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Council of the European Union

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Long-term investment funds: Council confirms agreement with EP

The Permanent Representatives Committee approved, on behalf of the Council, a compromise agreed with the European Parliament on a regulation aimed at increasing the pool of capital available for long-term investment into the EU economy by creating a new form of fund vehicle (16386/14).

These European long-term investment funds (ELTIFs), by virtue of the asset classes that they would be allowed to invest in, are expected to be able to provide investors with long-term, stable returns.

The creation of clearly defined ELTIFs would tackle barriers to long-term investments in, for example, infrastructure projects, thereby stimulating employment and economic growth. ELTIFs would only focus on alternative investments that fall within a defined category of long-term asset classes whose successful development requires investors' long-term commitment. This would include non-listed undertakings that issue equity or debt instruments for which there is no readily identifiable buyer, real assets that require significant up-front capital expenditure and SMEs admitted to trading on a regulated market or on a multilateral trading facility[1].

Only EU alternative investment funds (AIFs) that are managed by alternative investment fund managers (AIFMs), authorised in accordance with directive 2011/61/EU, are eligible to market themselves as ELTIFs. ELTIFs will be subject to additional rules requiring them, inter alia, to invest at least 70% of their capital in clearly-defined categories of eligible assets. Trading in assets other than long-term investments will only be permitted up to a maximum of 30% of their capital.

ELTIFs generally don't offer redemption rights before the end of life of the ELTIF, which will have to be clearly indicated as a specific date in the ELTIF rules or instruments of incorporation and disclosed to investors.

ELTIFs will target both professional and retail investors in the EU. The regulation lays down rules to protect investors, in particular retail investors. It requires the ELTIF manager or any distributor to ensure that a retail investor with a portfolio[2] of up to €500 000 doesn't invest an aggregate amount exceeding 10% of his/her portfolio in ELTIFs, provided that the initial amount invested in one or more ELTIFs is not less than €10,000.

[1] In accordance with the EU's directive on markets in financial instruments (Mifid II).

[2] Excluding any financial instruments that have been given as collateral.

Moreover, where the lifecycle of an ELTIF that is offered or placed to retail investors exceeds ten years, the ELTIF manager or distributor is required to issue a clear written alert that this product may not be suitable for those retail investors unable to sustain such a long term and illiquid commitment.

The Council will adopt the regulation at a forthcoming meeting without further discussion, once the text has been finalised in all languages.