

BVI¹ position on the review of the European long-term investment funds (ELTIF) regulatory framework

Question 1. Please specify to what extent you agree with the statements below?

	1 (fully disagree)	2 (somewhat disagree)	3 (neutral)	4 (somewhat agree)	5 (fully agree)	Don't know - No opinion - Not applicable
The ELTIF framework has been successful in achieving its objective of raising and channelling capital towards European long-term investments in the real economy	X					
The scope of the ELTIF authorisation is appropriate						
The costs of launching and operating an ELTIF, and the regulatory and administrative burdens are appropriate						
The ELTIF regime is relevant to the needs			X			

¹ BVI represents the interests of the German fund industry at national and international level. The association promotes sensible regulation of the fund business as well as fair competition vis-à-vis policy makers and regulators. Asset Managers act as trustees in the sole interest of the investor and are subject to strict regulation. Funds match funding investors and the capital demands of companies and governments, thus fulfilling an important macro-economic function. BVI's 113 members manage assets more than 3.6 trillion euros for retail investors, insurance companies, pension and retirement schemes, banks, churches and foundations. With a share of 27%, Germany represents the largest fund market in the EU. BVI's ID number in the EU Transparency Register is 96816064173-47. For more information, please visit www.bvi.de/en.



and challenges in EU asset management						
The existing ELTIF regime is consistent with the CMU objectives				X		
The ELTIF regime has brought added value to investors in and the financing of long-term projects	X					
The ELTIF investor protection framework is appropriate		X				

Question 1.1 Please explain your position on your responses to question 1, providing key arguments to support your answers:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

So far, the ELTIF is conceptionally more of a generalist in terms of eligible asset classes, targeting UCITS assets as well as non-listed qualifying portfolio companies (smaller companies (SMEs)) and alternative investments such as real assets. At the same time, the restrictions on the specific portfolio composition, the combination of liquid and illiquid assets, as well as the requirements regarding the distribution to retail investors are perceived as a hindrance. Therefore, the ELTIF has not prevailed over already existing, long standing and market accepted national fund products of the EU Member States that either invest more specifically in a particular asset class or provide the flexibility required by institutional investors.

However, we are not convinced that a copying of existing fund concepts into the ELTIF, e.g., through further broadening the investment universe, would provide economic or regulatory added value. The aim of the ELTIF review should not be to improve the competitiveness of the ELTIF vis-à-vis alternative investment funds (AIFs) regulated on national level within EU Member States. Rather, the raison d'être of the ELTIF regulation should be to address specific areas for which there are not yet sufficiently specialised fund products in the EU to achieve the desired objectives.

We see the review of the ELTIF regime as an opportunity to develop the regulation in a sensible way, that serves both the intention of the legislator as well as market demands. In this regard, we support a revision of the rules for the distribution of ELTIF shares to retail investors. In contrast, as mentioned above, we have reservations against suggestions that would puff up the ELTIF regime, e.g. introducing generous leverage financing, an expansion of the investment universe partially mirroring UCITS and demands for tax incentives, neglecting the tax sovereignty of EU member states. Such proposals would overstretch the intention of the ELTIF regime and instead blur the essence of the ELTIF brand.

Instead, we have developed the following ideas which are in line with the original goals of the ELTIF regulation, i.e., long-term infrastructure financing by the private sector and financing of SMEs. Those goals are also, inter alia, reflected in the CMU New Action Plan of the European Commission:

- **Investments in EU project bonds:** The possibility of participating in infrastructure projects is very limited at present, partly because of the favourable conditions of state financing via sovereign bonds. We suggest that in the future part of the EU infrastructure funds (e.g. from the Cohesion or Covid-19 Recovery Funds) should be reserved for projects to be co-financed by project bonds eligible inter alia for ELTIFs. As far as those projects qualify as sustainable, such project bonds might also meet the requirements currently developed as “green bonds standards”. Bonds financing sustainable projects, such as European infrastructure, would be interesting assets not only for ELTIFs, but also as ESG investments for UCITS. This proposal thus serves the sustainable finance strategy as well as the capital markets union.
- **New ways of micro-financing:** In order to overcome the financing crunch of SMEs, ELTIFs could serve as an alternative form of financing by broadening the understanding of micro-financing to include typical small-volume lending to EU SMEs. Banks which are not able to provide SME loans (e.g. for regulatory reasons such as shrinking their balance sheets) could still act as fronting banks and pass on the SME loans to ELTIFs dedicated as “EU SME finance funds”.
- **Impact-oriented debt funds:** ELTIFs could be structured as debt funds designed to have a sustainable impact. Unlike banks, those ELTIFs would be fully equity-financed.
- The development of a new financial market infrastructure based on distributed-ledger-technology (DLT), which has just been proposed by the European Commission, should be incorporated in the considerations of the ELTIF review. An SME DLT market segment could represent a funding level between traditional stock exchange listing and small-scale crowdfunding. The proposed DLT-multi trading facilities (DLT-MTF) could be the access point for SME equity financing and would be eligible for ELTIFs.

Instead of incorporating all of these options in one ELTIF, we believe that an ELTIF should rather focus on one strategy (e.g. EU SME financing or impact-oriented debt investments, Fund-of-Funds with target ELTIFs and, if applicable, EuVECAs and EUSEFs, with substantially identical investment strategies). In this regard, the ELTIF regulation should be the legal framework that foresees a subset of dedicated strategies. A stronger focus on a specific strategy – among a number of options – would further shape the brand of the ELTIF and provide more clarity for the investors.

Question 2. Please indicate the areas and provisions in the ELTIF regime where policy action would be most needed to improve the functioning of the ELTIF regulatory framework? Please rate as follows:

	1 (no policy action needed)	2 (policy action could be considered)	3 (policy action desirable)	4 (policy action needed)	5 (policy action very strongly needed)	Don't know - No opinion - Not applicable

General principles and definitions used in the ELTIF Regulation					X	
Market capitalisation threshold defining an SME equity or debt issuer						
Authorisation requirements						
Operational conditions						
Passportability of ELTIFs				X		
Rules pertaining to eligible investments				X		
Clarification and/or practical guidance on the eligibility requirements, notably in relation to investments in real assets				X		
Rules pertaining to the prohibition to undertake certain activities				X		
Conflict of interests related rules, including the ban on co-investment						
Portfolio composition and diversification rules and their application						
Concentration limits						
Rules and limitations related to the borrowing of cash						
Redemption related rules and life-cycle of ELTIFs				X		
Rules concerning the disposal of ELTIF assets						
Transparency requirements						

Prospectus- related provisions						
Cost disclosure related rules						
Rules pertaining to the facilities available to investors for making subscriptions						
Requirements concerning the marketing and distribution of ELTIFs to investors					X	
Specific provisions concerning the depositary of an ELTIF marketed to retail investors						
Provisions and rules pertaining to the marketing of ELTIFs to retail investors					X	
Provisions integrating the EU Taxonomy for sustainable activities into the ELTIF framework						
Inconsistent or duplicative application of the ELTIF related requirements by Member States						
Issues arising from the supervisory practices within Member States						
Cross-border marketing related challenges						
Excessive reliance on distribution networks to market ELTIFs						

Excessive costs of setting up and operating ELTIFs						
Competition from existing national fund structures				X		
Taxation related issues	X					

Question 3. Please rate the following characteristics of the ELTIF framework based on how positive or negative their impact is, as follows:

	-2 significant negative impact	-1 negative impact	0 no impact	1 positive impact	2 significant positive impact	Don't know - No opinion - Not applicable
Broad scope of eligible assets under the ELTIF regime						
Long-term and illiquid nature of the investments of an ELTIF				X		
Operational conditions						
Transparency requirements						
Availability of ELTIFs to retail investors		X				
Requirements and safeguards for marketing of ELTIFs to retail investors		X				



Validity of an authorisation as an ELTIF for all Member States						
--	--	--	--	--	--	--

Question 4. Which provisions and requirements pertaining to the eligibility of investments and investment assets set out in the ELTIF Regulation need to be updated to improve the functioning of the ELTIF framework? Please rate as follows:

	1 (no policy action needed)	2 (policy action could be considered)	3 (policy action desirable)	4 (policy action needed)	5 (policy action very strongly needed)	Don't know - No opinion - Not applicable
A minimum size eligibility requirement for real assets investments					X	
A condition for an exposure to real estate through a direct holding or indirect holding through qualifying portfolio undertakings of individual real assets			X			
Limitation on eligible investment assets to ELTIFs,				X		



EuVECA and EuSEFs						
Inability to invest in a “financial undertaking”						
EUR 500m threshold for investing in listed issuers						
Rules related to investments in third- country undertakings						
Other conditions and requirements related to eligible investment assets and qualifying portfolio undertakings						

Please specify what are the other conditions and requirements related to eligible investment assets and qualifying portfolio undertakings you refer to in your response to question 4:

5000 character(s) maximum including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

- **Fund-of-Funds Structure:** In order to accommodate retail investors’ need to diversified risk in their investments and SME and infrastructure project developers’ need for a broader funding base, ELTIF should be allowed to take the form of Fund-of-Funds, retaining the concentration on ELTIF, EuVECA and EuSEF as eligible assets in this investment strategy (Art. 10 point d) but amending Art. 13 paragraph 3, so that investments in these target funds may make up 70 % or more of all investments.
- Evergreen funds should be possible to ensure efficient portfolio management.



- Investment in real assets of less than EUR 10 million should be permitted.

Question 5. Should any of the following provisions of the ELTIF legal framework be amended, and if so how, to improve the participation and access of retail investors to ELTIFs?

Minimum entry ticket for retail investors and net worth requirements

- Yes
- No
- Don't know / no opinion / not relevant

Please explain your answer to question 5.a and your suggested approach if you responded yes:

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We support a revision of the rules for the distribution of ELTIFs to retail investors. More relevant than the minimum ticket size is the limitation of ELTIF investments to a maximum of 10% of the total investment portfolio. The necessary consideration of all financial assets of the investor is a practical obstacle for the distribution of ELTIFs to retail investors, which also might be reluctant to disclose their overall financial situation. In addition, the requirement to possess 100k € investable capital impedes the participation of retail investors that are not high-net-worth individuals.