safeguards should be put in place when ELTIFs are marketed to retail investors. In the event that the marketing or placing of ELTIFs to retail investors is done through a distributor, such distributor should comply with the relevant requirements of Directive 2014/65/EU and Regulation (EU) No 600/2014 of the European Parliament and of the Council ⁽¹³⁾.
- (44) The manager of the ELTIF or the distributor should obtain all necessary information regarding the retail investor's knowledge and experience, financial situation, risk appetite, investment objectives and time horizon in order to assess whether the ELTIF is suitable for marketing to that retail investor, taking into account, inter alia, the life and the intended investment strategy of the ELTIF. In addition, where the life of an ELTIF that is offered or placed to retail investors exceeds 10 years, the manager of the ELTIF or the distributor should indicate clearly and in written form that this product may not be suitable for those retail investors unable to sustain such a long-term and illiquid commitment.
- (45) When an ELTIF is marketed to retail investors, the depositary of the ELTIF should comply with the provisions of Directive 2009/65/EC as regards the eligible entities that are permitted to act as depositaries, the 'no discharge of liability' rule, and the reuse of assets.
- (46) With a view to strengthening the protection of retail investors, this Regulation in addition provides that for retail investors whose portfolio, composed of cash deposits and financial instruments excluding any financial instruments that have been given as collateral, does not exceed EUR 500 000, the manager of the ELTIF or any distributor, after having performed a suitability test and having provided appropriate investment advice, should ensure that the retail investor does not invest an aggregate amount exceeding 10 % of the investor's portfolio in ELTIFs and the initial amount invested in one or more ELTIFs is not less than EUR 10 000.
- (47) Under exceptional circumstances specified in the rules or instruments of incorporation of an ELTIF, the life of the ELTIF could be extended or reduced to allow for more flexibility where, for instance, a project is completed later or earlier than expected, in order to bring it into line with its long-term investment strategy.

⁹ Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003 on the prospectus to be published when securities are offered to the public or admitted to trading and amending Directive 2001/34/EC (OJ L 345, 31.12.2003, p. 64).

¹⁰ Commission Regulation (EC) No 809/2004 of 29 April 2004 implementing Directive 2003/71/EC of the European Parliament and of the Council as regards information contained in prospectuses as well as the format, incorporation by reference and publication of such prospectuses and dissemination of advertisements (OJ L 149, 30.4.2004, p. 1).

¹¹ Regulation (EU) No 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products (PRIIPs) (OJ L 352, 9.12.2014, p. 1).

¹² Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349).

¹³ Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (OJ L 173, 12.6.2014, p. 84).

- (48) The competent authority of the ELTIF should verify on an on-going basis whether an ELTIF complies with this Regulation. As the competent authorities are already provided with extensive powers under Directive 2011/61/EU, it is necessary to extend those powers having regard to this Regulation.
- (49) The European Supervisory Authority (European Securities and Markets Authority) (ESMA), established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council ⁽¹⁴⁾, should be able to exercise all the powers conferred on it under Directive 2011/61/EU with respect to this Regulation and should be provided with all resources necessary for that purpose, in particular human resources.
- (50) ESMA should play a central role in the application of the rules concerning ELTIFs, by ensuring consistent application of Union rules by national competent authorities. As a body with highly specialised expertise regarding securities and securities markets, it is efficient and appropriate to entrust ESMA with the drawing up of draft regulatory technical standards which do not involve policy choices for submission to the Commission. These regulatory technical standards should concern the circumstances in which the use of financial derivative instruments solely serves the purpose of hedging the risks inherent to the investments, the circumstances in which the life of an ELTIF will be sufficient in length to cover the life-cycle of each of the individual assets of the ELTIF, the features of the schedule for the orderly disposal of ELTIF assets, the definitions of, and calculation methodologies for costs borne by investors, presentation of cost disclosures, and the characteristics of the facilities to be set up by ELTIFs in each Member State where they intend to market units or shares.
- (51) Directive 95/46/EC of the European Parliament and of the Council ⁽¹⁵⁾ and Regulation (EC) No 45/2001 of the European Parliament and of the Council ⁽¹⁶⁾ should be fully applicable to the exchange, transmission and processing of personal data for the purposes of this Regulation.
- (52) Since the objectives of this Regulation, namely to ensure uniform requirements on the investments and operating conditions for ELTIFs throughout the Union, while taking full account of the need to balance safety and reliability of ELTIFs with the efficient operation of the market for long-term financing and the cost for its various stakeholders, cannot be sufficiently achieved by the Member States but can rather, by reason of their scale and effects, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.
- (53) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union and notably consumer protection, the freedom to conduct a business, the right to remedy and to a fair trial, and the protection of personal data as well as access to services of general economic interest. This Regulation has to be applied in accordance with those rights and principles,

- ***Recitals 1, 2, 3, 51 and 52 of the Amending ELTIF Regulation (Appendix I)***

¹⁴ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

¹⁵ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).

¹⁶ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and of the free movement of such data (OJ L 8, 12.1.2001, p. 1).

HAVE ADOPTED THIS REGULATION:**CHAPTER I
GENERAL PROVISIONS****Article 1****Subject matter and objective**

1. This Regulation lays down uniform rules on the authorisation, investment policies and operating conditions of EU alternative investment funds (EU AIFs) or compartments of EU AIFs that are marketed in the Union as European long-term investment funds (ELTIFs).
2. The objective of this Regulation is to facilitate the raising and channelling of capital towards long-term investments in the real economy, including towards investments that promote the European Green Deal and other priority areas, in line with the Union objective of smart, sustainable and inclusive growth.

- ***Recitals 4 and 5 of the Amending ELTIF Regulation (Appendix I)***
3. Member States shall not add any further requirements in the field covered by this Regulation.

Article 2

Definitions

For the purposes of this Regulation, the following definitions apply:

- (1) 'capital' means aggregate capital contributions and uncalled committed capital, calculated on the basis of amounts investible after deduction of all fees, charges and expenses that are directly or indirectly borne by investors;
- (2) 'professional investor' means an investor which is considered to be a professional client, or may, on request, be treated as a professional client in accordance with Annex II to Directive 2014/65/EU;
- (3) 'retail investor' means an investor who is not a professional investor;
- (4) 'equity' means ownership interest in a qualifying portfolio undertaking, represented by the shares or other forms of participation in the capital of the qualifying portfolio undertaking issued to its investors;
- (5) 'quasi-equity' means any type of financing instrument where the return on the instrument is linked to the profit or loss of the qualifying portfolio undertaking and where the repayment of the instrument in the event of default is not fully secured;
- (6) 'real asset' means an asset that has an intrinsic value due to its substance and properties;
- (7) 'financial undertaking' means any of the following:
 - (a) a credit institution as defined in point (1) of Article 4(1) of Regulation (EU) No 575/2013 of the European Parliament and of the Council ⁽¹⁷⁾;
 - (b) an investment firm as defined in point (1) of Article 4(1) of Directive 2014/65/EU;
 - (c) an insurance undertaking as defined in point (1) of Article 13 of Directive 2009/138/EC of the European Parliament and of the Council ⁽¹⁸⁾;
 - (ca) a reinsurance undertaking as defined in Article 13, point (4), of Directive 2009/138/EC;
 - (d) a financial holding company as defined in point (20) of Article 4(1) of Regulation (EU) No 575/2013;
 - (e) a mixed-activity holding company as defined in point (22) of Article 4(1) of Regulation (EU) No 575/2013;
 - (f) a management company as defined in point (b) of Article 2(1) of Directive 2009/65/EC;
 - (g) an AIFM as defined in point (b) of Article 4(1) of Directive 2011/61/EU.
- (8) 'EU AIF' means EU AIF as defined in point (k) of Article 4(1) of Directive 2011/61/EU;
- (9) 'EU AIFM' means EU AIFM as defined in point (l) of Article 4(1) of Directive 2011/61/EU;
- (10) 'competent authority of the ELTIF' means the competent authority of the EU AIF within the meaning of point (h) of Article 4(1) of Directive 2011/61/EU;

¹⁷ Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).

¹⁸ Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ L 335, 17.12.2009, p. 1).

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- (11) 'home Member State of the ELTIF' means the Member State where the ELTIF is authorised;
- (12) 'manager of the ELTIF' means the authorised EU AIFM approved to manage an ELTIF, or the internally managed ELTIF where the legal form of the ELTIF permits internal management and where no external AIFM has been appointed;
- (13) 'competent authority of the manager of the ELTIF' means the competent authority of the home Member State of the AIFM within the meaning of point (q) of Article 4(1) of Directive 2011/61/EU;
- (14) 'securities lending' and 'securities borrowing' mean any transaction in which a counterparty transfers securities subject to a commitment that the borrower will return equivalent securities at some future date or when requested to do so by the transferor, that transaction being considered as securities lending for the counterparty transferring the securities and being considered as securities borrowing for the counterparty to which they are transferred;
- (14a) 'simple, transparent and standardised securitisation' means a securitisation that complies with the conditions set out in Article 18 of Regulation (EU) 2017/2402 of the European Parliament and of the Council¹⁹;
- (14b) 'group' means a group as defined in Article 2, point (11), of Directive 2013/34/EU of the European Parliament and of the Council²⁰;
- (15) 'repurchase transaction' means a repurchase transaction as defined in point (83) of Article 4(1) of Regulation (EU) No 575/2013;
- (16) 'financial instrument' means a financial instrument as specified in Section C of Annex I to Directive 2014/65/EU;
- (17) 'short selling' means an activity as defined in point (b) of Article 2(1) of Regulation (EU) No 236/2012 of the European Parliament and of the Council⁽²¹⁾;
- (18) 'regulated market' means a regulated market as defined in point (21) of Article 4(1) of Directive 2014/65/EU;
- (19) 'multilateral trading facility' means a multilateral trading facility as defined in point (22) of Article 4(1) of Directive 2014/65/EU.
- (20) 'feeder ELTIF' means an ELTIF, or an investment compartment thereof, which has been approved to invest at least 85 % of its assets in units or shares of another ELTIF or investment compartment of an ELTIF;
- (21) 'master ELTIF' means an ELTIF, or an investment compartment thereof, in which another ELTIF invests at least 85 % of its assets in units or shares.

¹⁹ Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation, and amending Directives 2009/65/EC, 2009/138/EC and 2011/61/EU and Regulations (EC) No 1060/2009 and (EU) No 648/2012 (OJ L 347, 28.12.2017, p. 35).

²⁰ Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p.19).

²¹ Regulation (EU) No 236/2012 of the European Parliament and of the Council of 14 March 2012 on short selling and certain aspects of credit default swaps (OJ L 86, 24.3.2012, p. 1).

Article 3

Authorisation and central public register

1. An ELTIF may only be marketed in the Union when it has been authorised in accordance with this Regulation. Authorisation as an ELTIF shall be valid for all Member States.
2. Only EU AIFs shall be eligible to apply for and to be granted authorisation as an ELTIF.
3. The competent authorities of the ELTIFs shall, on a quarterly basis, inform ESMA of authorisations granted, or withdrawn pursuant to this Regulation and of any changes to the information about an ELTIF that is set out in the central public register referred to in the second subparagraph.

ESMA shall keep an up-to-date central public register identifying for each ELTIF authorised under this Regulation:

- (a) the Legal Entity Identifier (LEI) and national code identifier of the ELTIF, where available;
- (b) the name and address of the manager of the ELTIF and, where available, the LEI of that manager;
- (c) the ISIN codes of the ELTIF and each separate unit or share class, where available;
- (d) the LEI of the master ELTIF, where available;
- (e) the LEI of the feeder ELTIF, where available;
- (f) the competent authority of the ELTIF and the home Member State of the ELTIF;
- (g) the Member States where the ELTIF is marketed;
- (h) whether the ELTIF can be marketed to retail investors or can be marketed solely to professional investors;
- (i) the date of the authorisation of the ELTIF;
- (j) the date on which the marketing of the ELTIF commenced;
- (k) the date of the last update by ESMA of the information about the ELTIF.

The central public register shall be made available in electronic format.

- ***Recital 11 of the Amending ELTIF Regulation (Appendix I)***

Article 4

Designation and prohibition on transformation

1. The designation 'ELTIF' or 'European long-term investment fund' in relation to a collective investment undertaking, or the units or shares it issues, may only be used where the collective investment undertaking has been authorised in accordance with this Regulation.
2. ELTIFs shall be prohibited from transforming themselves into collective investment undertakings that are not covered by this Regulation.

Article 5

Application for authorisation as an ELTIF

1. An application for authorisation as an ELTIF shall be made to the competent authority of the ELTIF.

The application for authorisation as an ELTIF shall include all of the following:

- (a) the fund rules or instruments of incorporation;
- (b) the name of the proposed manager of the ELTIF;
- (c) the name of the depositary and, where requested by the competent authority of an ELTIF that can be marketed to retail investors, the written agreement with the depositary;
- (d) where the ELTIF can be marketed to retail investors, a description of the information to be made available to investors, including a description of the arrangements for dealing with complaints submitted by retail investors;
- (e) where applicable, the following information on the master-feeder structure of the ELTIF:
 - (i) a declaration that the feeder ELTIF is a feeder of the master ELTIF;
 - (ii) the fund rules or instruments of incorporation of the master ELTIF and the agreement between the feeder ELTIF and the master ELTIF, or the internal rules on the conduct of business, referred to in Article 29(6);
 - (iii) where the master ELTIF and the feeder ELTIF have different depositaries, the information-sharing agreement referred to in Article 29(7);
 - (iv) where the feeder ELTIF is established in a Member State other than the home Member State of the master ELTIF, an attestation by the competent authority of the home Member State of the master ELTIF that the master ELTIF is an ELTIF provided by the feeder ELTIF.

The competent authority of the ELTIF may request clarification and information as regards the documentation and information provided under the second subparagraph.

2. Only an EU AIFM authorised under Directive 2011/61/EU may apply to the competent authority of the ELTIF for approval to manage an ELTIF for which authorisation is requested in accordance with paragraph 1. In the event that the competent authority of the ELTIF is the same as the competent authority of the EU AIFM, such an application for approval shall refer to the documentation submitted for authorisation under Directive 2011/61/EU.

Without prejudice to paragraph 1, an EU AIFM that applies to manage an ELTIF established in another Member State shall provide the competent authority of the ELTIF with the following documentation:

- (a) the written agreement with the depositary;
- (b) information on delegation arrangements regarding portfolio and risk management and administration with regard to the ELTIF;
- (c) information about the investment strategies, the risk profile and other characteristics of AIFs that the EU AIFM is authorised to manage.

The competent authority of the ELTIF may ask the competent authority of the EU AIFM for clarification and information as regards the documentation referred to in the second subparagraph or an attestation as to

whether ELTIFs fall within the scope of the EU AIFM's authorisation to manage AIFs. The competent authority of the EU AIFM shall provide an answer within 10 working days from the date on which it received the request submitted by the competent authority of the ELTIF.

3. Applicants shall be informed within two months from the date of submission of a complete application whether authorisation as an ELTIF has been granted.

4. Any subsequent modifications to the documentation referred to in paragraphs 1 and 2 shall be immediately notified to the competent authority of the ELTIF.

5. By way of derogation from paragraphs 1 and 2, an EU AIF the legal form of which permits internal management and the governing body of which chooses not to appoint an external AIFM shall apply simultaneously for authorisation as an ELTIF under this Regulation and as an AIFM under Directive 2011/61/EU.

Without prejudice to Article 7 of Directive 2011/61/EU, the application for authorisation as an internally managed ELTIF shall include the following:

- (a) the fund rules or instruments of incorporation;
- (b) where the ELTIF can be marketed to retail investors, a description of the information to be made available to retail investors, including a description of the arrangements for dealing with complaints submitted by retail investors.

By way of derogation from paragraph 3, an internally managed EU AIF shall be informed within three months from the date of submission of a complete application whether authorisation as an ELTIF has been granted.

Article 6

Conditions for granting authorisation as an ELTIF

1. An EU AIF shall be authorised as an ELTIF only where its competent authority:
 - (a) is satisfied that the EU AIF is able to meet all the requirements of this Regulation;
 - (b) has approved the application of an EU AIFM authorised in accordance with Directive 2011/61/EU to manage the ELTIF, the fund rules or instruments of incorporation, and the choice of the depositary.
 2. In the event that an EU AIF makes an application pursuant to Article 5(5) of this Regulation, the competent authority shall authorise the EU AIF only where it is satisfied that the EU AIF complies with both the requirements of this Regulation and of Directive 2011/61/EU regarding the authorisation of an EU AIFM.
 3. The competent authority of the ELTIF may refuse to approve the application of an EU AIFM to manage an ELTIF only where the EU AIFM:
 - (a) does not comply with this Regulation;
 - (b) does not comply with Directive 2011/61/EU;
 - (c) is not authorised by its competent authority to manage AIFs that follow investment strategies of the type covered by this Regulation; or
 - (d) has not provided the documentation referred to in Article 5(2), or any clarification or information requested thereunder.
- Before refusing to approve an application, the competent authority of the ELTIF shall consult the competent authority of the EU AIFM.
4. The competent authority of the ELTIF shall not grant authorisation as an ELTIF to the EU AIF that has made an application for authorisation if it is legally prevented from marketing its units or shares in its home Member State.
 5. The competent authority of the ELTIF shall communicate to the EU AIF the reason for its refusal to grant authorisation as an ELTIF.
 6. An application which has been rejected under this Chapter shall not be resubmitted to the competent authorities of other Member States.
 7. Authorisation as an ELTIF shall not be subject to a requirement that the ELTIF be managed by an EU AIFM authorised in the home Member State of the ELTIF or that the EU AIFM pursue or delegate any activities in the home Member State of the ELTIF.

Article 7

Applicable rules and liability

1. An ELTIF shall comply at all times with the provisions of this Regulation.
2. An ELTIF and the manager of the ELTIF shall comply at all times with Directive 2011/61/EU.
3. The manager of the ELTIF shall be responsible for ensuring compliance with this Regulation and shall also be liable in accordance with Directive 2011/61/EU for any infringements of this Regulation. The manager of the ELTIF shall also be liable for losses or damages resulting from non-compliance with this Regulation.

CHAPTER II
OBLIGATIONS CONCERNING THE INVESTMENT POLICIES OF ELTIFs

SECTION 1
General rules and eligible assets

Article 8
Investment compartments

Where an ELTIF comprises more than one investment compartment, each compartment shall be regarded as a separate ELTIF for the purposes of this Chapter.

Article 9

Eligible investments

1. In accordance with the objectives referred to in Article 1(2), an ELTIF shall invest only in the following categories of assets and only under the conditions specified in this Regulation:
 - (a) eligible investment assets;
 - (b) assets referred to in Article 50(1) of Directive 2009/65/EC.
2. An ELTIF shall not undertake any of the following activities:
 - (a) short selling of assets;
 - (b) taking direct or indirect exposure to commodities, including via financial derivative instruments, certificates representing them, indices based on them or any other means or instrument that would give an exposure to them;
 - (c) entering into securities lending, securities borrowing, repurchase transactions, or any other agreement which has an equivalent economic effect and poses similar risks, if thereby more than 10 % of the assets of the ELTIF are affected;
 - (d) using financial derivative instruments, except where the use of such instruments solely serves the purpose of hedging the risks inherent to other investments of the ELTIF.

*Article 1 The use of financial derivative instruments for hedging purposes
Draft ELTIF RTS (ESMA Final Report - 19/12/2023)*

The use of financial derivative instruments shall be considered as solely serving the purpose of hedging the risks inherent to other investments of the European long-term investment fund (ELTIF) as referred to in Article 9(2), point (d), of Regulation (EU) 2015/760, where all of the following conditions are fulfilled:

- (a) the use of the financial derivative instruments is economically appropriate for the ELTIF at the ELTIF level and is both cost-effective and consistent with the risk-profile of the ELTIF;*
- (b) the use of the financial derivative instruments aims at a verifiable and objectively measurable reduction of the risks at the ELTIF level, including in stressed market conditions;*
- (c) the underlying of the financial derivative instrument is an asset to which an ELTIF has or would have exposures, and where the exposure to such an asset is not available the underlying of the financial derivative instruments the asset class to which an ELTIF has or would have exposures.*

▪ **Recital 1 of the Draft ELTIF RTS (Appendix II)**

3. In order to ensure the consistent application of this Article, ESMA shall, after conducting a public consultation, develop draft regulatory technical standards specifying criteria for establishing the circumstances in which the use of financial derivative instruments solely serves the purpose of hedging the risks inherent to the investments referred to in point (d) of paragraph 2.

ARTICLE 9

ESMA shall submit those draft regulatory technical standards to the Commission by 9 September 2015.

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

Article 10

Eligible investment assets

1. An asset as referred to in Article 9(1), point (a), shall only be eligible for investment by an ELTIF where it falls into one of the following categories:

- (a) equity or quasi-equity instruments which have been:
 - (i) issued by a qualifying portfolio undertaking as referred to in Article 11 and acquired by the ELTIF from that qualifying portfolio undertaking or from a third party via the secondary market;
 - (ii) issued by a qualifying portfolio undertaking as referred to in Article 11 in exchange for an equity or quasi-equity instrument previously acquired by the ELTIF from that qualifying portfolio undertaking or from a third party via the secondary market;
 - (iii) issued by an undertaking in which a qualifying portfolio undertaking as referred to in Article 11 holds a capital participation in exchange for an equity or quasi-equity instrument acquired by the ELTIF in accordance with point (i) or (ii) of this point (a);

▪ **Recital 12 of the Amending ELTIF Regulation (Appendix I)**

- (b) debt instruments issued by a qualifying portfolio undertaking as referred to in Article 11;
- (c) loans granted by the ELTIF to a qualifying portfolio undertaking as referred to in Article 11 with a maturity that does not exceed the life of the ELTIF;
- (d) units or shares of one or several other ELTIFs, EuVECAs, EuSEFs, UCITS and EU AIFs managed by EU AIFMs provided that those ELTIFs, EuVECAs, EuSEFs, UCITS and EU AIFs invest in eligible investments as referred to in Article 9(1) and (2) and have not themselves invested more than 10 % of their assets in any other collective investment undertaking;

▪ **Recital 13 of the Amending ELTIF Regulation (Appendix I)**

- (e) real assets;

▪ **Recitals 6, 7, 8, 9 and 14 of the Amending ELTIF Regulation (Appendix I)**

- (f) simple, transparent and standardised securitisations where the underlying exposures correspond to one of the following categories:
 - (i) assets listed in Article 1, point (a)(i), (ii) or (iv), of Commission Delegated Regulation 2019/1851²²;
 - (ii) assets listed in Article 1, point (a)(vii) or (viii), of Delegated Regulation 2019/1851, provided that the proceeds from the securitisation bonds are used for financing or refinancing long-term investments.

▪ **Recital 15 of the Amending ELTIF Regulation (Appendix I)**

²² Commission Delegated Regulation (EU) 2019/1851 of 28 May 2019 supplementing Regulation (EU) 2017/2402 of the European Parliament and of the Council with regard to regulatory technical standards on the homogeneity of the underlying exposures in securitisation (OJ L 285, 6.11.2019, p. 1).

- (g) bonds issued, pursuant to a Regulation of the European Parliament and of the Council on European green bonds, by a qualifying portfolio undertaking, as referred to in Article 11.

▪ **Recital 10 of the Amending ELTIF Regulation (Appendix I)**

The limit laid down in point (d) of the first subparagraph shall not apply to feeder ELTIFs.

2. For the purpose of determining compliance with the investment limit laid down in Article 13(1), investments by ELTIFs in units or shares of ELTIFs, EuVECAs, EuSEFs, UCITS and EU AIFs managed by EU AIFMs shall only be taken into account to the extent of the amount of the investments of those collective investment undertakings in the eligible investment assets referred to in paragraph 1, first subparagraph, points (a), (b), (c), (e), (f) and (g) of this Article.

For the purpose of determining compliance with the investment limit and the other limits laid down in Article 13 and Article 16(1), the assets and the cash borrowing position of an ELTIF and of the other collective investment undertakings in which that ELTIF has invested shall be combined.

The determination of compliance with the investment limit and the other limits laid down in Article 13 and Article 16(1) in accordance with this paragraph shall be carried out on the basis of information updated on at least a quarterly basis and, where that information is not available on a quarterly basis, on the basis of the most recent available information.

Article 11

Qualifying portfolio undertaking

1. A qualifying portfolio undertaking shall be an undertaking that fulfils, at the time of the initial investment, the following requirements:

- (a) it is not a financial undertaking, unless:
 - (i) it is a financial undertaking, that is not a financial holding company or a mixed-activity holding company; and
 - (ii) that financial undertaking has been authorised or registered more recently than five years before the date of the initial investment;

▪ **Recital 16 of the Amending ELTIF Regulation (Appendix I)**

- (b) it is an undertaking which:
 - (i) is not admitted to trading on a regulated market or on a multilateral trading facility; or
 - (ii) is admitted to trading on a regulated market or on a multilateral trading facility and has a market capitalisation of no more than EUR 1 500 000 000;

▪ **Recital 17 of the Amending ELTIF Regulation (Appendix I)**

- (c) it is established in a Member State, or in a third country provided that the third country:
 - (i) is not identified as high-risk third country listed in the delegated act adopted pursuant to Article 9(2) of Directive (EU) 2015/849 of the European Parliament and of the Council²³;
 - (ii) is not mentioned in Annex I to the Council conclusions on the revised EU list of non-cooperative jurisdictions for tax purposes.

▪ **Recital 18 of the Amending ELTIF Regulation (Appendix I)**

2. By way of derogation from point (a) of paragraph 1 of this Article, a qualifying portfolio undertaking may be a financial undertaking that exclusively finances qualifying portfolio undertakings referred to in paragraph 1 of this Article or real assets referred to in point (e) of Article 10.

²³ Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73).

Article 12

Conflicts of interest

1. An ELTIF shall not invest in an eligible investment asset in which the manager of the ELTIF has or takes a direct or indirect interest, other than by holding units or shares of the ELTIFs, EuSEFs, EuVECAs, UCITS or EU AIFs that the manager of the ELTIF manages.
2. An EU AIFM managing an ELTIF and undertakings that belong to the same group as that EU AIFM, and their staff, may co-invest in that ELTIF and co-invest with the ELTIF in the same asset provided that the manager of the ELTIF has put in place organisational and administrative arrangements designed to identify, prevent, manage and monitor conflicts of interest and provided that such conflicts of interest are adequately disclosed.

- *Recitals 12, 19 and 20 of the Amending ELTIF Regulation (Appendix I)*

SECTION 2

Provisions on investment policies

Article 13

Portfolio composition and diversification

1. An ELTIF shall invest at least 55 % of its capital in eligible investment assets.

▪ **Recital 22 of the Amending ELTIF Regulation (Appendix I)**

2. An ELTIF shall invest no more than:
 - (a) 20 % of its capital in instruments issued by, or loans granted to, any single qualifying portfolio undertaking;
 - (b) 20 % of its capital in a single real asset;
 - (c) 20 % of its capital in units or shares of any single ELTIF, EuVECA, EuSEF, UCITS or EU AIF managed by an EU AIFM;
 - (d) 10 % of its capital in assets referred to in Article 9(1), point (b), where those assets have been issued by any single body.

▪ **Recital 23 of the Amending ELTIF Regulation (Appendix I)**

3. The aggregate value of simple, transparent and standardised securitisations in an ELTIF portfolio shall not exceed 20 % of the value of the capital of the ELTIF.
4. The aggregate risk exposure to a counterparty of the ELTIF stemming from over-the-counter (OTC) derivative transactions, repurchase agreements, or reverse repurchase agreements shall not exceed 10 % of the value of the capital of the ELTIF.
5. By way of derogation from paragraph 2, point (d), an ELTIF may raise the 10 % limit referred to therein to 25 % where bonds are issued by a credit institution that has its registered office in a Member State and that is subject by law to special public supervision designed to protect bond-holders. In particular, sums deriving from the issue of those bonds shall be invested in accordance with the law in assets which, during the whole period of validity of the bonds, are capable of covering claims attaching to the bonds and which, in the event of failure of the issuer, would be used on a priority basis for the reimbursement of the principal and payment of the accrued interest.
6. Companies which are included in the same group for the purposes of consolidated accounts, as regulated by Directive 2013/34/EU or in accordance with recognised international accounting rules, shall be regarded as a single qualifying portfolio undertaking or a single body for the purpose of calculating the limits referred to in paragraphs 1 to 5 of this Article.
7. The investment limits set out in paragraphs 2 to 4 shall not apply where ELTIFs are marketed solely to professional investors. The investment limit set out in paragraph 2, point (c), shall not apply where an ELTIF is a feeder ELTIF.

▪ **Recitals 21 and 24 of the Amending ELTIF Regulation (Appendix I)**

Article 14

Rectification of investment positions

In the event that an ELTIF infringes the portfolio composition and diversification requirements laid down in Article 13 or the borrowing limits set out in Article 16(1), point (a), and the infringement is beyond the control of the manager of the ELTIF, the manager of the ELTIF shall, within an appropriate period of time, take such measures as are necessary to rectify the position, taking due account of the interests of the investors in the ELTIF.

Article 15

Concentration limits

1. An ELTIF may acquire no more than 30 % of the units or shares of a single ELTIF, EuVECA, EuSEF, UCITS or of an EU AIF managed by an EU AIFM. That limit shall not apply where ELTIFs are marketed solely to professional investors, nor shall it apply to a feeder ELTIF investing in its master ELTIF.

▪ ***Recital 25 of the Amending ELTIF Regulation (Appendix I)***

2. The concentration limits laid down in Article 56(2) of Directive 2009/65/EC shall apply to investments in the assets referred to in Article 9(1), point (b) of this Regulation, except where ELTIFs are marketed solely to professional investors.

Article 16

Borrowing of cash

1. An ELTIF may borrow cash provided that such borrowing fulfils all of the following conditions:
 - (a) it represents no more than 50 % of the net asset value of the ELTIF in case of ELTIFs that can be marketed to retail investors, and no more than 100% of the net asset value of the ELTIF in the case of ELTIFs marketed solely to professional investors;

▪ **Recital 26 of the Amending ELTIF Regulation (Appendix I)**

- (b) it serves the purpose of making investments or providing liquidity, including to pay costs and expenses, provided that the holdings in cash or cash equivalent of the ELTIF are not sufficient to make the investment concerned;
- (c) it is contracted in the same currency as the assets to be acquired with the borrowed cash, or in another currency where currency exposure has been appropriately hedged;

▪ **Recital 27 of the Amending ELTIF Regulation (Appendix I)**

- (d) it has a maturity no longer than the life of the ELTIF.

When borrowing cash, an ELTIF may encumber assets to implement its borrowing strategy.

▪ **Recital 28 of the Amending ELTIF Regulation (Appendix I)**

Borrowing arrangements that are fully covered by investors' capital commitments shall not be considered to constitute borrowing for the purposes of this paragraph.

2. The manager of the ELTIF shall specify in the prospectus of the ELTIF whether the ELTIF intends to borrow cash as part of the ELTIF's investment strategy and, if so, shall also specify therein the borrowing limits.

▪ **Recital 29 of the Amending ELTIF Regulation (Appendix I)**

3. The borrowing limits to be specified in the prospectus as referred to in paragraph 2 shall only apply as from the date specified in the rules or instruments of incorporation of the ELTIF. That date shall be no later than three years after the date on which the marketing of the ELTIF commenced.

4. The borrowing limits referred to in paragraph 1, point (a), shall be temporarily suspended where the ELTIF raises additional capital or reduces its existing capital. Such suspension shall be limited in time to the period that is strictly necessary taking due account of the interests of the investors in the ELTIF and, in any case, shall last no longer than 12 months.

Article 17

Application of portfolio composition and diversification rules

1. The portfolio composition and diversification requirements laid down in Article 13 shall:
 - (a) apply by the date specified in the rules or instruments of incorporation of the ELTIF;
 - (b) cease to apply once the ELTIF starts to sell assets in order to redeem investors' units or shares after the end of the life of the ELTIF;
 - (c) be temporarily suspended where the ELTIF raises additional capital or reduces its existing capital, so long as such a suspension lasts no longer than 12 months.

The date referred to in point (a) of the first subparagraph shall take account of the particular features and characteristics of the assets to be invested by the ELTIF, and shall be no later than either five years after the date of the authorisation as an ELTIF, or half the life of the ELTIF as determined in accordance with Article 18(3), whichever is the earlier. In exceptional circumstances, the competent authority of the ELTIF, upon submission of a duly justified investment plan, may approve an extension of this time limit by no more than one additional year.

2. Where a long-term asset in which an ELTIF has invested is issued by a qualifying portfolio undertaking that no longer complies with point (b) of Article 11(1), the long-term asset may continue to be counted for the purpose of calculating the investment limit referred to in Article 13(1) for a maximum of three years from the date on which the qualifying portfolio undertaking no longer fulfils the requirements of point (b) of Article 11(1).

CHAPTER III

REDEMPTION, TRADING AND ISSUE OF UNITS OR SHARES OF AN ELTIF AND DISTRIBUTION OF PROCEEDS AND CAPITAL

Article 18

Redemption of units or shares of ELTIFs

1. Investors in an ELTIF shall not be able to request the redemption of their units or shares before the end of the life of the ELTIF. Redemptions to investors shall be possible as from the day following the date of the end of the life of the ELTIF.

The rules or instruments of incorporation of the ELTIF shall clearly indicate a specific date for the end of the life of the ELTIF and may provide for the right to extend temporarily the life of the ELTIF and the conditions for exercising such a right.

The rules or instruments of incorporation of the ELTIF and disclosures to investors shall lay down the procedures for the redemption of units or shares and the disposal of assets, and state clearly that redemptions to investors shall be possible as from the day following the date of the end of life of the ELTIF.

2. By way of derogation from paragraph 1 of this Article, the rules or instruments of incorporation of an ELTIF may provide for the possibility of redemptions during the life of the ELTIF provided that all of the following conditions are fulfilled:

- (a) redemptions are not granted before the end of a minimum holding period or before the date specified in Article 17(1), point (a);

*Article 3 Criteria to determine the minimum holding period referred to in Article 18(2), first subparagraph, point (a), of Regulation (EU) 2015/760
Draft ELTIF RTS (ESMA Final Report - 19/12/2023)*

1. A manager of an ELTIF shall, when determining the minimum holding period referred to in Article 18(2), first subparagraph, point (a), of Regulation (EU) 2015/760 consider at least all of the following:

- (a) the long-term nature and investment strategy of the ELTIF;*
- (b) the underlying asset classes of the ELTIF, their liquidity profile and their position in their life cycle;*
- (c) the ELTIF's investment policy and the extent to which the ELTIF takes part in the investment policy and governance of the underlying assets in which the ELTIF invests;*
- (d) the investor base of the ELTIF and, where the ELTIF can be marketed to retail investors, the expected aggregate concentration of retail investors and, where the ELTIF can solely be marketed to professional investors, information on the degree of concentration of the ownership of the professional investors in the ELTIF;*

- (e) *the liquidity profile of the ELTIF;*
- (f) *the valuation of the ELTIF's assets and the time needed to produce a reliable, sound and up-to-date valuation of the investments;*
- (g) *the extent to which the ELTIF lends or borrows cash, grants loans, or enters into securities lending, securities borrowing, repurchase transactions or any other agreement which has an equivalent economic effect and poses similar risks;*
- (h) *the portfolio composition and diversification of the ELTIF;*
- (i) *the average and mean length of life of the assets of the portfolio of the ELTIF;*
- (j) *the duration and the characteristics of the life-cycle of the ELTIF and the ELTIF's redemption policy;*
- (k) *the timeframe for the investment phase of the strategy of the ELTIF;*
- (l) *whether the minimum holding period is consistent and commensurate with the time necessary to complete the investment of the ELTIF's capital contributions, in particular, whether that minimum holding period covers at least the initial investment phase of the ELTIF and, unless duly justified by the manager of the ELTIF, whether the minimum holding period lasts at least until the ELTIF's aggregate capital contributions have been invested.*

2. *The manager of the ELTIF shall be able to demonstrate to the competent authority of the ELTIF, on the basis of the criteria set out in paragraph 1, the appropriateness of the duration of the minimum holding period of the ELTIF and its compatibility with the valuation procedures and the redemption policy of the ELTIF.*

▪ **Recitals 3 and 4 of the Draft ELTIF RTS (Appendix II)**

- (b) at the time of authorisation and throughout the life of the ELTIF, the manager of the ELTIF is able to demonstrate to the competent authority of the ELTIF that the ELTIF has in place an appropriate redemption policy and liquidity management tools that are compatible with the long-term investment strategy of the ELTIF;

*Article 4 Minimum information to be provided by the manager of an ELTIF to the competent authority of the ELTIF under Article 18(2), first subparagraph, point (b), of Regulation (EU) 2015/760
Draft ELTIF RTS (ESMA Final Report - 19/12/2023)*

See also Article 5 of the Draft ELTIF RTS below

1. Where the rules or instruments of incorporation of an ELTIF provide for the possibility of redemptions during the life of the ELTIF, the manager of an ELTIF shall provide the competent authority of the ELTIF, at the time of authorisation of the ELTIF, with all of the following information:

- (a) *the redemption policy of the ELTIF;*
- (b) *information on the periodicity and the duration of the redemptions;*
- (c) *the conditions and procedures for requesting redemptions and for processing the*

redemption requests received;

- (d) the persons or entities responsible for managing the redemption process and the systems used to document the redemptions;*
- (e) a description of how the assets and liabilities of the ELTIF are adequately managed in case of redemptions;*
- (f) a description of the procedures to prevent redemptions causing dilution effects for investors;*
- (g) a description of the valuation procedures of the ELTIF demonstrating that at each valuation date the ELTIF has substantial, reliable, sound and up-to-date data on each of its assets;*
- (h) the results, assumptions and inputs used for liquidity stress tests, where such liquidity stress tests ought to be carried out in accordance with Articles 15(3)(b) or 16(1) of Directive 2011/61/EU, demonstrating whether and how, in severe but plausible scenarios, the ELTIF is able to deal with redemption requests;*
- (i) the liquidity offered to investors of the ELTIF and the liquidity profiles of the assets of the ELTIF under stressed conditions;*
- (j) a description of the available liquidity management tools, the procedures for implementing and calibrating them, and the conditions for their activation;*
- (k) any other information that the competent authority of the ELTIF considers necessary to assess whether the redemption policy of the ELTIF and the liquidity management tools meet the requirements set out in Regulation (EU) 2015/760.*

For the purpose of point (h), the results, assumptions and inputs used for carrying out liquidity stress tests shall include the stress scenarios for the assets and liabilities, including redemption and collateral shocks, and the decrease in the value of the assets.

2. The manager of the ELTIF shall inform the competent authority of the ELTIF, as soon as practically possible and not later than within 3 business days from the date the material change to the information provided in paragraph 1 became known or should have become known to the manager of the ELTIF, whenever there is a material change to that information, or whenever there are material changes to any other elements that may affect the redemption policy, including:

- (a) the results of liquidity stress tests conducted after the authorisation of the ELTIF;*
- (b) the implementation of the liquidity management tools after the authorisation of the ELTIF;*
- (c) the implementation of the derogation referred to in Article 18(2) of Regulation (EU) 2015/760. In such a case, the manager of the ELTIF shall provide to the competent authority of the ELTIF an updated version of the information set out in paragraph 1 within 20 business days.*

3. Throughout the life of the ELTIF, the manager of an ELTIF shall also provide all of the following information, upon request from the competent authority of the ELTIF: (a) updated information on the valuation of assets and on whether and how that valuation is sufficiently substantive, reliable, and in line with the redemption policy of the ELTIF to prevent any possible dilution effects for remaining investors in the ELTIF; (b) updated and detailed information on whether the liquidity

management tools of the ELTIF have been activated and used to manage redemption requests, and if so, in which circumstances and how; (c) the updated results of the liquidity stress tests, as well as the updated assumptions and inputs used for carrying out the liquidity stress tests performed, under normal and exceptional and stressed market conditions.

▪ **Recital 5 of the Draft ELTIF RTS (Appendix II)**

- (c) the redemption policy of the ELTIF clearly indicates the procedures and conditions for redemptions;

*Article 5 Requirements to be fulfilled by the ELTIF in relation to its redemption policy and liquidity management tools, as referred to in Article 18(2), first subparagraph, points (b) and (c), of Regulation (EU) 2015/760
Draft ELTIF RTS (ESMA Final Report - 19/12/2023)*

1. An ELTIF shall make the redemption policy referred to in Article 18(2), first subparagraph, points (b) and (c), of Regulation (EU) 2015/760 available to its investors at all times. The redemption policy of the ELTIF shall contain all of the following elements:

- (a) the conditions under which and the time window within which redemptions can be granted during the life of the ELTIF;*
- (b) the frequency or periodicity at which redemptions can be granted;*
- (c) the procedures that need to be followed, the requirements that need to be fulfilled and timing limitations, if any, applicable to the redemptions, including:*
 - (i) the procedures, notice period and frequency or periodicity of requests for redemptions;*
 - (ii) the role and responsibilities of the entities and persons involved in the procedures and the requirements for the granting of redemptions;*
- (d) a description of the method and internal processes for the valuation of the assets of the ELTIF throughout the life of the ELTIF;*
- (e) whether the requests for redemptions that have not been fully satisfied, due to the application of pro-rata, will automatically be cancelled or whether they will be still valid, for the remaining part, and count for future redemptions;*
- (f) a description of how and within which time investors will be repaid;*
- (g) where the ELTIF rules or instruments of incorporation provide for the possibility of repayments in kind out of ELTIF's assets, as referred to in Article 18(5), of Regulation (EU) 2015/760, the most recently available valuation of those assets at the moment of their delivery to investors as repayments;*
- (h) the minimum holding period established by the ELTIF manager in accordance with Article 3;*
- (i) a description of the available liquidity management tools and of the conditions for their activation. Where ELTIF are marketed to retail investors, the description of the liquidity*

management tools shall be explained in non-technical terms in an effort to maximise retail investors' understanding of the tools;

- (j) the percentage referred to in Article 18(2), first subparagraph, point (d), of Regulation (EU) 2015/760.*

2. When adopting the redemption policy of an ELTIF, the manager of the ELTIF shall take into account all of the following features of the ELTIF, which shall also constitute information to be provided to the competent authority of the ELTIF, as referred to in Article 4(1), to assess the liquidity profile of the ELTIF:

- (a) the composition of the portfolio of the ELTIF, including the assets referred to in Article 9(1), point (b) of Regulation (EU) 2015/76;*
- (b) the life of the ELTIF;*
- (c) the liquidity profile of the ELTIF and methods and the documented process for the valuation of the assets of the ELTIF;*
- (d) the market conditions and material events that may affect the possibility of the manager of the ELTIF to implement the redemption policy;*
- (e) the minimum holding period established by the ELTIF manager pursuant to Article 3 and the criteria used by the manager of the ELTIF to determine that minimum holding period;*
- (f) the available liquidity management tools, of their calibration and of the conditions for their activation;*
- (g) the percentage referred to in Article 18(2), first subparagraph, point (d), of Regulation (EU) 2015/760, together with the criteria used by the manager of the ELTIF to determine that percentage;*
- (h) if and how redemptions occur on a pro rata basis;*
- (i) the liquidity stress tests, where such liquidity stress tests ought to be carried out in accordance with Articles 15(3)(b) and 16(1) of Directive 2011/61/EU, and their results, and of how the interests of investors will be protected.*

3. Throughout the life of the ELTIF, the redemption policy shall be sound, well-documented and consistent with the ELTIF's investment strategy and the liquidity profile of the ELTIF. The different features of the redemption policy, including the redemption frequency, the minimum holding period, the period referred to in Article 17(1), point (a) of Regulation (EU) 2015/760, and the notice period referred to in paragraph 6 shall be consistent with the nature and the level of liquidity of the ELTIF's underlying assets.

The information that a manager of an ELTIF shall provide throughout the life of the ELTIF shall also include the information referred to in paragraph 2 of this Article, which shall take into account the results of the back-testing performed and the new information acquired by the manager of the ELTIF throughout the life of the ELTIF.

4. In accordance with Article 19 of Directive 2011/61/EU, the manager of the ELTIF shall be able to perform a reliable, sound and updated valuation of the assets of the ELTIF at each redemption point

of the units or shares of the ELTIF. To that end, the manager of the ELTIF shall ensure that:

- (a) the frequency of redemptions is consistent with the actual possibility to have a valuation of assets that is reliable, sound and up-to-date;
- (b) when valuating the assets in which the ELTIF invests, all reasonably available data are used including the financial information of the qualifying portfolio undertakings, where available;
- (c) the costs of the asset valuation and the impact of the disposal of assets on the ELTIF are taken into account.

4a. The frequency of redemptions shall be, as a maximum, quarterly, except where the manager of the ELTIF can justify to the competent authority of the ELTIF a higher frequency, on the basis of the individual features of the ELTIF referred to in paragraph 2 of this Article and the actual possibility to have a reliable, sound and updated valuation of the assets of the ELTIF.

5. Redemptions shall only be possible after a notice period is given by each investor. The manager of the ELTIF shall determine the length of that notice period based on the liquidity profile of the underlying assets of the ELTIF, and the time it takes to sell those assets under normal and stressed market conditions. 5a. The notice period shall be a minimum of 12 months.

6. Notwithstanding paragraph 5a of this Article, an ELTIF may allow investors to redeem their shares with a notice period of less than 12 months. In such case, the notice period shall be calibrated based on the minimum liquid assets as referred to in Article 9(1), point (b) of Regulation (EU) 2015/760, and taking into account the maximum percentage referred to in Article 18(2), first subparagraph, point (d), of Regulation (EU) 2015/760, in accordance with the table below:

Redemption Notice period	Minimum percentage of liquid assets	Maximum percentage referred in Article 18(2)(d)
Less than 1 year to 9 months (included)	13%	50%
Less than 9 months to 6 months (included)	27%	45%
Less than 6 months to 3 months (included)	40%	40%
Less than 3 months to 1 month (included)	40%	35%
Less than 1 month	40%	20%

Where the amount of liquid assets of the ELTIF breaches the requirements set out in the first subparagraph, the ELTIF manager shall, within an appropriate period of time, take such measures as are necessary to reconstitute the minimum percentage of the liquid assets, taking due account of the interests of the investors in the ELTIF.

Where the notice period is less than 3 months, the manager of the ELTIF shall provide the competent authority of the ELTIF with a justification why the notice period is less than 3 months and how that notice period is consistent with the requirements laid down in the first subparagraph of this paragraph and the interest of investors of the ELTIF.

7. The manager of the ELTIF shall select and implement at least one anti-dilution liquidity management tool, among anti-dilution levies, swing pricing and redemption fees. In addition to that or those anti-dilution tool(s), the manager of the ELTIF may also select and implement other liquidity management tools.

By way of derogation to the first subparagraph, in specific circumstances, the manager of the ELTIF may select and implement other liquidity management tools than those referred to in the first subparagraph, in which case the manager of the ELTIF shall provide the competent authority of the ELTIF with information to justify why, on the basis of the individual features of the ELTIF set out in paragraph 2, the liquidity management tools referred to in the first subparagraph are not adequate for this specific ELTIF and why another set of liquidity management tools would be more appropriate, and taken due account of the interests of investors.

8. The manager of an ELTIF shall also implement redemption gates in accordance with the table set in paragraph 6, first subparagraph, as well as in certain specific circumstances, including situations where redemptions gates are needed to mitigate any potential risk to financial stability and, in stressed market conditions, where numerous or voluminous redemption requests could be received by the manager of the ELTIF at the same redemption point and where the sale of assets to meet those requests is either impossible or implies a sale at a highly discounted price.

9. The manager of an ELTIF shall implement detailed policies and procedures for the activation and deactivation of any selected liquidity management tool and the operational and administrative arrangements for the use of any selected liquidity management tool. The liquidity management tools that the manager of an ELTIF puts in place as well as their calibration and the conditions under which the manager of the ELTIF would activate those tools shall be clearly described in the rules of the ELTIF or in its instruments of incorporation and in the prospectus of the ELTIF.

10. ELTIFs that can solely be marketed to professional investors may ask the competent authority of the ELTIF to be exempted from providing the competent authority with the information referred to in paragraph 6, third subparagraph, and 7, second subparagraph.

▪ **Recitals 6, 8 and 9 of the Draft ELTIF RTS (Appendix II)**

- (d) the redemption policy of the ELTIF ensures that redemptions are limited to a percentage of the assets of the ELTIF referred to in Article 9(1), point (b);

*Article 6 Criteria to determine the percentage referred to in Article 18(2), first subparagraph, point (d), of Regulation (EU) 2015/760
Draft ELTIF RTS (ESMA Final Report - 19/12/2023)*

1. When determining the percentage referred to in Article 18(2), first subparagraph, point (d), of Regulation (EU) 2015/760, the manager of an ELTIF shall take into account all of the following elements:

- (a) the liquidity profile of the ELTIF, the assets and liabilities of the ELTIF, the risk of liquidity*

mismatches and the expected inflows and outflows of the ELTIF;

- (b) the life cycle of the assets of the ELTIF, the life of the ELTIF, the overall stability of the investment strategy of the ELTIF throughout its life and the potential market events that may affect the ELTIF;*
- (c) the planned and expected frequency of redemptions of the ELTIF and the risks of dilution effects of such redemptions for investors;*
- (d) the availability and nature of existing liquidity management tools;*
- (e) the financial performance of the ELTIF, including the free cash flows and the balance sheet of the ELTIF;*
- (f) potential market circumstances and conditions that would affect the ELTIF when the percentage is set or the extent to which the units or shares of the ELTIF can be redeemed;*
- (g) the availability of reliable information on the valuation of the assets of the ELTIF;*
- (h) the stability and the investment strategy of the ELTIF and its portfolio composition following the potential redemptions throughout the life cycle of the ELTIF to ensure that the interests of the remaining investors are protected;*
- (i) any other information necessary to determine that percentage in stressed market conditions and normal market conditions.*

2. The percentage of allowed redemptions referred to in Article 18(2), point (d), of Regulation (EU) 2015/760 may vary depending on the lifecycle of the assets of the ELTIF and the life of the ELTIF and shall be determined in accordance with the redemption policy, the valuation procedures of the ELTIF and the limits set out in the table in Article 5(6), first subparagraph, of this Regulation.

▪ **Recital 10 of the Draft ELTIF RTS (Appendix II)**

- (e) the redemption policy of the ELTIF ensures that investors are treated fairly and redemptions are granted on a pro rata basis if the requests for redemptions exceed the percentage referred to in point (d) of this subparagraph.

▪ **Recital 7 of the Draft ELTIF RTS (Appendix II)**

The condition of a minimum holding period referred to in point (a) of the first subparagraph shall not apply to feeder ELTIFs investing in their master ELTIFs.

3. The life of an ELTIF shall be consistent with the long-term nature of the ELTIF and shall be compatible with the life-cycles of each of the individual assets of the ELTIF, measured according to the illiquidity profile and economic life-cycle of the asset and the stated investment objective of the ELTIF.

*Article 2 Circumstances in which the life of an ELTIF is to be considered compatible with the lifecycles of each of its individual assets
Draft ELTIF RTS (ESMA Final Report - 19/12/2023)*

When assessing whether the life of an ELTIF is compatible with the life cycles of each of the individual assets of the ELTIF, as referred to in Article 18(3) of Regulation (EU) 2015/760, the manager of an

ELTIF shall consider at least all of the following:

- (a) the liquidity profile of each of the individual assets of the ELTIF and the liquidity profile of the ELTIF's portfolio on a weighted basis;*
- (b) the timing of the acquisition and the disposal of each of the individual assets of the ELTIF, assessed against the background of the economic life cycle of the assets, and the life of the ELTIF;*
- (c) the stated investment objective of the ELTIF; (d) where the rules or instruments of incorporation of an ELTIF stipulate that redemptions are possible during the life of the ELTIF, the redemption policy of the ELTIF;*
- (d) the cash management needs and expected cash-flow and liabilities of the ELTIF;*
- (e) the possibility to roll over or terminate the exposure of the ELTIF to the individual assets of the ELTIF;*
- (f) the availability of a reliable, sound and up-to-date valuation of the assets in the ELTIF's portfolio;*
- (g) the portfolio composition and the life-cycle management of the ELTIF's assets throughout the life of the ELTIF.*

- **Recital 30 of the Amending ELTIF Regulation (Appendix I)**
- **Recital 12 of the Draft ELTIF RTS (Appendix II)**

4. Investors shall always have the option to be repaid in cash.
5. Repayment in kind out of an ELTIF's assets shall be possible only where all of the following conditions are met:
 - (a) the rules or instruments of incorporation of the ELTIF offer that possibility, provided that all investors are treated fairly;
 - (b) the investor asks in writing to be repaid through a share of the assets of the ELTIF;
 - (c) no specific rules restrict the transfer of those assets.
6. ESMA shall develop draft regulatory technical standards specifying the circumstances in which the life of an ELTIF is considered compatible with the life-cycles of each of the individual assets of the ELTIF, as referred to in paragraph 3.

ESMA shall also develop submit those draft regulatory technical standards specifying the following:

- (a) the criteria to determine the minimum holding period referred to in paragraph 2, first subparagraph, point (a);
- (b) the minimum information to be provided to the competent authority of the ELTIF under paragraph 2, first subparagraph, point (b);
- (c) the requirements to be fulfilled by the ELTIF in relation to its redemption policy and liquidity management tools, referred to in paragraph 2, first subparagraph, points (b) and (c); and

- (d) the criteria to assess the percentage referred to in paragraph 2, first subparagraph, point (d), taking into account amongst others the ELTIF's expected cash flows and liabilities.

▪ ***Recital 31 of the Amending ELTIF Regulation (Appendix I)***

ESMA shall submit the draft regulatory technical standards referred to in the first and second subparagraphs to the Commission by 10 January 2024.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first and second subparagraphs in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

Article 19

Secondary market

1. The rules or instruments of incorporation of an ELTIF shall not prevent units or shares of the ELTIF from being admitted to trading on a regulated market or on a multilateral trading facility.
2. The rules or instruments of incorporation of an ELTIF shall not prevent investors from freely transferring their units or shares to third parties other than the manager of the ELTIF, subject to the applicable regulatory requirements and the conditions set out in the prospectus of the ELTIF.
- 2a. The rules or instruments of incorporation of an ELTIF may provide for the possibility, during the life of the ELTIF, of full or partial matching of transfer requests of units or shares of the ELTIF by exiting investors with transfer requests by potential investors, provided that all of the following conditions are fulfilled:
 - (a) the manager of the ELTIF has a policy for matching requests which clearly sets out all of the following:
 - (i) the transfer process for both existing and potential investors;
 - (ii) the role of the manager or the ELTIF or the fund administrator in conducting transfers and in matching requests;
 - (iii) the periods of time during which existing and potential investors are able to request the transfer of units or shares of the ELTIF;
 - (iv) the rules determining the execution price;
 - (v) the rules determining the pro-rata conditions;
 - (vi) the timing and the nature of the disclosure of information with respect to the transfer process;
 - (vii) the fees, costs and charges, if any, related to the transfer process;
 - (b) the policy and procedures for matching the requests of the ELTIF's existing investors with those of potential investors ensure that investors are treated fairly and that, where there is a mismatch between exiting and potential investors, matching is carried out on a pro rata basis;
 - (c) the matching of requests allows the manager of the ELTIF to monitor the liquidity risk of the ELTIF and the matching is compatible with the long-term investment strategy of the ELTIF.

Article 7 Matching of transfer requests as referred to in Article 19(2a) of Regulation (EU) 2015/760

Draft ELTIF RTS (ESMA Final Report - 19/12/2023)

1. The rules and the procedures for the full or partial matching of transfer requests as referred to in Article 19(2a) of Regulation (EU) 2015/760 shall be set out in the rules or instruments of incorporation or in the prospectus of the ELTIF. Those rules and procedures shall contain all of the following:

- (a) the format, process and the timing of the matching;*
- (b) the frequency or periodicity of the matching window and the duration of that window;*

- (c) *the dealing dates;*
- (d) *the requirements for the submission of purchase and for the exit requests deadlines;*
- (e) *the deadlines for the submission of purchase and exit requests;*
- (f) *the settlement and pay-out periods;*
- (g) *the safeguards to avoid any potential arbitrage against investors' interest due to the asymmetry of information inherent to the matching of transfer requests;*
- (h) *where the ELTIF manager imposes a notice period for receiving purchase and exit requests, the details regarding such a notice period.*

Where the rules or instruments of incorporation of an ELTIF also provide for the possibility of redemptions during the life of the ELTIF as referred to in Article 18(2) of Regulation (EU) 2015/760, the rules or instruments of incorporation of the ELTIF shall clearly set out the differences between such redemptions and the matching referred to in Article 19(2a) of that Regulation, in particular as regards the frequency, periods, execution price, and notice period for such matching, and shall contain the specific criteria for the determination of the execution price in case of matching.

2. The rules and procedures for matching requests shall be sound, appropriate for the ELTIF, and calibrated and shall aim at preventing, managing and monitoring conflicts of interest.

Article 8: The determination of the execution price and the pro-ratio conditions where transfers are matched as referred to in Article 19(2a) of Regulation (EU) 2015/760, and the level of the fees, costs and charges, if any, related to the transfer Draft ELTIF RTS (ESMA Final Report - 19/12/2023)

1. The rules or instruments of incorporation of an ELTIF shall set out the rules to determine the execution price related to the matching of transfer requests as referred to in Article 19(2a) of Regulation (EU) 2015/760. Where the net asset value is not reliable or appropriate for the ELTIF, the manager of the ELTIF may determine the execution price using other tools, provided that the fair treatment of all investors, including exiting and remaining investors of the ELTIF, is ensured, in particular where the ELTIF allows for redemptions as referred to in Article 18(2) of Regulation (EU) 2015/760.

For the purpose of the first subparagraph, the rules or instruments of incorporation of an ELTIF shall set out the rules to determine the execution price related to the matching of transfer requests as referred to in Article 19(2a) of Regulation (EU) 2015/760.

2. Where the execution price related to the matching of transfer requests as referred to in Article 19(2a) of Regulation (EU) 2015/760 is based on the net asset value, such matching shall be aligned with the valuation dates of the ELTIF. Where such execution price is not based on the net asset value, such matching shall be implemented outside the valuation dates of the ELTIF.

3. The rules or instruments of incorporation of an ELTIF shall set out the rules determining any exit or purchase fee related to the matching of transfer requests.

4. With respect to pro rata conditions, the rules or instruments of incorporation of the ELTIF shall contain clear rules on how the manager of the ELTIF will deal with any transfer requests to ensure

the fair treatment of investors. To that end, those rules or instruments shall establish all of the following:

- (a) where there are purchasing orders but no sale orders, or vice versa, whether the requests are cancelled or carried over;*
- (b) where exit orders are lower than purchasing orders, that exit orders are carried out and that purchasing orders that are to be satisfied are selected on the basis of the criterion established by the manager of the ELTIF and whether the excess purchasing orders are carried over;*
- (c) where exit orders are higher than purchasing orders, that the manager of the ELTIF executes the exit orders on the basis of the criterion established by the manager of the ELTIF and whether the excess exit orders are carried over and, if so, for how long.*

Except if duly justified by the manager of the ELTIF taking into account the specificities of the ELTIF, the rules determining the pro rata conditions shall be based on the size of each exit order and take into account the available assets of the ELTIF at the time of the proposed transfer.

Article 9: Information that ELTIFs need to disclose to investors when transfers are matched as referred to in Article 19(2a) of Regulation (EU) 2015/760 and the timing of such disclosure

Draft ELTIF RTS (ESMA Final Report - 19/12/2023)

1. When matching transfers as referred to in Article 19(2a) of Regulation (EU) 2015/760, the manager of the ELTIF shall provide to investors all of the following information, as applicable, depending on whether the execution price is based on net asset value or not:

- (a) predefined dealing dates and settlement/pay-out periods;*
- (b) deadlines for the submission of purchase or exit forms;*
- (c) the frequency at which the matching is available;*
- (d) where the execution price is calculated by using methods or tools that are different, and may deviate, from the net asset value and, if so, the specific criteria on the basis of which the execution price is determined and the manner in which investors will be clearly informed thereof;*
- (e) any exit or subscription fees and charges or costs borne by existing or potential investors related to the matching of transfer requests;*
- (f) any notice period for receiving purchase and exit orders;*
- (g) by when, whom and how the new investors will be informed of the fact that they have acquired the units or shares of the ELTIF and when and how the exiting investors will receive the corresponding amount for their units or shares of the ELTIF;*
- (h) the rules on the pro rata conditions;*

Where the rules or instruments of incorporation of an ELTIF also provide for the possibility of redemptions during the life of the ELTIF, as referred to in Article 18(2) of Regulation (EU) 2015/760,

the ELTIF manager shall provide investors with clear information about the differences between such redemptions and the matching referred to in Article 19(2a) of that Regulation, and in particular, as regards the frequency, periods, execution price and notice period for such mechanism.

2. Where the information referred to in paragraph 1 is not in the prospectus of the ELTIF, the prospectus of the ELTIF shall contain a direct link to a webpage, or another place, where that information can be found. The key information document of the ELTIF shall also contain a direct link to the webpage where that information can be found.

3. The manager of the ELTIF shall keep the information referred to in paragraph 1 up-to-date.

- **Recitals 32 and 33 of the Amending ELTIF Regulation (Appendix I)**
- **Recitals 11 and 12 of the Draft ELTIF RTS (Appendix II)**

3. An ELTIF shall publish in its periodical reports the market value of its listed units or shares along with the net asset value per unit or share.

4. In the event that there is a material change in the value of an asset, the manager of the ELTIF shall disclose this to investors in its periodical reports.

5. ESMA shall develop draft regulatory technical standards specifying the circumstances for the use of matching provided for in paragraph 2a, including the information that ELTIFs need to disclose to investors.

ESMA shall submit the draft regulatory technical standards referred to in the first subparagraph to the Commission by 10 January 2024.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

Article 20

Issuance of new units or shares

1. An ELTIF may offer new issues of units or shares in accordance with its rules or instruments of incorporation.
2. An ELTIF shall not issue new units or shares at a price below their net asset value without a prior offering of those units or shares at that price to existing investors in the ELTIF.

Article 21

Disposal of ELTIF assets

1. An ELTIF shall inform the competent authority of the ELTIF of the orderly disposal of its assets in order to redeem investors' units or shares after the end of the life of the ELTIF, at the latest one year before the date of the end of the life of the ELTIF. Upon the request of the competent authority of the ELTIF, the ELTIF shall submit to the competent authority of the ELTIF an itemised schedule for the orderly disposal of its assets.

- **Recital 34 of the Amending ELTIF Regulation (Appendix I)**
- **Recitals 14 and 15 of the Draft ELTIF RTS (Appendix II)**

2. The schedule referred to in paragraph 1 shall include:

- (a) an assessment of the market for potential buyers;

*Article 10 Criteria for the assessment of the market for potential buyers
Draft ELTIF RTS (ESMA Final Report - 19/12/2023)*

1. For the purposes of Article 21(2), point(a), of Regulation (EU) 2015/760, the manager of an ELTIF shall assess all of the following elements in relation to each asset in which the ELTIF invests:

- (a) whether one or more potential buyers are present in the market;*
- (b) whether the manager of the ELTIF, based on an assessment conducted with due skill, care and diligence at the time of the completion of the itemised schedule referred to in Article 21(1) of Regulation (EU) 2015/760, expects potential buyers to be dependent on external financing for buying the asset concerned;*
- (c) where there are no potential buyers for an asset, the length of time likely to be necessary to find one or more buyers for that asset;*
- (d) the specific maturity profile of the asset;*
- (e) whether the manager of the ELTIF, based on an assessment conducted with due skill, care and diligence at the time of the completion of the itemised schedule referred to in Article 21(1) of Regulation (EU) 2015/760, expects the following risks to materialise:*
 - (i) a risk associated with legislative changes that could affect the market for potential buyers;*
 - (ii) a political risk that could affect the market for potential buyers;*
- (f) whether the elements listed under points (a) and (b) may be impacted adversely during the disposal period by overall economic conditions in the market or markets relevant to the asset.*

- (b) an assessment and comparison of potential sales prices;

- (c) a valuation of the assets to be divested;

*Article 11 Criteria for the valuation of the assets to be divested
Draft ELTIF RTS (ESMA Final Report - 19/12/2023)*

1. For the purposes of Article 21(2), point (c), of Regulation (EU) 2015/760, an ELTIF shall start the valuation of the assets to be divested well in advance of the deadline referred to in Article 21(1) of Regulation (EU) 2015/760 and shall be finalised within no more than 6 months of that deadline.

2. An ELTIF may take into account valuations made in accordance with Article 19 of Directive 2011/61/EU where such valuation has been finalised no more than 6 months before the deadline referred to in paragraph 1 of this Article.

(d) a time-frame for the disposal schedule.

3. ESMA shall develop draft regulatory technical standards specifying the criteria to be used for the assessments in point (a) and the valuation in point (c) of paragraph 2.

ESMA shall submit those draft regulatory technical standards to the Commission by 9 September 2015.

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

Article 22

Distribution of proceeds and capital

1. An ELTIF may regularly distribute to investors the proceeds generated by the assets contained in its portfolio. Those proceeds shall comprise:
 - (a) proceeds that the assets are regularly producing;
 - (b) capital appreciation realised after the disposal of an asset.
2. The proceeds shall not be distributed to the extent that they are required for future commitments of the ELTIF.
3. An ELTIF may reduce its capital on a pro rata basis in the event of a disposal of an asset during the life of the ELTIF, provided that such disposal is duly considered by the manager of the ELTIF to be in the investors' interests.
4. The rules or instruments of incorporation of an ELTIF shall specify the distribution policy that the ELTIF will apply during its life.

CHAPTER IV

TRANSPARENCY REQUIREMENTS

Article 23

Transparency

1. The units or shares of an ELTIF shall not be marketed in the Union without prior publication of a prospectus.

The units or shares of an ELTIF shall not be marketed to retail investors in the Union without prior publication of a key information document in accordance with Regulation (EU) No 1286/2014.

2. The prospectus shall include all information necessary to enable investors to make an informed assessment regarding the investment proposed to them and, in particular, the risks attached thereto.

3. The prospectus shall contain at least the following:

- (a) a statement setting out how the ELTIF's investment objectives and strategy for achieving these objectives qualify the fund as long-term in nature;
- (b) information to be disclosed by collective investment undertakings of the closed-end type in accordance with Regulation (EU) 2017/1129 of the European Parliament and of the Council²⁴;
- (c) information to be disclosed to investors pursuant to Article 23 of Directive 2011/61/EU, if it is not already covered under point(b) of this paragraph;
- (d) a prominent indication of the categories of assets in which the ELTIF is authorised to invest;
- (e) a prominent indication of the jurisdictions in which the ELTIF is allowed to invest;
- (f) any other information considered by the competent authorities to be relevant for the purposes of paragraph 2.

3a. The prospectus of a feeder ELTIF shall contain the following information:

- (a) a declaration that the feeder ELTIF is a feeder of a master ELTIF and as such permanently invests 85 % or more of its assets in units or shares of that master ELTIF;
- (b) the investment objective and policy of the feeder ELTIF, including the risk profile and whether the performance of the feeder ELTIF and the master ELTIF are identical, or to what extent and for which reasons they differ;
- (c) a brief description of the master ELTIF, its organisation, its investment objective and policy, including the risk profile, and an indication of how the prospectus of the master ELTIF can be obtained;
- (d) a summary of the agreement entered into between the feeder ELTIF and the master ELTIF or of the internal rules on the conduct of business referred to in Article 29(6);

²⁴ Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC (OJ L 168, 30.6.2017, p. 12).

- (e) how the unit- or shareholders may obtain further information on the master ELTIF and the agreement entered into between the feeder ELTIF and the master ELTIF referred to in Article 29(6);
- (f) a description of all remuneration or reimbursement of costs payable by the feeder ELTIF by virtue of its investment in units or shares of the master ELTIF, as well as of the aggregate charges of the feeder ELTIF and the master ELTIF.

▪ ***Recitals 35, 36 and 37 of the Amending ELTIF Regulation (Appendix I)***

4. The prospectus and any other marketing documents shall prominently inform investors about the illiquid nature of the ELTIF.

In particular, the prospectus and any other marketing documents shall clearly:

- (a) inform investors about the long-term nature of the ELTIF's investments;
- (b) inform investors about the end of the life of the ELTIF as well as the option to extend the life of the ELTIF, where this is provided for, and the conditions thereof;
- (c) state whether the ELTIF is intended to be marketed to retail investors;
- (d) explain the rights of investors to redeem their investment in accordance with Article 18 and with the rules or instruments of incorporation of the ELTIF;
- (e) state the frequency and the timing of distributions of proceeds, if any, to investors during the life of the ELTIF;
- (f) advise investors that only a small proportion of their overall investment portfolio should be invested in an ELTIF;
- (g) describe the hedging policy of the ELTIF, including a prominent indication that financial derivative instruments may be used only for the purpose of hedging risks inherent to other investments of the ELTIF, and an indication of the possible impact of the use of financial derivative instruments on the risk profile of the ELTIF;
- (h) inform investors about the risks related to investing in real assets, including infrastructure;
- (i) inform investors regularly, at least once a year, of the jurisdictions in which the ELTIF has invested.

5. In addition to the information required under Article 22 of Directive 2011/61/EU, the annual report of an ELTIF shall contain the following:

- (a) a cash flow statement;
- (b) information on any participation in instruments involving Union budgetary funds;
- (c) information on the value of the individual qualifying portfolio undertakings and the value of other assets in which the ELTIF has invested, including the value of financial derivative instruments used;
- (d) information on the jurisdictions in which the assets of the ELTIF are located.

Where the ELTIF is marketed to retail investors, the manager of the ELTIF shall include in the annual report of the feeder ELTIF a statement on the aggregate charges of the feeder ELTIF and the master ELTIF. The annual report of the feeder ELTIF shall indicate how the annual report of the master ELTIF can be obtained.

6. Upon the request of a retail investor, the manager of the ELTIF shall provide additional information relating to the quantitative limits that apply to the risk management of the ELTIF, the methods chosen to that end, and the recent evolution of the main risks and yields of the categories of assets.

Article 24

Additional requirements of the prospectus

1. An ELTIF shall send its prospectus and any amendments thereto, as well as its annual report, to the competent authorities of the ELTIF. Upon request, an ELTIF shall provide this documentation to the competent authority of the manager of the ELTIF. This documentation shall be provided by the ELTIF within the time period specified by these competent authorities.

2. The rules or instruments of incorporation of an ELTIF shall form an integral part of the prospectus and shall be annexed thereto.

The documents referred to in the first subparagraph shall not be required to be annexed to the prospectus where the investor is informed that, upon request, the investor shall be sent those documents or be apprised of the place where, in each Member State in which the units or shares are marketed, the investor may consult them.

3. The prospectus shall specify the manner in which the annual report shall be available to investors. It shall provide that a paper copy of the annual report shall be delivered to retail investors upon request and free of charge.

4. The prospectus and the latest published annual report shall be provided to investors upon request and free of charge.

The prospectus may be provided in a durable medium or by means of a website. A paper copy shall be delivered to retail investors upon request and free of charge.

5. The essential elements of the prospectus shall be kept up to date.

Article 25

Cost disclosure

1. The prospectus shall prominently inform investors of the level of the different costs borne directly or indirectly by the investors. The different costs shall be grouped according to the following headings:

(a) costs of setting up the ELTIF;

Article 12 Common definitions, calculation methodologies and presentation formats of costs

Draft ELTIF RTS (ESMA Final Report - 19/12/2023)

1. The costs of setting up the ELTIF as referred to in Article 25(1), point (a), of Regulation (EU) 2015/760 shall comprise all administrative, regulatory, depositary, custodial, professional service and audit costs related to the setting up of the ELTIF irrespective of whether they are paid to the manager of the ELTIF or to a third party.

2. The costs related to the acquisition of assets as referred to in Article 25(1), point (b) of Regulation (EU) 2015/760 shall comprise all administrative, regulatory, depositary, custodial, professional service and audit costs related to the acquisition of the assets of the ELTIF, irrespective of whether those costs are paid to the manager of the ELTIF or to a third party. Those costs shall be calculated in accordance with the methodology set out in points 19(b) and 20 of Annex VI to Commission Delegated Regulation (EU) 2017/653²⁵.

3. The costs laid down in paragraphs 1 and 2 shall be expressed as a percentage of the capital of the ELTIF.

4. The management and performance related fees referred to in Article 25(1), point (c) of Regulation (EU) 2015/760 shall comprise all payments to the manager of the ELTIF, including payments to any person to whom the corresponding function has been delegated, except any fees that are related to the acquisition of the assets referred to in paragraph 2. Those costs shall also include carried interest, as referred to in point 25 of Annex VI to Delegated Regulation 2017/653.

5. The management fees shall be expressed as a percentage of the capital of the ELTIF over a one-year period.

6. The performance related fees and carried interest shall be calculated in accordance with points 24 and 25 of Annex VI to Delegated Regulation (EU) 2017/653 and expressed as a percentage of the capital of the ELTIF over a one-year period.

7. The distribution costs referred to in Article 25(1), point (d), of Regulation (EU) 2015/760 shall comprise all administrative, regulatory, professional service and audit costs related to distribution.

8. The distribution costs referred to in paragraph 7 shall be expressed as a percentage of the capital

²⁵ Commission Delegated Regulation (EU) 2017/653 of 8 March 2017 supplementing Regulation (EU) No 1286/2014 of the European Parliament and of the Council on key information documents for packaged retail and insurance-based investment products (PRIIPs) by laying down regulatory technical standards with regard to the presentation, content, review and revision of key information documents and the conditions for fulfilling the requirement to provide such documents (OJ L 100, 12.4.2017, p. 1, ELI: <http://data.europa.eu/eli/reg/del/2017/653/oj>).

of the ELTIF.

9. Other costs, as referred to in Article 25(1), point (e) of Regulation (EU) 2015/760, shall comprise all of the following:

- (a) payments to the following persons or entities, including any person to whom those persons or entities have delegated any function:
 - (i) the depositary;
 - (ii) the custodian(s);
 - (iii) any investment adviser;
 - (iv) providers of valuation, fund accounting services and fund administration;
 - (v) providers of property management and similar services;
 - (vi) other providers that trigger transaction costs;
 - (vii) prime-brokerage service providers;
 - (viii) providers of collateral management services;
 - (ix) securities lending agents;
 - (x) provisioned fees for specific treatment of gains and losses;
 - (xi) operating costs under a fee-sharing arrangement with a third party;
- (b) all payments to legal and professional advisers;
- (c) audit, registration and regulatory fees. The costs referred to in the first subparagraph shall not include the costs related to the setting up of the ELTIF, the up-front part of the costs related to the acquisition of assets referred to in paragraph 2, the up-front part of the distribution costs referred to in paragraph 7 and the management and performance related fees.

10. The costs referred to in paragraph 9 shall be expressed as a percentage of the capital of the ELTIF over a one-year period.

11. The overall cost ratio of the ELTIF as referred to in Article 25(2) of Regulation (EU) 2015/760 shall be the ratio of the total costs to the capital of the ELTIF and shall be calculated as follows:

- (a) the overall cost ratio of the ELTIF shall be expressed as a percentage to two decimal places;
- (b) the overall cost ratio of the ELTIF shall be calculated at least once a year;
- (c) the overall cost ratio of the ELTIF shall equal the sum of the management and performance related fees as referred to in paragraph 4 and the other costs as referred to in paragraph 9, plus the sum of the costs of setting up the ELTIF as referred to in paragraph 1, the costs related to the acquisition of assets as referred to in paragraph 2 and the distribution costs as referred to in paragraph 7, divided by the recommended holding period of the ELTIF, as referred to in Article 8(3), point (g)(ii), of Regulation (EU) 1286/2014;

(d) where one type of cost is covered by two or more types of costs as referred to in paragraphs 1 to 9 of this Article, that type of cost shall only be accounted for once in the calculation of the overall cost ratio of the ELTIF;

(e) the capital of the ELTIF shall relate to the same period as the costs;

(f) until the capital of the ELTIF has been determined, the capital shall be the minimum target capital below which the ELTIF may not start operations;

(g) the overall cost ratio of the ELTIF shall be based on the most recent cost calculations by the manager of the ELTIF;

(h) the costs shall be assessed on an 'all taxes included' basis.

12. The costs section of the prospectus of the ELTIF shall contain a presentation of costs in the form laid down in the Annex.

13. In the case of ELTIFs subject to the requirements of Regulation (EU) No 1286/2014, the prospectus of the ELTIF shall contain narratives presenting both the PRIIPs overall reduction in yield figure and the ELTIF's overall cost ratio and explanations of any potential differences between those figures.

(b) costs related to the acquisition of assets;

(c) management and performance related fees;

(d) distribution costs;

(e) other costs, including administrative, regulatory, depository, custodial, professional service and audit costs.

2. The prospectus shall disclose an overall cost ratio of the ELTIF.

▪ **Recitals 16 and 17 of the Draft ELTIF RTS (Appendix II)**

3. ESMA shall develop draft regulatory technical standards to specify the common definitions, calculation methodologies and presentation formats of the costs referred to in paragraph 1 and the overall ratio referred to in paragraph 2.

When developing these draft regulatory technical standards, ESMA shall take into account the regulatory technical standards referred to in points (a) and (c) of Article 8(5) of Regulation (EU) No 1286/2014.

ESMA shall submit those draft regulatory technical standards to the Commission by 9 September 2015.

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

CHAPTER V
MARKETING OF UNITS OR SHARES OF ELTIFs

Article 26 [Deleted]

Facilities available to investors

- *Recital 38 of the Amending ELTIF Regulation (Appendix I)*

Article 27

Internal assessment process for ELTIFs that can be marketed to retail investors

1. The manager of an ELTIF, the units or shares of which can be marketed to retail investors, shall be subject to the requirements laid down in Article 16(3), second to fifth and seventh subparagraphs, of Directive 2014/65/EU and in Article 24(2) of that Directive.

- *Recital 39 of the Amending ELTIF Regulation (Appendix I)*

Article 28 [Deleted]

Specific requirements concerning the distribution of ELTIFs to retail investors

- *Recital 40 of the Amending ELTIF Regulation (Appendix I)*

Article 29

Specific provisions concerning the depositary of an ELTIF marketed to retail investors

1. By way of derogation from Article 21(3) of Directive 2011/61/EU, the depositary of an ELTIF marketed to retail investors shall be an entity of the type referred to in Article 23(2) of Directive 2009/65/EC.
2. By way of derogation from the second subparagraph of Article 21(13) and Article 21(14) of Directive 2011/61/EU, the depositary of an ELTIF marketed to retail investors shall not be able to discharge itself of liability in the event of a loss of financial instruments held in custody by a third party.
3. The liability of the depositary referred to in Article 21(12) of Directive 2011/61/EU shall not be excluded or limited by agreement where the ELTIF is marketed to retail investors.
4. Any agreement that contravenes paragraph 3 shall be void.
5. The assets held in custody by the depositary of an ELTIF shall not be reused by the depositary, or by any third party to whom the custody function has been delegated, for their own account. Reuse comprises any transaction involving assets held in custody including, but not limited to, transferring, pledging, selling and lending.

The assets held in custody by the depositary of an ELTIF are only allowed to be reused provided that:

- (a) the reuse of the assets is executed for the account of the ELTIF;
- (b) the depositary is carrying out the instructions of the manager of the ELTIF on behalf of the ELTIF;
- (c) the reuse is for the benefit of the ELTIF and in the interests of the unit- or shareholders; and
- (d) the transaction is covered by high quality and liquid collateral received by the ELTIF under a title transfer arrangement.

The market value of the collateral referred to in point (d) of the second subparagraph shall at all times amount to at least the market value of the reused assets plus a premium.

6. In the case of a master-feeder structure, the master ELTIF shall provide the feeder ELTIF with all documents and information necessary for the latter to meet the requirements of this Regulation. For that purpose, the feeder ELTIF shall enter into an agreement with the master ELTIF.

The agreement referred to in the first subparagraph shall be made available, on request and free of charge, to all unit- or shareholders. In the event that both the master ELTIF and the feeder ELTIF are managed by the same manager of the ELTIF, the agreement may be replaced by internal rules on the conduct of business ensuring compliance with the requirements of this paragraph.

7. Where the master ELTIF and the feeder ELTIF have different depositaries, those depositaries shall enter into an information-sharing agreement in order to ensure the fulfilment of the duties of both depositaries. The feeder ELTIF shall not invest in units or shares of the master ELTIF until such agreement has become effective.

Where they comply with the requirements of this paragraph, neither the depositary of the master ELTIF nor that of the feeder ELTIF shall be found to infringe any rules that restrict the disclosure of information or relate to data protection where such rules are provided for in a contract or in a law, regulation or administrative provision. Such compliance shall not give rise to any liability on the part of such depositary or any person acting on its behalf.

The feeder ELTIF or, where applicable, the manager of the feeder ELTIF, shall be in charge of communicating to the depositary of the feeder ELTIF any information about the master ELTIF that is required for the completion of the duties of the depositary of the feeder ELTIF. The depositary of the master ELTIF shall immediately inform the competent authorities of the home Member State of the master ELTIF, of the feeder ELTIF or, where applicable, of the manager and of the depositary of the feeder ELTIF, of any irregularities it detects with regard to the master ELTIF that are deemed to have a negative impact on the feeder ELTIF.

Article 30

Specific requirements concerning the distribution and marketing of ELTIFs to retail investors

1. The units or shares of an ELTIF may only be marketed to a retail investor where an assessment of suitability has been carried out in accordance with Article 25(2) of Directive 2014/65/EU and a statement on suitability has been provided to that retail investor in accordance with Article 25(6), second and third subparagraphs, of that Directive.

The assessment of suitability referred to in the first subparagraph of this paragraph shall be carried out irrespective of whether the units or shares of the ELTIF are acquired by the retail investor from the distributor or the manager of the ELTIF, or via the secondary market in accordance with Article 19 of this Regulation.

The express consent of the retail investor indicating that the investor understands the risks of investing in an ELTIF shall be obtained where all of the following conditions are met:

- (a) the assessment of suitability is not provided in the context of investment advice;
- (b) the ELTIF is considered not suitable for the retail investor on the basis of the assessment of suitability carried out pursuant to the first subparagraph; and
- (c) the retail investor wishes to proceed with the transaction despite the fact that the ELTIF is considered not suitable for that investor.

The distributor or, when directly offering or placing units or shares of an ELTIF to a retail investor, the manager of the ELTIF shall establish a record as referred to in Article 25(5) of Directive 2014/65/EU.

▪ ***Recitals 41, 42, 43, 44 and 45 of the Amending ELTIF Regulation (Appendix I)***

▪ ***Recital 47 of the Amending ELTIF Regulation (Appendix I)***

2. The distributor or, when directly offering or placing units or shares of an ELTIF to a retail investor, the manager of the ELTIF shall issue a clear written alert informing the retail investor about the following:

- (a) where the life of an ELTIF that is offered or placed to retail investors exceeds 10 years, that the ELTIF product might not be fit for retail investors that are unable to sustain such a long-term and illiquid commitment;
- (b) where the rules or instruments of incorporation of an ELTIF provide for the possibility of the matching of units or shares of the ELTIF as referred to in Article 19(2a), that the availability of such a possibility does not guarantee or entitle the retail investor to exit or redeem its units or shares of the ELTIF concerned.

3. Paragraphs 1 and 2 shall not apply where the retail investor is a member of senior staff, or a portfolio manager, director, officer, or an agent or employee of the manager of the ELTIF, or of an affiliate of the manager of the ELTIF, and has sufficient knowledge about the ELTIF.

▪ ***Recital 46 of the Amending ELTIF Regulation (Appendix I)***

4. A feeder ELTIF shall disclose in its marketing communications that it permanently invests 85 % or more of its assets in units or shares of the master ELTIF.

5. The rules or instruments of incorporation of an ELTIF marketed to retail investors in the relevant class of units or shares shall provide that all investors benefit from equal treatment and that no preferential treatment or specific economic benefit is granted to individual investors or groups of investors within the relevant class or classes.

▪ ***Recital 48 of the Amending ELTIF Regulation (Appendix I)***

6. The legal form of an ELTIF marketed to retail investors shall not lead to any further liability for the retail investor or require any additional commitments on behalf of such an investor, apart from the original capital commitment.

7. Retail investors shall be able, during the subscription period and during a period of two weeks after the signature of the initial commitment or subscription agreement of the units or shares of the ELTIF, to cancel their subscription and have the money returned without penalty.

8. The manager of an ELTIF marketed to retail investors shall establish appropriate procedures and arrangements to deal with retail investor complaints, which shall allow retail investors to file complaints in the official language or one of the official languages of their Member State.

Article 31

Marketing of units or shares of ELTIFs

1. The manager of an ELTIF shall be able to market the units or shares of that ELTIF to professional and retail investors in its home Member State upon notification in accordance with Article 31 of Directive 2011/61/EU.
2. The manager of an ELTIF shall be able to market the units or shares of that ELTIF to professional and retail investors in Member States other than in the home Member State of the manager of the ELTIF upon notification in accordance with Article 32 of Directive 2011/61/EU.
3. The manager of an ELTIF shall, in respect of each ELTIF that it manages, specify to competent authorities whether or not it intends to market the ELTIF to retail investors.
4. In addition to the documentation and information required pursuant to Articles 31 and 32 of Directive 2011/61/EU, the manager of the ELTIF shall provide competent authorities with the following:
 - (a) the prospectus of the ELTIF; and
 - (b) the key information document of the ELTIF in the event that it is marketed to retail investors.
5. The competences and powers of the competent authorities pursuant to Articles 31 and 32 of Directive 2011/61/EU shall be understood to refer also to the marketing of ELTIFs to retail investors and to cover the additional requirements laid down in this Regulation.
6. In addition to its powers set out in the first subparagraph of Article 31(3) of Directive 2011/61/EU, the competent authority of the home Member State of the manager of the ELTIF shall also prevent the marketing of an ELTIF if the manager of the ELTIF does not or will not comply with this Regulation.
7. In addition to its powers set out in the first subparagraph of Article 32(3) of Directive 2011/61/EU, the competent authority of the home Member State of the manager of the ELTIF shall also refuse the transmission of a complete notification file to the competent authorities of the Member State where the ELTIF is intended to be marketed if the manager of the ELTIF does not comply with this Regulation.

- ***Recital 13 of the Draft ELTIF RTS (Appendix II)***

CHAPTER VI

SUPERVISION

Article 32

Supervision by the competent authorities

1. The competent authorities shall supervise compliance with this Regulation on an ongoing basis.
2. The competent authority of the ELTIF shall be responsible for supervising compliance with the rules laid down in Chapters II, III and IV.
3. The competent authority of the ELTIF shall be responsible for supervising compliance with the obligations set out in the rules or instruments of incorporation of the ELTIF, and the obligations set out in the prospectus, which shall comply with this Regulation.
4. The competent authority of the manager of the ELTIF shall be responsible for supervising the adequacy of the arrangements and organisation of the manager of the ELTIF so that the manager of the ELTIF is in a position to comply with the obligations and rules which relate to the constitution and functioning of all the ELTIFs that it manages.

The competent authority of the manager of the ELTIF shall be responsible for supervising compliance of the manager of the ELTIF with this Regulation.

5. Competent authorities shall monitor collective investment undertakings established or marketed in their territories to verify that they do not use the designation 'ELTIF' or suggest that they are an ELTIF unless they are authorised under, and comply with, this Regulation.

Article 33

Powers of competent authorities

1. Competent authorities shall have all supervisory and investigatory powers that are necessary for the exercise of their functions pursuant to this Regulation.
2. The powers conferred on competent authorities in accordance with Directive 2011/61/EU, including those related to penalties, shall also be exercised with respect to this Regulation.
3. The competent authority of the ELTIF shall prohibit the use of the designation 'ELTIF' or 'European long-term investment fund' in the event that the manager of the ELTIF no longer complies with this Regulation.

Article 34

Powers and competences of ESMA

1. ESMA shall have the powers necessary to carry out the tasks attributed to it by this Regulation.
2. ESMA's powers in accordance with Directive 2011/61/EU shall also be exercised with respect to this Regulation and in compliance with Regulation (EU) 2018/1725 of the European Parliament and of the Council²⁶.
3. For the purposes of Regulation (EU) No 1095/2010, this Regulation shall be understood as a further legally binding Union act which confers tasks on ESMA as referred to in Article 1(2) of Regulation (EU) No 1095/2010.

²⁶ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

Article 35

Cooperation between competent authorities

1. The competent authority of the ELTIF and the competent authority of the manager of the ELTIF, if different, shall cooperate with each other and exchange information for the purpose of carrying out their duties under this Regulation.
2. Competent authorities shall cooperate with each other in accordance with Directive 2011/61/EU.
3. Competent authorities and ESMA shall cooperate with each other for the purpose of carrying out their respective duties under this Regulation in accordance with Regulation (EU) No 1095/2010.
4. Competent authorities and ESMA shall exchange all information and documentation necessary to carry out their respective duties under this Regulation in accordance with Regulation (EU) No 1095/2010, in particular to identify and remedy infringements of this Regulation.

CHAPTER VII
FINAL PROVISIONS

Article 36

Processing of applications by the Commission

The Commission shall prioritise and streamline its processes for all applications by ELTIFs for financing from the EIB. The Commission shall streamline the delivery of any opinions or contributions on any applications by ELTIFs for financing from the EIB.

Article 37

Review

1. The Commission shall review the application of this Regulation and shall analyse at least the following elements:

- (a) the extent to which ELTIFs are marketed in the Union, including whether the AIFMs referred to in Article 3(2) of Directive 2011/61/EU might have an interest in marketing ELTIFs;
- (b) the application of provisions on the authorisation of ELTIFs, as set out in Articles 3 to 6;
- (c) whether the provisions on the central public register of ELTIFs as laid down in Article 3 should be updated;
- (d) whether the list of eligible assets and investments, the portfolio composition and diversification requirements, the concentration rules and the limits regarding the borrowing of cash should be updated;
- (e) the impact of the application of the investment limit for eligible investment assets laid down in Article 13(1) on asset diversification;
- (f) whether the provisions concerning conflicts of interest laid down in Article 12 should be updated;
- (g) the application of Article 18 and the impact of that application on the redemption policy and the life of ELTIFs;
- (h) whether the transparency requirements laid down in Chapter IV are appropriate;
- (i) whether the provisions concerning the marketing of units or shares of ELTIFs laid down in Chapter V are appropriate and ensure an effective protection of investors, including retail investors;
- (j) whether ELTIFs have made a significant contribution to achieving Union objectives such as those set out in the European Green Deal and in other priority areas.

2. Based on the review referred to in paragraph 1 of this Article, the Commission shall by 10 April 2030, and after consulting ESMA, submit to the European Parliament and to the Council a report assessing the contribution of this Regulation and of ELTIFs to the completion of the capital markets union and to the achievement of the objectives set out in Article 1(2). The report shall be accompanied, where appropriate, by a legislative proposal.

Article 37a

Review of sustainability aspects of ELTIFs

By 11 January 2026, the Commission shall carry out an assessment and submit a report to the European Parliament and to the Council accompanied, where appropriate, by a legislative proposal, regarding at least the following:

- (a) whether the creation of an optional designation of "ELTIF marketed as environmentally sustainable" or "green ELTIF" is feasible, and in particular:
 - (i) whether such designation should be reserved to ELTIFs that are financial products having sustainable investment as their objective as referred to in Article 9 of Regulation (EU) 2019/2088 of the European Parliament and of the Council²⁷;
 - (ii) whether such designation should be reserved to ELTIFs that invest all or a significant part of their eligible assets or total assets into sustainable activities and, if so, how the significant part is to be defined;
 - (iii) whether sustainable activities can be linked to the sustainability criteria set out in the delegated acts adopted pursuant to Articles 10(3), 11(3), 12(2), 13(2), 14(2) and 15(2) of Regulation (EU) 2020/852 of the European Parliament and of the Council²⁸;
- (b) whether there should be a general obligation for ELTIFs to comply in their investment decisions with the principle of "do no significant harm" within the meaning of Article 2a of Regulation (EU) 2019/2088, or whether that obligation should be limited to ELTIFs marketed as environmentally sustainable or green ELTIFs in the eventuality that such an optional designation is considered feasible;
- (c) whether there is any potential to improve the framework for ELTIFs by contributing more significantly to the objectives of the European Green Deal, without undermining the nature of ELTIFs.

²⁷ Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019 on sustainability-related disclosures in the financial services sector (OJ L 317, 9.12.2019, p. 1).

²⁸ Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13).

Article 38

Entry into force

This Regulation shall enter into force on the twentieth day following its publication in the *Official Journal of the European Union*.

It shall apply from 10 January 2024.

ELTIFs authorised in accordance with and complying with the provisions of Regulation (EU) 2015/760 applicable before 10 January 2024 shall be deemed to comply with this Regulation until 11 January 2029. ELTIFs authorised in accordance with and complying with the provisions of Regulation (EU) 2015/760 applicable before 10 January 2024, which do not raise additional capital, shall be deemed to comply with this Regulation.

Notwithstanding the third subparagraph, an ELTIF authorised before 10 January 2024 may choose to be subject to this Regulation, provided that the competent authority of the ELTIF is notified thereof.

- **Recitals 49 and 50 of the Amending ELTIF Regulation (Appendix I)**

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Strasbourg, 15 March 2023

APPENDICES

Appendix I: Recitals of the Amending Regulation

(1) Since the adoption of Regulation (EU) 2015/760 of the European Parliament and of the Council²⁹ only a few European long-term investment funds (ELTIFs) have been authorised. The aggregate size of net assets of those funds was estimated at approximately EUR 2 400 000 000 in 2021. [↪ Recitals ELTIF Regulation](#)

(2) The available market data indicate that the development of the ELTIF segment has not scaled up as expected, despite the Union's focus on promoting long-term finance in the Union. [↪ Recitals ELTIF Regulation](#)

(3) Certain characteristics of the ELTIF market, including the low number of funds, the small net asset size, the low number of jurisdictions in which ELTIFs are domiciled and a portfolio composition that is skewed towards certain eligible investment categories, demonstrate the concentrated nature of that market, both geographically and in terms of investment type. Moreover, there appears to be a lack of awareness and financial literacy, as well as, most importantly, low levels of trust and reliability as regards the finance industry, that need to be overcome in order to make ELTIFs more accessible and popular among retail investors. It is therefore necessary to review the functioning of the legal framework for the operation of ELTIFs in order to ensure that more investments are channelled to businesses in need of capital and to long-term investment projects. [↪ Recitals ELTIF Regulation](#)

(4) At present, the objective of Regulation (EU) 2015/760 is to channel capital towards European long-term investments in the Union's real economy. As a result, it can occur that a majority of ELTIF assets and investments, or the main revenue or profit generation of such assets and investments, is located within the Union. However, long-term investments in projects, undertakings, and infrastructure projects in third countries can also bring capital to ELTIFs and benefit the Union's economy. Such benefits can originate in multiple ways, including through investments that promote the development of border regions, that enhance commercial, financial and technological cooperation and that facilitate investments in environmental and sustainable energy projects. Indeed, certain long-term assets and investments that benefit the Union's real economy will unavoidably be located in third countries, such as subsea fibre optic cables that connect Europe with other continents, the construction of liquefied natural gas terminals and related infrastructure, or cross-border investments in renewable energy installations and facilities that contribute to the resilience of the electrical grid and the energy security of the Union. Since investments in third-country qualifying portfolio undertakings and eligible assets can bring benefits to investors and managers of ELTIFs, as well as to the economies, infrastructure, climate and environmental sustainability and citizens of such third countries, Regulation (EU) 2015/760 should not prevent a majority of ELTIF assets and investments, or the main revenue or profit generation of such assets and investments, from being located in a third country. [↪ Art. 1 ELTIF Regulation](#)

(5) Accordingly, and also having regard to ELTIFs' potential to facilitate long-term investments in, amongst others, energy, transport and social infrastructure, and job creation, and to contribute to the achievement of the European Green Deal, Regulation (EU) 2015/760 should be amended so that its objective is to facilitate the raising and channelling of capital towards long-term investments in the real economy, including towards investments that promote the European Green Deal and other priority areas, and to ensure that capital flows are directed towards projects that put the Union's economy on a path towards smart, sustainable and inclusive growth. [↪ Art. 1 ELTIF Regulation](#)

(6) It is necessary to enhance the flexibility of asset managers to invest in broad categories of real assets. Real assets should therefore be deemed to form a category of eligible assets, provided that those real assets have value due to their nature or substance. Such real assets include immovable property, such as communication, environment, energy or transport infrastructure, social infrastructure, including retirement homes or hospitals, as well as infrastructure for education, health and welfare support or industrial facilities, installations, and other

²⁹ Regulation (EU) 2015/760 of the European Parliament and of the Council of 29 April 2015 on European long-term investment funds ([OJ L 123, 19.5.2015, p. 98](#)).

assets, including intellectual property, vessels, equipment, machinery, aircraft or rolling stock. [↪ Art. 10 ELTIF Regulation](#)

(7) Investments in commercial property, facilities or installations for education, counselling, research, development, including infrastructure and other assets that give rise to economic or social benefit, sports, or housing, including housing for senior residents or social housing, should also be deemed to be eligible investments in real assets due to the capacity of such assets to contribute to the objective of smart, sustainable and inclusive growth. To enable the realisation of investment strategies in areas where direct investments in real assets are not possible or are uneconomical, eligible investments in real assets should also comprise investments in water rights, forest rights, building rights and mineral rights. [↪ Art. 10 ELTIF Regulation](#)

(8) Eligible investment assets should be understood to exclude works of art, manuscripts, wine stocks, jewellery or other assets, which do not in themselves represent long-term investments in the real economy. [↪ Art. 10 ELTIF Regulation](#)

(9) It is necessary to increase the attractiveness of ELTIFs for asset managers and broaden the range of investment strategies available to managers of ELTIFs so as to avoid any undue limitation of the scope of the eligibility of assets and investment activities of ELTIFs. The eligibility of real assets should not depend on their nature and objectives, or upon environmental, social or governance matters and related sustainability disclosures and similar conditions, which are already covered by Regulations (EU) 2019/2088³⁰ and (EU) 2020/852³¹ of the European Parliament and of the Council. Nevertheless, ELTIFs remain subject to the obligations stemming from Regulation (EU) 2019/2088 on sustainability-related disclosures. In particular, when ELTIFs either promote environmental or social characteristics or have sustainable investment as their objective, they are to comply with the disclosure requirements set out in Article 8 or 9 of Regulation (EU) 2019/2088, as applicable, which each contain detailed transparency requirements for pre-contractual disclosures. [↪ Art. 10 ELTIF Regulation](#)

(10) In order to encourage private capital flows towards more environmentally sustainable investments, it should be clarified that ELTIFs are also able to invest in green bonds. At the same time, it should also be ensured that ELTIFs target long-term investments and that the requirements of Regulation (EU) 2015/760 regarding eligible investment assets are observed. Therefore, green bonds that comply with those eligibility requirements and that are issued pursuant to a Regulation of the European Parliament and of the Council on European green bonds should be expressly included in the list of eligible investment assets. [↪ Art. 10 ELTIF Regulation](#)

(11) In order to improve access of investors to more up-to-date and complete information on the ELTIF market, it is necessary to increase the granularity and the timeliness of the central public register provided for in Regulation (EU) 2015/760. That register should therefore contain additional information to the information that it already contains including, and where available, the Legal Entity Identifier (LEI) and the national code identifier of the ELTIF, the name, address and the LEI of the manager of the ELTIF, the International Securities Identification Number (ISIN code) of the ELTIF and of each separate unit or share class, the competent authority of the ELTIF and the home Member State of that ELTIF, the Member States where the ELTIF is marketed, whether the ELTIF can be marketed to retail investors or solely to professional investors, the date of authorisation of the ELTIF, and the date on which the marketing of the ELTIF commenced. [↪ Art. 3 ELTIF Regulation](#)

(12) Investments by ELTIFs can be conducted through the participation of intermediary entities, including special purpose vehicles and securitisation or aggregator vehicles or holding companies. At present, Regulation (EU) 2015/760 requires that investments in equity or quasi-equity instruments of qualifying portfolio undertakings only take place where those undertakings are majority-owned subsidiaries, which substantially limits the scope of the eligible asset base. ELTIFs should therefore, in general, have the possibility of conducting minority co-investment in investment opportunities. That possibility should give ELTIFs additional flexibility in implementing their investment strategies, attract more promoters of investment projects and increase the range of possible eligible target assets, all of which are essential for the implementation of indirect investment strategies. [↪ Art. 10 ELTIF Regulation](#) | [↪ Art. 12 ELTIF Regulation](#)

³⁰ Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019 on sustainability-related disclosures in the financial services sector ([OJ L 317, 9.12.2019, p. 1](#)).

³¹ Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 ([OJ L 198, 22.6.2020, p. 13](#)).

(13) Due to concerns that fund-of-funds strategies can give rise to investments that would not fall within the scope of eligible investment assets, Regulation (EU) 2015/760 at present contains restrictions on investments in other funds throughout the life of an ELTIF. Fund-of-funds strategies are, however, a common and very effective way of obtaining rapid exposure to illiquid assets, in particular in respect of real estate and in the context of fully paid-in capital structures. It is therefore necessary to give ELTIFs the possibility of investing in other funds, to enable them to ensure a faster deployment of capital. Facilitating fund-of-funds investments by ELTIFs would also allow reinvestment of excess cash into funds, as different investments with distinct maturities might lower the cash drag of an ELTIF. It is therefore necessary to expand the eligibility of fund-of-funds strategies for managers of ELTIFs beyond investments in European venture capital funds (EuVECA)s or European social entrepreneurship funds (EuSEFs). The categories of collective investment undertakings in which ELTIFs can invest should thus be broadened to include undertakings for collective investment in transferable securities (UCITS) and also EU alternative investment funds (EU AIFs) managed by EU AIF managers (EU AIFMs). However, in order to ensure effective investor protection, it is also necessary to provide that where an ELTIF invests in other ELTIFs, in EuVECA)s, in EuSEFs, in UCITS or EU AIFs managed by EU AIFMs, those collective investment undertakings should also invest in eligible investments and have not themselves invested more than 10 % of their capital in any other collective investment undertaking. In order to prevent circumvention of those rules and to ensure that ELTIFs comply on an aggregate portfolio basis with Regulation (EU) 2015/760, the assets and cash borrowing position of ELTIFs should be combined with those of the collective investment undertakings in which ELTIFs have invested in order to assess ELTIFs' compliance with the portfolio composition and diversification requirements, and with the borrowing limits. [↪ Art. 10 ELTIF Regulation](#)

(14) At present, Regulation (EU) 2015/760 requires that eligible investment assets, where those assets are individual real assets, have a value of at least EUR 10 000 000. Real asset portfolios, however, are often composed of a number of individual real assets which have a value of significantly less than EUR 10 000 000. The requirement for a minimum value of individual real assets should therefore be removed. It is expected that the removal of that unnecessary requirement will contribute to the diversification of investment portfolios and boost more effective investments in real assets by ELTIFs, while also allowing for different levels of development of long-term investment instruments in the Member States to be taken into consideration. [↪ Art. 10 ELTIF Regulation](#)

(15) It is necessary to extend the scope of eligible investment assets and promote the investments of ELTIFs in securitised assets. It should therefore be clarified that, where the underlying assets consist of long-term exposures, eligible investment assets should also include simple, transparent and standardised securitisations as referred to in Article 18 of Regulation (EU) 2017/2402 of the European Parliament and of the Council³². Those long-term exposures comprise securitisations of residential loans that are secured by one or more mortgages on residential immovable property (residential mortgage-backed securities), commercial loans that are secured by one or more mortgages on commercial immovable property, corporate loans, including loans which are granted to small- and medium-sized enterprises, and trade receivables or other underlying exposures that the originator considers form a distinct asset type, provided that the proceeds from securitising those trade receivables or other underlying exposures are used for financing or refinancing long-term investments. [↪ Art. 10 ELTIF Regulation](#)

(16) At present, Regulation (EU) 2015/760 prevents investments by ELTIFs in credit institutions, investment firms, insurance undertakings and other financial undertakings. However, innovative recently authorised financial undertakings such as FinTechs could play an important role in promoting digital innovation, the overall efficiency of Union financial markets and job creation, and in contributing to the resilience and stability of Union financial infrastructure and the capital markets union. Such financial undertakings design, develop or offer innovative products or technologies that aim to automate or improve existing business models, processes, applications and products, or result in new ones, and thereby benefit Union financial markets, financial institutions and the provision of financial services to financial institutions, businesses or consumers. Such financial undertakings also render specific regulatory, supervisory or oversight processes more efficient and effective, or modernise regulatory, supervisory or oversight compliance functions across financial or non-financial institutions. It is therefore desirable to amend Regulation (EU) 2015/760 in order to permit ELTIFs to invest in innovative recently authorised financial undertakings. As the area is dynamic and rapidly evolving, ELTIFs should be allowed to invest in financial undertakings, other than financial holding companies or mixed-activity holding companies, that are

³² Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation, and amending Directives 2009/65/EC, 2009/138/EC and 2011/61/EU and Regulations (EC) No 1060/2009 and (EU) No 648/2012 ([OJ L 347, 28.12.2017, p. 35](#)).

regulated entities authorised or registered more recently than five years before the date of the initial investment.

[↪ Art. 11 ELTIF Regulation](#)

(17) At present, Regulation (EU) 2015/760 requires that qualifying portfolio undertakings, where those qualifying undertakings are admitted to trading on a regulated market or on a multilateral trading facility, have a market capitalisation of no more than EUR 500 000 000. However, many listed companies with a low market capitalisation have a limited liquidity which prevents managers of ELTIFs from building, within a reasonable time, a sufficient position in such listed companies, and as a result narrows the range of available investment targets. In order to provide ELTIFs with a better liquidity profile, the market capitalisation of the listed qualifying portfolio undertakings in which ELTIFs can invest should therefore be increased from a maximum of EUR 500 000 000 to a maximum of EUR 1 500 000 000. To avoid potential changes to the eligibility of such investments due to currency fluctuations or other factors, the determination of the market capitalisation threshold should be made only at the time of the initial investment. [↪ Art. 11 ELTIF Regulation](#)

(18) In order to ensure the transparency and integrity of investments in assets located in third countries for investors, managers of ELTIFs and competent authorities, the requirements in respect of investments in third-country qualifying portfolio undertakings should be aligned to the standards laid down in Directive (EU) 2015/849 of the European Parliament and of the Council³³. They should also be aligned to the standards set out in the common action undertaken by the Member States as regards non-cooperative jurisdictions for tax purposes, reflected in the Council conclusions on the revised EU list of non-cooperative jurisdictions for tax purposes.

[↪ Art. 11 ELTIF Regulation](#)

(19) Managers of ELTIFs that hold a stake in a portfolio undertaking might place their own interests ahead of those of investors in the ELTIF. To avoid such conflicts of interest, and to ensure sound corporate governance, Regulation (EU) 2015/760 requires that an ELTIF only invests in assets that are unrelated to the manager of the ELTIF, unless the ELTIF invests in units or shares of other collective investment undertakings that are managed by the manager of the ELTIF. It is, however, established market practice that one or several investment vehicles of the asset manager co-invest alongside another fund that has a similar objective and strategy as that of the ELTIF. Such co-investments by the EU AIFM and other affiliate entities that belong to the same group allow for the attraction of larger pools of capital for investments in large-scale projects. For that purpose, asset managers typically invest in parallel with the ELTIF in a target entity and structure their investments through co-investment vehicles. As part of the asset management mandate, portfolio managers and senior staff of the asset managers are typically required or expected to co-invest in the same fund that they manage. It is therefore appropriate to specify that the provisions on conflicts of interest should not prevent a manager of an ELTIF or an undertaking that belongs to the same group from co-investing in that ELTIF or from co-investing with that ELTIF in the same asset. In order to ensure that effective investor protection safeguards are in place, where such co-investments take place, managers of ELTIFs should put in place organisational and administrative arrangements in accordance with the requirements laid down in Directive 2011/61/EU of the European Parliament and of the Council³⁴ designed to identify, prevent, manage and monitor conflicts of interest and ensure that such conflicts of interest are adequately disclosed. [↪ Art. 12 ELTIF Regulation](#)

(20) To prevent conflicts of interest, avoid transactions that do not take place on commercial terms and ensure sound corporate governance, Regulation (EU) 2015/760 does not allow the staff of the manager of an ELTIF and of undertakings that belong to the same group as the manager of the ELTIF to invest in that ELTIF or to co-invest with the ELTIF in the same asset. It is, however, established market practice that the staff of the manager of an ELTIF and of other affiliate entities that belong to the same group, which co-invest alongside the manager of the ELTIF, including the portfolio managers and senior staff responsible for the key financial and operational decisions of the manager of the ELTIF, are often required or expected due to the nature of the asset management mandate to co-invest in the same fund or the same asset in order to promote the alignment of financial incentives of those staff and the investors. It is therefore appropriate to specify that the provisions on conflicts of interest should not prevent the staff of the manager of an ELTIF or of undertakings that belong to that group from co-investing in their personal capacity in that ELTIF and from co-investing with the ELTIF in the same asset. In order to ensure that effective investor protection safeguards are in place, where such co-investments by the staff take

³³ Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC ([OJ L 141, 5.6.2015, p. 73](#)).

³⁴ Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 ([OJ L 174, 1.7.2011, p. 1](#)).

place, managers of ELTIFs should put in place organisational and administrative arrangements designed to identify, prevent, manage and monitor conflicts of interest and ensure that such conflicts of interest are adequately disclosed. [↪ Art. 12 ELTIF Regulation](#)

(21) The rules for ELTIFs are almost identical for both professional and retail investors, including rules on the use of leverage, on the diversification of assets and composition of the portfolios, on concentration limits and on limits on the eligible assets and investments. However, professional and retail investors have different time horizons, risk tolerances and investment needs as well as different capabilities to analyse investment opportunities. Indeed, professional investors have a higher risk tolerance than retail investors, are able to perform thorough analyses of investment possibilities and due diligence of assets and their valuation, and might, due to their nature and activities, have different return objectives compared to retail investors. Despite that, and because of the almost identical rules and the resulting high administrative burden and associated costs for ELTIFs intended for professional investors, asset managers have to date been reluctant to offer tailored products to professional investors. It is therefore appropriate to provide for specific rules for ELTIFs that are marketed solely to professional investors, in particular with regard to the diversification and composition of the portfolio concerned, the concentration limits and the borrowing of cash. [↪ Art. 13 ELTIF Regulation](#)

(22) At present, Regulation (EU) 2015/760 requires that ELTIFs invest at least 70 % of their capital in eligible investment assets. That high investment limit for eligible investment assets in ELTIFs' portfolios was initially established in view of the focus of ELTIFs on long-term investments and the contribution such investments were expected to make to the financing of sustainable growth of the Union's economy. Given the illiquid and idiosyncratic nature of certain eligible investment assets within ELTIFs' portfolios, however, it can prove difficult and costly for managers of ELTIFs to manage the liquidity of ELTIFs, honour redemption requests, enter into borrowing arrangements, and execute other elements of ELTIFs' investment strategies pertaining to the transfer, valuation and pledging of such eligible investment assets. Lowering the limit for eligible investment assets would therefore enable managers of ELTIFs to better manage the liquidity of ELTIFs. Only eligible investment assets of ELTIFs other than collective investment undertakings and eligible investment assets of collective investment undertakings in which ELTIFs have invested should be combined for the purpose of assessing compliance by those ELTIFs with the investment limit for eligible investment assets. [↪ Art. 13 ELTIF Regulation](#)

(23) The existing diversification requirements of Regulation (EU) 2015/760 were introduced in order to ensure that ELTIFs can withstand adverse market circumstances. However, those provisions have proven to be too burdensome because in practice they mean that ELTIFs are, on average, required to make 10 distinct investments. In relation to investment in projects or large-scale infrastructure, the requirement to make 10 investments per ELTIF can be difficult to achieve, and costly in terms of transactional costs and capital allocation. To reduce transaction and administrative costs for ELTIFs, and ultimately their investors, ELTIFs should therefore be able to pursue more concentrated investment strategies and thus have exposures to fewer eligible assets. It is therefore necessary to adjust the diversification requirements for ELTIFs' exposures to single qualifying portfolio undertakings, single real assets, collective investment undertakings and certain other eligible investment assets, contracts and financial instruments. That additional flexibility in the portfolio composition of ELTIFs and the reduction in the diversification requirements should not materially affect the capacity of ELTIFs to withstand market volatility, since ELTIFs typically invest in assets that do not have a readily available market quotation, that might be highly illiquid, and that frequently have long-term maturity or a longer time horizon. [↪ Art. 13 ELTIF Regulation](#)

(24) Unlike retail investors, professional investors have, in certain circumstances, a longer time horizon, distinct financial returns objectives, more expertise, higher risk tolerance to adverse market conditions and higher capacity to absorb losses. It is therefore necessary to establish for such professional investors a differentiated set of investor protection measures and to remove the diversification requirements for ELTIFs that are marketed solely to professional investors. [↪ Art. 13 ELTIF Regulation](#)

(25) In order to better use the expertise of managers of ELTIFs and because of the benefits of diversification, in certain cases it can be beneficial for ELTIFs to invest all or almost all of their assets in the diversified portfolio of a master ELTIF. ELTIFs should therefore be allowed to pool their assets and make use of master-feeder structures by investing in master ELTIFs. [↪ Art. 15 ELTIF Regulation](#)

(26) Leverage is frequently used to enable the day-to-day operation of an ELTIF and to carry out a specific investment strategy. Moderate amounts of leverage can, where adequately controlled, amplify returns without incurring or exacerbating excessive risks. In addition, leverage can frequently be used by a variety of collective

investment undertakings to gain additional efficiencies or operational results. Since the borrowing of cash is at present limited in Regulation (EU) 2015/760 to 30 % of the value of the capital of ELTIFs, managers of ELTIFs might be unable to successfully pursue certain investment strategies, including in the case of investments in real assets, where using higher levels of leverage is an industry norm or is otherwise required to achieve attractive risk-adjusted returns. It is therefore appropriate to increase the flexibility of managers of ELTIFs to raise further capital during the life of an ELTIF. At the same time, it is desirable to enhance the management of leverage and to promote a greater consistency with Directive 2011/61/EU with respect to borrowing policy by replacing capital with net asset value as the appropriate point of reference for determining the borrowing of cash limit, which should be accompanied by improvements to the rectification policy. In view of the possible risks that leverage can entail, ELTIFs that can be marketed to retail investors should be permitted to borrow cash amounting to no more than 50 % of the net asset value of the ELTIF. The 50 % limit is appropriate given the overall borrowing of cash limits common for funds investing in real assets with a similar liquidity and redemption profile.

For ELTIFs marketed to professional investors, however, a higher leverage limit should be permitted, because professional investors have a higher risk tolerance than retail investors. The borrowing of cash limit for ELTIFs that are marketed solely to professional investors should therefore be extended to no more than 100 % of the ELTIF's net asset value. Moreover, to date, Regulation (EU) 2015/760 does not offer the manager of an ELTIF the possibility of rectifying the investment position, within an appropriate period of time, in cases where the ELTIF infringes the leverage limit and the infringement is beyond the control of the manager of the ELTIF. Taking into account the volatility of the net asset value as a reference value and the interests of the investors in the ELTIF, it should therefore be specified that the provisions on rectification in Regulation (EU) 2015/760 apply also to borrowing limits. [↪ Art. 16 ELTIF Regulation](#)

(27) To provide ELTIFs with wider investment opportunities, ELTIFs should be able to borrow in the currency in which the manager of the ELTIF expects to acquire the asset. It is, however, necessary to mitigate the risk of currency mismatches and thus to limit the currency risk for the investment portfolio. ELTIFs should therefore appropriately hedge their currency exposure. [↪ Art. 16 ELTIF Regulation](#)

(28) ELTIFs should be able to encumber their assets to implement their borrowing strategy. In order to further increase the flexibility of ELTIFs in executing their borrowing strategy, borrowing arrangements should not constitute borrowing where that borrowing is fully covered by investors' capital commitments. [↪ Art. 16 ELTIF Regulation](#)

(29) Given the increase of the maximum limits for the borrowing of cash by ELTIFs and the removal of certain limits on the borrowing of cash in foreign currencies, investors should have more comprehensive information on the borrowing strategies and limits employed by ELTIFs. It is therefore appropriate to require managers of ELTIFs to expressly disclose the borrowing limits in the prospectus of the ELTIF concerned. [↪ Art. 16 ELTIF Regulation](#)

(30) At present, Regulation (EU) 2015/760 provides that investors in an ELTIF are able to request the winding down of that ELTIF where their redemption requests, made in accordance with the ELTIF's redemption policy, have not been satisfied within one year from the date on which those requests were made. Given the long-term orientation of ELTIFs and the often idiosyncratic and illiquid asset profile of ELTIFs' portfolios, the entitlement of any investor or group of investors to request the winding down of an ELTIF can be disproportionate and detrimental to both the successful execution of the ELTIF's investment strategy and the interests of other investors or groups of investors. It is therefore appropriate to remove the possibility for investors to require the winding down of an ELTIF where that ELTIF is unable to satisfy redemption requests. [↪ Art. 18 ELTIF Regulation](#)

(31) At present, Regulation (EU) 2015/760 is unclear about the criteria to assess the redemption percentage in any given period of time, and about the minimum information to be provided to competent authorities about the possibility of redemptions. Given the central role of the European Supervisory Authority (European Securities and Markets Authority) (ESMA) in the application of Regulation (EU) 2015/760 and its expertise in relation to securities and securities markets, it is appropriate to entrust ESMA with the drawing up of draft regulatory technical standards specifying the circumstances in which the life of an ELTIF is considered compatible with the life-cycles of each of the individual assets of the ELTIF; the criteria to determine the minimum holding period; the minimum information to be provided to the competent authority of the ELTIF; the requirements to be fulfilled by the ELTIF in relation to its redemption policy and liquidity management tools; and the criteria to assess the redemption percentage. It should be noted that where the rules or instruments of incorporation of an ELTIF provide for the possibility of redemptions during the life of that ELTIF, the provisions on liquidity risk management and liquidity management tools set out in Directive 2011/61/EU apply. [↪ Art. 18 ELTIF Regulation](#)

(32) At present, Regulation (EU) 2015/760 requires that the rules or instruments of incorporation of an ELTIF do not prevent units or shares of the ELTIF from being admitted to trading on a regulated market or on a multilateral trading facility. Despite that possibility, managers of ELTIFs, as well as investors and market participants, have hardly used the secondary trading mechanism for the trading of units or shares of ELTIFs. To promote the secondary trading of ELTIF units or shares, it is appropriate to allow managers of ELTIFs to provide for the possibility of an early exit of ELTIF investors during the life of the ELTIF. In order to ensure the effective functioning of such a secondary trading mechanism, an early exit should be possible only where the manager of the ELTIF has put in place a policy for matching potential investors and exit requests. That policy should, amongst others, specify the transfer process, the role of the manager of the ELTIF or the fund administrator, the periodicity and duration of the liquidity window during which the units or shares of the ELTIF can be exchanged, the rules determining the execution price and pro-rata conditions, the disclosure requirements, and the fees, costs and charges and other conditions related to such a liquidity window mechanism. ESMA should be entrusted with the drawing up of draft regulatory technical standards specifying the circumstances for the use of matching, including the information that ELTIFs are required to disclose to investors. [↪ Art. 19 ELTIF Regulation](#)

(33) In order to avoid any misunderstanding by retail investors regarding the legal nature of, and the potential liquidity allowed for by, the secondary trading mechanism, the distributor or, when directly offering or placing units or shares of an ELTIF to a retail investor, the manager of the ELTIF should issue a clear written alert to retail investors that the availability of a matching mechanism does not guarantee the matching or entitle retail investors to exiting or redeeming their units or shares of the ELTIF concerned. That written alert should be part of a single written alert that also informs retail investors that the ELTIF product might not be fit for retail investors that are unable to sustain such a long-term and illiquid commitment, where the life of an ELTIF offered or placed to retail investors exceeds 10 years. When presented in marketing communication to retail investors, the availability of a matching mechanism should not be promoted as a tool that guarantees liquidity upon request. [↪ Art. 19 ELTIF Regulation](#)

(34) At present, Regulation (EU) 2015/760 requires ELTIFs to adopt an itemised schedule for the orderly disposal of their assets to redeem investors' units or shares after the end of the life of the ELTIF. That Regulation also requires ELTIFs to disclose that itemised schedule to the competent authority of the ELTIF. Those requirements subject managers of ELTIFs to substantial administrative and compliance burdens, without bringing a corresponding increase in investor protection. In order to alleviate those burdens without diminishing investor protection, ELTIFs should inform the competent authority of the ELTIF about the orderly disposal of their assets in order to redeem investors' units or shares after the end of the life of the ELTIF, and only provide the competent authority of the ELTIF with an itemised schedule where they are expressly asked to do so by that competent authority. [↪ Art. 21 ELTIF Regulation](#)

(35) The prospectus of a feeder ELTIF can contain highly relevant information for investors, which enables them to better assess the potential risks and benefits of an investment. It is therefore appropriate to require that, in the case of a master-feeder structure, the prospectus of the feeder ELTIF should contain disclosures on the master-feeder structure, the feeder ELTIF and the master ELTIF, and a description of all remuneration or reimbursement of costs payable by the feeder ELTIF. [↪ Art. 23 ELTIF Regulation](#)

(36) Adequate disclosure of fees and charges is critically important for the evaluation of an ELTIF as a potential investment target by investors. Such disclosure is also important where the ELTIF is marketed to retail investors in the case of master-feeder structures. It is therefore appropriate to require the manager of an ELTIF to include in the annual report of the feeder ELTIF a statement on the aggregate charges of the feeder ELTIF and the master ELTIF. Such requirement is expected to contribute to the protection of investors against being charged unjustified additional costs as a result of subscription and redemption fees potentially charged by the master ELTIF to the feeder ELTIF. [↪ Art. 23 ELTIF Regulation](#)

(37) Regulation (EU) 2015/760 requires the manager of an ELTIF to disclose in the ELTIF prospectus information about fees related to investing in that ELTIF. Regulation (EU) No 1286/2014 of the European Parliament and of the Council³⁵, however, also contains requirements concerning the disclosure of fees. In order to increase transparency on fee structures, the requirement laid down in Regulation (EU) 2015/760 should be aligned with the requirement laid down in Regulation (EU) No 1286/2014. [↪ Art. 23 ELTIF Regulation](#)

³⁵ Regulation (EU) No 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products (PRIIPs) ([OJ L 352, 9.12.2014, p. 1](#)).

(38) At present, Regulation (EU) 2015/760 requires managers of ELTIFs to set up local facilities in each Member State where they intend to market ELTIFs. While the requirements to perform certain tasks for investors across all Member States remain in place, the requirement to set up local facilities has, however, subsequently been removed by Directive (EU) 2019/1160 of the European Parliament and of the Council³⁶ as regards UCITS and alternative investment funds marketed to retail investors, since such local facilities create additional costs and friction in respect of the cross-border marketing of ELTIFs. In addition, the preferred method of contact with investors has shifted from physical meetings at local facilities to direct interaction between fund managers or distributors and investors by electronic means. Removing that requirement from Regulation (EU) 2015/760 for all ELTIF investors would hence be consistent with Directive (EU) 2019/1160 and the contemporary methods of marketing of financial products, and could promote the attractiveness of ELTIFs for asset managers, who would no longer be required to incur costs stemming from the operation of local facilities. That requirement should therefore be removed. [↪ Art. 26 ELTIF Regulation](#)

(39) Since units and shares of ELTIFs are financial instruments, the product governance rules of Directive 2014/65/EU of the European Parliament and of the Council³⁷ apply where ELTIFs are marketed with the provision of investment services. However, an ELTIF's units or shares can also be purchased without the provision of investment services. To cover those cases, Regulation (EU) 2015/760 at present requires managers of ELTIFs to develop an internal assessment process for ELTIFs marketed to retail investors. The current regime is inspired by the product governance rules of Directive 2014/65/EU but contains several differences that are not justified and could reduce investor protection. It should therefore be specified that the product governance rules laid down in Directive 2014/65/EU apply. The references to Directive 2014/65/EU are to be understood as entailing the application of the delegated acts supplementing that Directive. [↪ Art. 27 ELTIF Regulation](#)

(40) At present, Regulation (EU) 2015/760 requires distributors or managers of ELTIFs to carry out a suitability assessment in respect of retail investors. However, that requirement is already provided for in Article 25 of Directive 2014/65/EU. Having a duplicate requirement creates an additional layer of administrative burden leading to higher costs for retail investors and is a strong disincentive for managers of ELTIFs to offer new ELTIFs to retail investors. It is therefore necessary to remove that duplicate requirement from Regulation (EU) 2015/760. [↪ Art. 28 ELTIF Regulation](#)

(41) In order to ensure a high level of protection of retail investors, a suitability assessment should be carried out irrespective of whether the units or shares of ELTIFs are acquired by retail investors from distributors or managers of ELTIFs or via the secondary market. In accordance with Article 25(2) of Directive 2014/65/EU, the suitability assessment should comprise information on the expected duration and purpose of the investment and the retail investor's risk tolerance, as part of the information on the retail investor's investment objectives and financial situation, including their ability to bear losses. The results of the assessment should be communicated to the retail investors in the form of a statement on suitability, in accordance with Article 25(6) of Directive 2014/65/EU. [↪ Art. 30 ELTIF Regulation](#)

(42) In addition, in cases where the result of the suitability assessment is that an ELTIF is not suitable for a retail investor and such investor nevertheless wishes to proceed with the transaction, the express consent of that retail investor should be obtained before the distributor or manager of the ELTIF proceeds with the transaction. [↪ Art. 30 ELTIF Regulation](#)

(43) Regulation (EU) 2015/760 also requires distributors or managers of ELTIFs to provide appropriate investment advice when marketing ELTIFs to retail investors. The lack of precision in Regulation (EU) 2015/760 as to what constitutes appropriate investment advice and the lack of a cross-reference to the definition of investment advice in Directive 2014/65/EU have led to a lack of legal certainty and confusion among distributors and managers of ELTIFs. In addition, the obligation to provide investment advice requires external distributors to be authorised under Directive 2014/65/EU when marketing ELTIFs to retail investors. That creates unnecessary impediments to the marketing of ELTIFs to such investors and also subjects ELTIFs to stricter requirements than those for the distribution of other complex financial products, including the requirements for securitisations laid down in Regulation (EU) 2017/2402 and for subordinated eligible liabilities laid down in Directive 2014/59/EU of the European Parliament and of the Council³⁸. It is therefore not necessary to require distributors and managers

³⁶ Directive (EU) 2019/1160 of the European Parliament and of the Council of 20 June 2019 amending Directives 2009/65/EC and 2011/61/EU with regard to cross-border distribution of collective investment undertakings ([OJ L 188, 12.7.2019, p. 106](#)).

³⁷ Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU ([OJ L 173, 12.6.2014, p. 349](#)).

³⁸ Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and

of ELTIFs to provide retail investors with such investment advice. Moreover, given the importance of having a level playing field among financial products when such products are marketed to end investors, and of ensuring that this Regulation contains, amongst others, effective investor protection safeguards, ELTIFs should not be subject to unnecessary administrative and regulatory burden. [↪ Art. 30 ELTIF Regulation](#)

(44) To ensure effective supervision of the application of the requirements related to the marketing of ELTIFs to retail investors, the distributor or, when directly offering or placing units or shares of an ELTIF to a retail investor, the manager of the ELTIF should be subject to the record-keeping rules of Directive 2014/65/EU. [↪ Art. 30 ELTIF Regulation](#)

(45) In the event that the marketing or placing of ELTIFs to retail investors is done through a distributor, such distributor should comply with the applicable requirements of Directive 2014/65/EU and Regulation (EU) No 600/2014 of the European Parliament and of the Council³⁹. In order to ensure legal certainty and avoid duplication, where a retail investor has been provided with investment advice under Directive 2014/65/EU, the requirement to provide a suitability assessment should be considered to be fulfilled. [↪ Art. 30 ELTIF Regulation](#)

(46) It is established market practice that the portfolio managers and senior staff of the manager of an ELTIF are required or expected to invest in ELTIFs managed by that same manager of the ELTIF. Such persons are presumed to be financially sophisticated and well-informed about the ELTIF, meaning that it would be superfluous to require them to undergo a suitability assessment for investments in the ELTIF. It is therefore appropriate not to require distributors or managers of ELTIFs to carry out a suitability assessment for such individuals. [↪ Art. 30 ELTIF Regulation](#)

(47) At present, for potential retail investors whose financial instrument portfolio does not exceed EUR 500 000, Regulation (EU) 2015/760 requires an initial minimum investment in one or more ELTIFs of EUR 10 000 and requires that such investors do not invest an aggregate amount exceeding 10 % of their financial instrument portfolio in ELTIFs. When applied together, the EUR 10 000 initial minimum investment and the 10 % limit on aggregate investment create a significant obstacle to investments in ELTIFs for retail investors, which conflicts with the goal of ELTIFs to establish a retail alternative investment fund product. It is therefore necessary to remove the EUR 10 000 initial minimum investment requirement and the 10 % limit on aggregate investment. [↪ Art. 30 ELTIF Regulation](#)

(48) At present, Regulation (EU) 2015/760 requires investors to be treated equally and prohibits preferential treatment of individual investors or groups of investors, or the granting of specific economic benefits to those investors. ELTIFs can, however, have several classes of units or shares with slightly or substantially distinct conditions as regards the fees, legal structure, marketing rules and other requirements. In order to take those differences into account, those requirements should only apply to individual investors or groups of investors that invest in the same class or classes of ELTIFs. [↪ Art. 30 ELTIF Regulation](#)

(49) In order to give managers of ELTIFs sufficient time to adapt to the requirements of this Regulation, including the requirements pertaining to the marketing of ELTIFs to investors, this Regulation should start to apply nine months after its entry into force. [↪ Art. 38 ELTIF Regulation](#)

(50) Due to the potentially illiquid nature of eligible assets and the long-term orientation of ELTIFs, ELTIFs can experience difficulties in complying with any changes to the fund rules and regulatory requirements introduced during their life-cycle, without affecting the trust and confidence of their investors. It is therefore necessary to provide for transitional rules in respect of those ELTIFs that were authorised before the entry into application of this Regulation. However, such ELTIFs should also be able to choose to be subject to this Regulation provided that the competent authority of the ELTIF is notified accordingly. [↪ Art. 38 ELTIF Regulation](#)

(51) Since the objectives of this Regulation, namely, to ensure an effective legal framework for the operation of ELTIFs throughout the Union and to promote long-term finance by raising and channelling capital towards long-term investments in the real economy in line with the Union objective of smart, sustainable and inclusive growth, cannot be sufficiently achieved by the Member States but can rather, by reason of the scale and effects of this

resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012 of the European Parliament and of the Council ([OJ L 173, 12.6.2014, p. 190](#)).

³⁹ Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 ([OJ L 173, 12.6.2014, p. 84](#)).

Regulation, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives. [↪ Recitals ELTIF Regulation](#)

(52) Regulation (EU) 2015/760 should therefore be amended accordingly, [↪ Recitals ELTIF Regulation](#)

Appendix II: Recitals of the Draft ELTIF RTS

(1) With respect to the specification of the criteria for establishing the circumstances in which the use of financial derivative instruments can be considered to solely serve the purpose of hedging the risks inherent to the investments of an ELTIF, as referred to in Article 9(2), point (d), of Regulation 2015/760, the financial derivative instruments that should be considered are those the underlying of which corresponds to the assets to which an ELTIF has or would have exposures and, where the exposure to such an asset is not available, the underlying of which corresponds to the asset class to which an ELTIF has or would have exposure. That is in particular because in certain cases a financial derivative instrument to hedge an exposure to a specific item is not available, but rather as an item among others included in an index which is the underlying of a financial derivative instrument. In addition, the use of financial derivative instruments might in some cases serve the purpose of hedging the risks inherent to the investments of an ELTIF only where such strategy is combined with trades in certain assets. In order to ensure that the use of financial derivative instruments solely serves the purpose of hedging the risks inherent to the investments of an ELTIF, the financial derivative instruments should reduce effectively the relevant risk. The reduction of risk should be verifiable through systems identifying the risks intended to be mitigated and the way in which the derivative would mitigate such risk. [↪ Art. 9 ELTIF Regulation](#)

(2) When assessing whether the life of an ELTIF is compatible with the life cycles of each of the individual assets of the ELTIF, as referred to in Article 18(3) of Regulation (EU) 2015/760, the manager of an ELTIF should consider, given the long-term nature of the ELTIF, the liquidity profile of each of the ELTIF's individual assets, the liquidity profile of the ELTIF's portfolio on a weighted basis, the criteria on the timing of acquisition of those assets, and their valuation. During that assessment, given its interaction with the liquidity of the ELTIF, the manager of an ELTIF should also consider, where the ELTIF provides for the possibility of redemptions during the life of the ELTIF, the redemption policy of the ELTIF.

(3) The criteria to determine the minimum holding period referred to in Article 18(2), first subparagraph, point (a), of Regulation (EU) 2015/760 should ensure that the length of such minimum holding period is consistent with the time necessary to complete the investment of the ELTIF's capital contributions. It follows that the longer that time, the longer the minimum holding period should generally be. That minimum holding period is a period that locks the capital at investor level and which the ELTIF applies at the beginning of its life. However, to ensure fair treatment of investors and financial stability, ELTIF managers should be able to implement lock-up periods for subsequent investors and apply the same abovementioned criteria. [↪ Art. 18 ELTIF Regulation](#)

(4) The criteria to determine the minimum holding period should also take into account whether the ELTIF concerned allows for redemptions throughout the life-cycles of the assets, the life of the ELTIF, the redemption policy, the valuation procedure and other circumstances and conditions under which the ELTIF may allow redemptions, including the investor base of the ELTIF. [↪ Art. 18 ELTIF Regulation](#)

(5) To ensure investor protection and financial stability, the information referred to in Article 18(2), first subparagraph, point (b), of Regulation (EU) 2015/760 should relate in particular to the valuation procedures of the ELTIF, the liquidity stress tests conducted by the manager of the ELTIF including the methodology and parameters used in that stress test, the procedures detailing which liquidity management tools are available, and the calibration and activation of those liquidity management tools. To facilitate and improve the supervision of ELTIFs, the competent authority of the home Member State of the manager of the ELTIF, where different from the competent authority of the ELTIF, should supplement and integrate the set of information provided by the manager of the ELTIF when so requested by the competent authority of the home Member State of the ELTIF. [↪ Art. 18 ELTIF Regulation](#)

(6) The redemption policy of the ELTIF and the use of liquidity management tools imply, given an ELTIF is an AIF according to the requirements of Directive 2011/61/EU, the availability of the valuation procedures for the redemptions and subscriptions in line with the requirements set out in that Directive. The manager of the ELTIF should be able to perform a reliable, sound and updated valuation of the assets of the ELTIF. The redemption policy and the valuation procedures of an ELTIF should also ensure a level of liquidity of the ELTIF's underlying assets that is appropriate to avoid liquidity mismatches. The manager of an ELTIF should put in place a notice period for allowing redemptions of the ELTIF's units or shares. [↪ Art. 18 ELTIF Regulation](#)

(7) To ensure a fair treatment of remaining and redeeming investors, the valuation should ensure that the redemption prices reflect the fair value of underlying assets at all times. The manager of an ELTIF should also

ensure consistency between the frequency of calculation of the net asset value of the ELTIF, the availability of a reliable, sound, and updated valuation of ELTIF's assets, and the frequency of redemptions during the life of the ELTIF. [↪ Art. 18 ELTIF Regulation](#)

(8) To avoid dilution of remaining investors in the ELTIF, and mitigate any potential risk to financial stability, that may be driven by first mover advantage related issues, the manager of an ELTIF should select and implement at least one anti-dilution liquidity management tool, which could be anti-dilution levies, swing pricing or redemption fees. [↪ Art. 18 ELTIF Regulation](#)

(9) To reduce the probability of suspension of an ELTIF, the manager of an ELTIF should be able to implement redemption gates. The use of gates should relate to different types of situations, including to stressed market situations. Such stressed market situations may comprise situations where there are numerous or voluminous redemption requests at the same redemption point and the sale of assets to meet the requests is either impossible or implies a sale at a highly discounted price. [↪ Art. 18 ELTIF Regulation](#)

(10) The criteria to assess the redemption percentage referred to in Article 18(2), point (d), of Regulation (EU) 2015/760 should ensure that that percentage takes into account the variety of ELTIFs, their liquidity profile, the notice period, the planned and expected frequency of redemptions of the ELTIF, and the financial performance of the ELTIF. [↪ Art. 18 ELTIF Regulation](#)

(11) Providing for the possibility of using the matching mechanism under Article 19(2a) of Regulation (EU) 2015/760, during the life of the ELTIF, should not be deemed to prohibit other forms of secondary transfers if this is explicitly agreed between the transferring investors and the rules or instruments of incorporation of the ELTIF do not prohibit such transfers. [↪ Art. 19 ELTIF Regulation](#)

(12) In relation to the matching mechanism referred to in Article 19(2a) of Regulation (EU) 2015/760, that for the purpose of this Regulation should not be considered a multilateral system, and the possibility of redemptions during the life of the ELTIF referred to in Article 18(2) of that same Regulation, it is important to specify certain requirements to clarify the functioning of this newly established mechanism. The circumstances for the use of matching requirements should relate to the transfer process for both exiting and potential investors, the role of the manager of the ELTIF in conducting transfers, the matching of respective requests, the requirements on the determination of the execution price and the proration conditions, the level of the fees, costs and charges related to the transfer process, and the timing and the nature of the disclosure of information to investors, which should be published on the website of the manager of the ELTIF, with respect to the transfer conditions. In order to avoid any arbitrage, where the execution price is not based on the net asset value of the ELTIF, the execution price should be implemented outside the valuation dates of the ELTIF. In relation to the rules on proration conditions, where unexecuted requests are not automatically carried over to the next exit date, investors should be offered an opportunity to take any of the following actions: restate their orders; leave their residual matching requests in place in anticipation of future matching; or withdraw their residual/outstanding matching interest. [↪ Art. 18 ELTIF Regulation](#) | [↪ Art. 19 ELTIF Regulation](#)

(13) The assessment of the market for potential buyers to be included in the schedule for the orderly disposal of the assets of the ELTIF, as referred to in Article 31(2), point (a), of Regulation (EU) 2015/760, should take into account market risks, and thus assess, inter alia, whether potential buyers are dependent on obtaining loans from third parties, whether there is a risk of illiquidity of the assets before sale, whether there are risks associated with political changes or legislative changes, including fiscal reforms, and whether there is a risk of deterioration of the economic situation in the market which is relevant to the ELTIF assets. [↪ Art. 31 ELTIF Regulation](#)

(14) The valuation of the assets to be included in the schedule for the orderly disposal of the assets of the ELTIF should be carried out at a moment in time that is sufficiently close to the beginning of the disposal of the assets. An ELTIF that has already valued those assets in accordance with Directive 2011/61/EU of the European Parliament and of the Council⁴⁰ at a moment in time that is sufficiently close to the beginning of the disposal of those assets should not be required to revalue those assets. [↪ Art. 21 ELTIF Regulation](#)

⁴⁰ Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (OJ L 174, 1.7.2011, p. 1)

(15) Article 21(1) of Regulation (EU) 2015/760 was amended by Regulation (EU) 2023/606 of the European Parliament and the Council⁴¹ to replace the obligation for an ELTIF to submit to its competent authority an itemised schedule for the orderly disposal of its assets at the latest one year before the end of the life of the ELTIF, with an obligation to submit such schedule when requested to do so. It follows that there should no longer be any references to the mandatory disclosure of the itemised schedule for the orderly disposal of the assets of the ELTIF. [↪ Art. 21 ELTIF Regulation](#)

(16) To ensure a common approach to the application of Regulation (EU) 2015/760 in relation to costs disclosure, it is necessary to lay down that such disclosure of costs encompasses all costs borne directly or indirectly by investors. [↪ Art. 25 ELTIF Regulation](#)

(17) Pursuant to Article 4(1) of Regulation (EU) No 1286/2014 of the European Parliament and of the Council⁴², units or shares in a retail ELTIF qualify as packaged retail investment product. It follows that, pursuant to Article 5(1) of that Regulation, the manager of an ELTIF has to draw up a key information document disclosing the costs related to such ELTIFs, and provide prospective retail investors with that document, in addition to the prospectus. [↪ Art. 25 ELTIF Regulation](#)

(18) In the interest of clarity, coherence and legal certainty, it is appropriate to repeal Delegated Regulation (EU) 2018/480, and integrate those provisions of Delegated Regulation (EU) 2018/480 that do not need to be amended or deleted in light of Regulation (EU) 2023/606.

(19) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the European Securities and Markets Authority (ESMA).



(20) ESMA has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the Securities and Markets Stakeholder Group established by Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council⁴³.

(21) It is necessary that this Regulation enters into force on the day following that of its publication, given it is important that that enters into force as soon as possible after the date when Regulation (EU) 2023/606 enters into force,

⁴¹ Regulation (EU) 2023/606 of the European Parliament and of the Council of 15 March 2023 amending Regulation (EU) 2015/760 as regards the requirements pertaining to the investment policies and operating conditions of European long-term investment funds and the scope of eligible investment assets, the portfolio composition and diversification requirements and the borrowing of cash and other fund rules (OJ L 80, 20.3.2023, p. 1, ELI: <http://data.europa.eu/eli/reg/2023/606/oj>).

⁴² Regulation (EU) No 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products (PRIIPs) (OJ L 352, 9.12.2014, p.1, ELI: <http://data.europa.eu/eli/reg/2014/1286/oj>).

⁴³ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).



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