

## MASTERING THE EUROPEAN AIF RETAIL MARKET

19 April 2023



## Today in a nutshell

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**Structuring opportunities** for asset managers that wish to expand to **non-professional investors** the access to their **private strategies**:

- ✓ Revised ELTIF Regulation (**ELTIF 2**)
- ✓ Bill of law N° 8183 aims to **improve and modernize the Luxembourg investment funds toolbox**, in particular the **Part II UCI regime**. (presented by **Yves Elvinger**)

Interview with **Rocío Goenechea**, Oquendo Capital (moderated by **Xavier Le Sourné**)

Interview with **Tudor Sambritchi**, Blackstone (moderated by **Joachim Cour**)

## ELTIF key features

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- ✓ Alternative investment fund (AIF) – *subject to AIFMD (ELTIFs are often structured as Part II UCI or RAIF in Luxembourg)*
- ✓ Managed by an authorised AIFM
- ✓ Authorised and supervised by the financial regulator – *for compliance with ELTIF Regulation aspects*
- ✓ *Authorisation at the level of the sub-fund - Possible to add ELTIF sub-funds to an existing structure*
- ✓ EU marketing passport for professional and retail investors
- ✓ Objective to facilitate the raising and channeling of capital towards long-term investments in the real economy

# ELTIF 1 ← → ELTIF 2

THE ELTIFECI, EUCAS & EUCASEN  
LEGISLATION AND PRACTICE

## Portfolio Composition Rules

- ✓ At least 70% of the capital in ELTIF Eligible Assets
- ✓ Maximum 30% of the capital in UCITS Eligible Assets

### More flexible

- ✓ Min. 55% of the capital in ELTIF Eligible Assets
- ✓ More liquidity: up to 45% UCITS eligible assets

## ELTIF Eligible Assets

- ✓ Equity, quasi-equity, debt instruments, loans issued by/granted to a qualifying portfolio undertaking (“QPU”)
- ✓ ELTIFs, EuVECAs, and EUSEFs
- ✓ Real assets

### More eligible assets

- ✓ UCITS or EU AIFs managed by EU AIFMs (look-through for asset eligibility and diversification)
- ✓ Simple, transparent and standardised securitisations (STS) – with long-term exposure
- ✓ Green bonds issued by QPU

# ELTIF 1 ← → ELTIF 2

## Qualifying Portfolio Undertaking (“QPU”)

- ✓ Not a UCI
- ✓ Not a financial undertaking unless it finances QPU(s) or real asset(s)
- ✓ Not listed unless market capitalisation of no more than EUR 500 M
- ✓ Not on EU lists for high risk or non-cooperative countries for AML and tax purposes respectively

### Less strict conditions

- ✓ Conditions only apply at the time of the initial investment
- ✓ Can be a financial undertaking authorized less than 5 years before initial investment (possibility to invest in FinTechs)
- ✓ Market capitalization limit: EUR 1.5 B
- ✓ Clarification that the majority or all investments can be in 3<sup>rd</sup> countries

## Real Assets

- ✓ Must be held via QPU
- ✓ Minimum value of EUR 10 M per real asset
- ✓ **Definition:** value due to its substance and properties + conditions of being infrastructure or an asset with economic or social benefit

### More strategies are possible with removal of three conditions

- ✓ Direct investments are possible
- ✓ No minimum value of EUR 10 M per real asset
- ✓ No condition of being infrastructure or an asset with economic or social benefit

# ELTIF 1 ← → ELTIF 2

## Cash borrowing rules

- ✓ No more than 30% of the value of capital
- ✓ Only for investing in ELTIF Eligible Assets
- ✓ Not for investment through loans
- ✓ Contracted in the same currency as assets to be acquired
- ✓ Encumbers assets that represent no more than 30% of the value of capital

### More borrowing capacity

- ✓ Limit becomes 50% of NAV
- ✓ Conditions no longer apply to arrangements covered by investors' capital commitments
- ✓ No restrictions on investment(s) or encumbering
- ✓ Other currencies possible, if hedged

## Diversification rules

- ✓ ELTIF Eligible Assets: 10% of capital in a single asset
- ✓ UCITS Eligible Assets: 5% of capital in a single asset
- ✓ 20% limit of aggregate value of investments in funds (ELTIFs, EuVECAs, EuSEFs)

### More flexible

- ✓ 20% diversification for ELTIF Eligible Assets  
→ Not applicable to feeder ELTIF: master-feeder strategy possible
- ✓ 10% diversification for UCITS Eligible Assets
- ✓ Removal of 20% limit of investments in funds → fund-of-funds strategies are possible



### Indirect Investment

#### Clarifications

- ✓ Clarification that investments through intermediary entities, SPVs, securitization vehicles, aggregator vehicles or holdings are possible
- ✓ Minority participation through intermediary vehicles possible

### Conflict of interest rules

#### New co-investment opportunities

- ✓ ELTIF can co-invest with AIFM, group entities, and staff

### Professional dedicated ELTIF

#### Less constraints

- ✓ No diversification rules
- ✓ No concentration limits
- ✓ Borrowing limit: 100% of NAV
- ✓ No MIFID suitability test

## Marketing of AIF to retail investors

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- ✓ **AIFMD marketing passport** only applies to professional investors (except for certain countries in which it is extended to other investors such as semi-professional investors in Germany)
- ✓ **National private placement regime** for eligible investors to be assessed on a country-by-country basis
- ✓ ELTIF label provides a marketing passport to retail investors by **opening the AIFMD marketing passport to non-professional investors.**



## Retail investor eligibility

### ELTIF 1

- ✓ Retail investor's portfolio (financial instruments and cash deposits) of more than EUR 500 000

### OR

- ✓ EUR 10 K entry ticket
- ✓ No more than 10 % of their portfolio invested in ELTIF

### AND

- ✓ Suitability test (ELTIF rules)

### AND

- ✓ Must receive investment advice (MIFID II license necessary)

### ELTIF 2

- ~~✓ Retail investor's portfolio (financial instruments and cash deposits) of more than EUR 500 000~~

### OR

- ~~✓ EUR 10 K entry ticket~~
- ~~✓ No more than 10 % of their portfolio invested in ELTIF~~

### AND

- ✓ Suitability test (MIFID II rules)
- ✓ **Express consent of investor possible in case of negative conclusion**

### AND

- ~~✓ Must receive investment advice (MIFID II license necessary)~~

# Liquidity

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- ✓ **Principle:** closed-ended
  
- ✓ **Redemption possible under certain conditions:**
  - Provided for in ELTIF documentation
  - Not during ramp-up OR not during minimum holding period\*
    - except for feeder ELTIFs
  - Redemption policy containing procedures and conditions for redemptions to be put in place\*
  - Limited to **portion of UCITS eligible assets**\*
  
- ✓ Possibility to provide for **full or partial matching of transfer requests**\*

\* To be specified in RTS

## Timeline of the new ELTIF regime



- ✓ To be released by ESMA in the following weeks
- ✓ Determining life of ELTIF
- ✓ Redemption policy
- ✓ Conditions for matching transfer requests



- ✓ ELTIF authorization under ELTIF 2
- ✓ ELTIF authorized before can choose to opt into the new regime by a notification to the CSSF
- ✓ ELTIF under old regime (raising additional capital) must comply with ELTIF 2 by 11 January 2029
- ✓ ELTIF under old regime that do not raise additional capital are deemed to comply with ELTIF 2

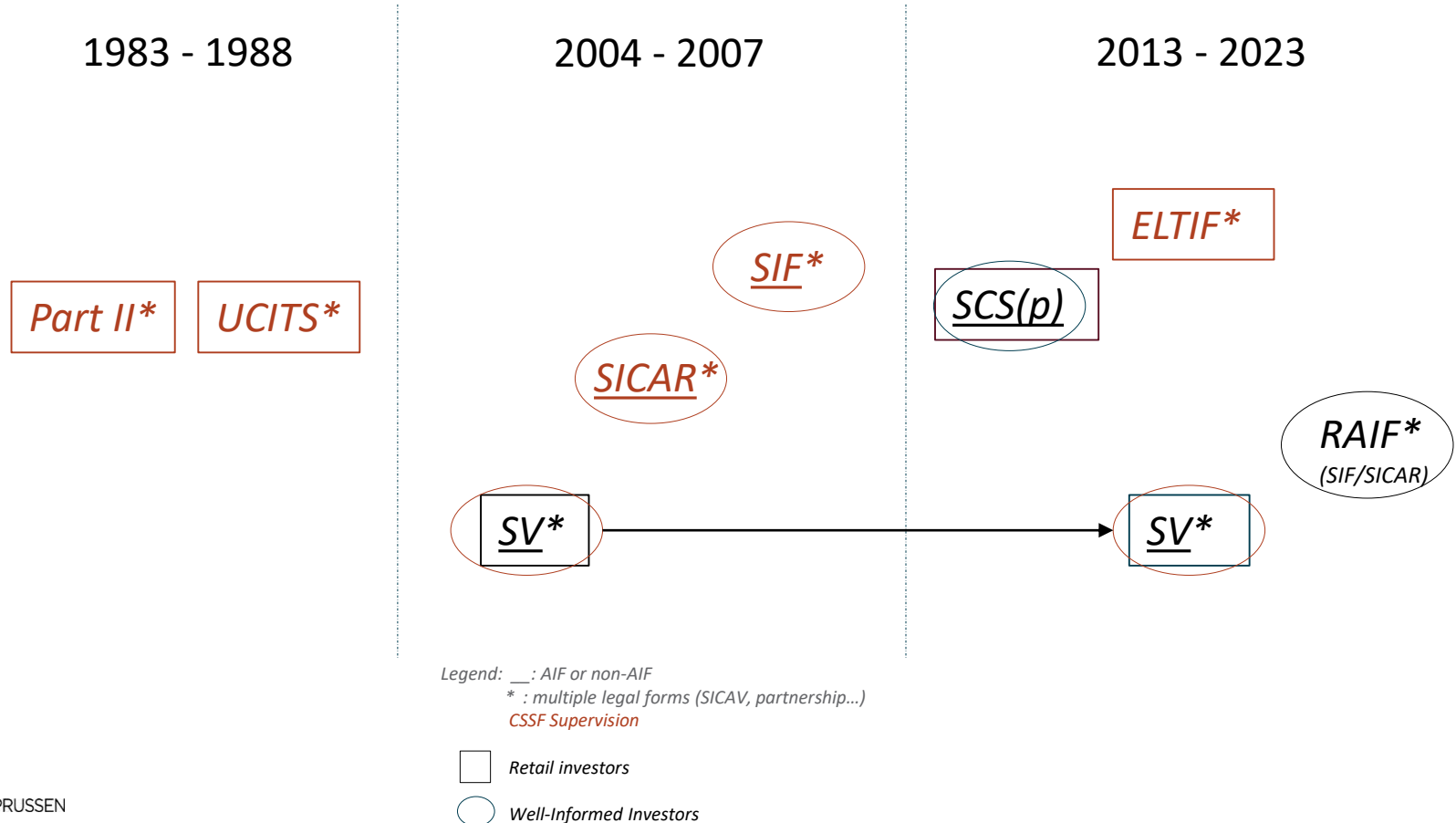
## Bill of law n°8183

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- ✓ **Additional legal forms for Part II UCI – SICAV** – *partnerships limited by shares (SCA), common limited partnerships (SCS), special limited partnerships (SCSp), private limited companies (Sàrl) or cooperatives in the form of a public limited company (SCSA) in addition of public companies (SA)*
- ✓ **Valuation of assets for Part II SICAVs** – *at fair value possible*
- ✓ **Determination of issue price for closed-ended Part II UCI – FCP/SICAVs** – *fixed price possible*
- ✓ **Tax amendments** – *exemption from subscription tax for Part II UCI, SIF and RAIF authorised as ELTIF*

# Luxembourg Investment Vehicles



## Contact details

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