

ESMA proposes revised draft rules for ELTIF funds

April 2024

Background

European long-term investment funds (**ELTIFs**) are the only type of funds dedicated to long-term investments that can be distributed across borders in the EU to both professional and retail investors.

Under the ELTIF Regulation¹, ESMA is mandated to prepare draft regulatory technical standards (**RTS**) on various aspects of the ELTIF framework, including the specific rules which should be applied to open-ended ELTIFs which offer limited redemption rights to investors.

In December 2023, ESMA published a [report](#) containing its proposed RTS which was submitted to the European Commission for its consideration (**Final Report**). The European Commission [wrote](#) to ESMA in March 2024 confirming that following its review of the RTS proposed by ESMA, it intended to adopt those RTS but with specific amendments which it outlined in an annex to the letter (**Letter**) as it believed that it was necessary to take a more “proportionate approach” to the drafting of certain provisions of the RTS.

¹ Regulation (EU) 2015/760 as amended





Publication of ESMA Opinion

On 22 April 2024, ESMA published an [opinion](#) in which it confirmed that it agreed with the majority of the changes to the draft RTS proposed by the European Commission in its Letter (**Opinion**). However, ESMA has proposed a number of limited (but important) changes to the draft RTS put forward by the European Commission which include those changes detailed below.

Minimum Redemption Notice Periods and Related Liquidity Requirements

In a significant adjustment to parameters first proposed by it in December 2023 and taking into account the feedback provided by the European Commission in its Letter, ESMA has now proposed that redemptions from an open-ended ELTIF be limited to the percentages outlined in the table below, which are calibrated depending on the redemption notice period provided by the relevant investor and the level of liquid assets held by the ELTIF.

Notice Period	Minimum percentage of liquid assets	Maximum percentage of ELTIF's assets which can be redeemed
Less than 12 months to 6 months (included)	10%	90%
Less than 6 months to 3 months (included)	15%	67%
Less than 3 months to 1 month (included)	20%	50%
Less than 1 month	25%	20%

Other Liquidity Management Requirements

Redemption gates

Instead of deleting all references to redemption gates from the draft RTS (as proposed by the European Commission), ESMA has proposed wording under which an ELTIF's AIFM may (but is not obliged to) use redemption gates if the amount of liquid assets held within the portfolio is not sufficient to cover a reasonable expected redemption.

Minimum holding period applicable to open-ended ELTIFs

ESMA has proposed amending the revised RTS proposed by the European Commission to make clear that an open-ended ELTIF must be subject to a minimum holding period (which period is at the discretion of the ELTIF, taking into account the specific criteria set down in the RTS).

Notification of material changes to the redemption policy to the ELTIF's national competent authority

ESMA has proposed that where a material change is proposed to be made to the redemption policy of an open-ended ELTIF, the ELTIF's national competent authority must be notified at least one month before the change is implemented.

Liquidity management tools (LMTs)

ESMA has accepted the European Commission's proposal that the AIFM be given the choice to select and implement liquidity management tools from the full list of LMTs included in the revised AIFMD² instead of obliging them to select one tool from a more restrictive list of anti-dilution levies, swing pricing and redemption fees.

Next Steps

The European Commission must now consider the revised RTS as proposed by ESMA in its Opinion.

If adopted by the European Commission, the European Parliament and the Council will have three months within which to object to the RTS.

Conclusion

Given that ELTIFs are the only type of EU fund which can provide retail investors with exposure to long-term investments while still offering some liquidity, the publication of ESMA's Opinion represents an important and welcome step towards the finalising of the regulatory framework for open-ended ELTIFs.

We will keep readers updated on developments but in the meantime, for an in-depth analysis of the key features of an Irish ELTIF, please access our up-to-date guide which is accessible [here](#).

A Dillon Eustace three-part video series on the Irish ELTIF is also available for viewing [here](#).

² Directive 2011/61/EU as amended by Directive (EU) 2024/927



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