ASPIM ASSOCIATION FRANÇAISE DES SOCIÉTÉS DE PLACEMENT IMMOBILIER

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Making ELTIFs a true European Label
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ASPIM's Comments and Proposals ahead of Trilogues

ASPIM[1] welcomes both the European Council and Parliament's positions on the revision of the European Long-Term Investment Fund (ELTIF) Regulation. In this paper, we provide a few comments and suggestions in view of the upcoming trilogue discussions.

HOW REAL ESTATE FUND MANAGERS CAN HELP MAKE ELTIF A TRUE EUROPEAN SUCCESS

By way of brief background, it is estimated that the EU real estate sector **employs around 4.2 million people** in Europe and **contributes around 3.1% to Europe's GDP** - the equivalent to both the automotive and telecom sectors combined[2]. An important portion of such contribution comes from the real estate fundmanagement sector[3].

Unlike other asset managers, real estate fund managers **directly manage** "real", long-term assets in which a broad range of economic activities are carried out (offices, shops, maternity clinics, student and retirement homes, hotels, hospitals etc.).

As such, real estate fund managers are uniquely positioned to support a key political goal underpinning the ELTIF review: to better allocate private savings and capital into a more sustainable economy - and this in three ways:

- by providing a stable, long term alternative source of diversification from bank deposits - helping turn savers into investors, a crucial piece of the Capital MarketsUnion project;
- by enabling income derived from such investments to complement shrinking state supported pension systems - an additional source of retirement income; and
- by proactively helping a sector that is the biggest energy consumer and third largest producer of CO2 emissions transition towards the Paris Agreement climate change

[1] ASPIM is the association representing 103 French real-estate asset management companies, approved by the French Financial Markets Authority (AMF), which manage approximately €280.5 billion in real estate assets (housing, retail, office and logistics) in France and in Europe.

[2] Source/ Eurostats, EPRA/InRev data 2020

[3] Around 40% of the EU real estate sector is held as an investment, of which unlisted real estate funds are the largest providers (Source/ Eurostats, EPRA/InRev data)

targets.

We believe that an improved ELTIF framework that recognizes the important role real estate fund managers can play in the better allocation of savings and long-term investments in capital markets is a necessary complement to the highly successful EU UCITS label for traditional funds managing securities portfolios. ELTIFs must become the natural home for diverse forms of patient investments, be they infrastructure, private equity or real estate.

ASPIM'S MAIN COMMENTS AND RECOMMENDATIONS

We believe there are **5 key structural barriers** that have limited the use of ELTIFs, and are very encouraged to see that the Commission, the Council and the Parliament have all been addressing most of them in their respective positions.

1. Differentiated rule for professional and retail investors

We fully support the differentiation that all the institutions have sought to introduce regarding changes to the **leverage** provisions. We support the EP position which proposes **a maximum of 70% of the value of a retail fund versus 100% for a professional fund**. Indeed, a maximum of 70% is preferrable and can be balanced by MiFID II suitability rules, and additional information to be included in the ELTIF's prospectus.

The distinction based on investor profile allows for a better adjustment of leverage depending on the level of risk that the investor will accept, and better protection for retail investors.

We also agree with the co-legislators' common views regarding:

- ✓ concentration limits not applying to ELTIFs marketed to professional investors; and
- ✓ ELTIFs marketed to retail investors not being able to acquire more 30% of shares of a single ELTIF, EuVECA, EuSEF or AIF (Art. 15).

2. Greater incentives for investors

We welcome the many adjustments made to harmonize and better adapt certain important rules that should incentivize greater investor interest in ELTIFs, in particular:

- ✓ **Lowering of the investment quota** to 50% (instead of 70%) as per the EP position, which is also in line with that used for many open-ended funds (such as OPCIs in France).
- ✓ **Revision of the ratios**, in particular:
  - ➢ the risk dispersion ratio: to a maximum of 25% of the fund per asset (Art. 13, §2 as amended by the EP Report),
  - ➢ the facilitation of investments into real assets: ELTIFs will be able to invest in real assets of minimum value of €1 million (EC Proposal, Art. 2 (6) and Art. 10 (1e)),
  - ➢ the EP Report in line with EC Proposal on removal of individual real assets threshold of €10 million.
- ✓ **Deletion of the entry ticket** of €10,000 and the maximum 10% threshold if the retail investor's financial portfolio is less than €500,000 as suggested by the EC proposal.

- ✓ **Alignment of the suitability assessment with MiFID rules** to improve retail investors' access to ELTIFs, as proposed by the EC.
- ✓ **Facilitation of "fund of funds" investment strategies** in the EP position through:
  - ➢ deletion of the 40% fund-of-fund limit,
  - ➢ diversification thresholds not applicable to fund-of-funds structures.
- ✓ **Authorization of co-investments** and in-house funds provided that adequate safeguards are in place to prevent and disclose any potential conflicts of interests (as proposed by the EC in Art. 12 (2)).

These adjustments are real improvements which should be preserved in order to make ELTIFs more attractive to both retail and professional investors, and provide added necessary flexibility for portfolio managers.

However, we draw your attention to the confusing wording regarding the **eligibility of the "financial undertaking" as qualifying assets**, with the opening of eligible assets to financial undertakings that have obtained a license less than 5 years before the time of the investment, as included in the EP position (Art. 11 (a)), amendments 198,199). This suggests that indirect investment in real estate assets through holding companies can be considered as a "financial undertaking" that needs to be licensed, which will be quite an issue for real estate and private equity funds investing indirectly. We suggest clarifying this point.

3. Possibility of setting up redemptions before the end of the fund's life

We support the creation of **open-ended ELTIFs alongside closed-ended**, with additional warnings for retail investors on the redemption process, with ELTIF managers remaining in charge of defining redemption frequency.

Especially, we welcome:

- the possibility of setting up a "**liquidity window mechanism**" through the compensation of redemptions with new subscriptions, as originally proposed by the EC.
- the **possibility to offer "evergreen structures",** as proposed by the EP: this is a crucial improvement for real estate (and infrastructure) funds that need to match the much longer-term profile of the underlying property asset. Coupled with specific long-term liquidity management rules and tools that recognize investors' potential needs for earlier redemption, the possibility to offer such evergreen structure could be a game-changer for the pick-up of ELTIFs by managers of real assets funds;
- alignment of **the ELTIF liquidity management toolbox with that in the AIFMD** proposal, as proposed by the Council Text.

4. Conditionality attached to qualifying as "eligible asset" and "real asset"

We welcome the clarification in the Council position in Recital 7 that real estate assets *"should also be deemed to be eligible assets due to the capacity of such assets to contribute to smart, sustainable and inclusive growth objectives*".

These very legitimate objectives are no longer vague and subjective, which should remove the risk of different interpretation between fund managers and between Member states.

5. Taxation

Another likely game changer to ensure the development of a truly cross-border market in ELTIFs distribution would be to create a certain level playing field across Europe in the tax treatment of income and/or dividends.

Without a harmonized tax regime at EU level, managers will be able to arbitrate to locate their funds in a Member State that limits tax impacts (double taxation). We understand that this issue is a Member State competency, however any incentives that the EU institutions could provide would be welcome.

6. Environmentally sustainable ELTIFS

As mentioned above, real estate fund managers are uniquely positioned to better allocate private savings and capital into a more sustainable economy, including for the purposes of helping achieve the transition towards the Paris Agreement climate change targets.

However, we have reservations about the creation of an optional sub-category for "environmentally sustainable" ELTIFs which would only be able to invest in taxonomy-eligible assets. (Art. 9 (1) and Art 13 (1a)) as proposed by the EP in amendment 170). As a matter of fact, the investment objectives of this sub-category would be tricky to reach by real estate funds for which the rate of taxonomy alignment is, at this stage, quite low, due to a "best in progress" – and not a "best in class" - strategy.

We are also concerned by the numerous transparency requirements included in the EP report, applicable to all ELTIFs, on their sustainability characteristics, which could defeat the objective – in particular:

- Article 23 introduces the additional obligation for all ELTIFs to include in their prospectus:
  - shares of eligible assets complying with the taxonomy, as well as disclosure of investments that could harm the ELTIF's environmental objectives;
  - the procedures according to which the ELTIF can assess its long-term social, economic and environmental impact.
- The requirements for each ELTIF to include in its annual reports a reference to its contribution to the green deal's objectives (Art. 23 (3, 4, 5).

We, therefore, fear the application of the Taxonomy standards designed for multinationals companies to real estate assets and entities coupled with these additional disclosure obligations will act as a disincentive to set-up ELTIFs given the heavy monitoring and/or marketing communications required, as well as potential liability attached.

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