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European Long-Term Investment Funds Regulation (ELTIF) Regulation (EU) 2015/760

Topic
ELTIF

Subject Matter
Investment strategy

Question
a) Do the requirements of Articles 16(4) and 17(1)(c) of the ELTIF Regulation only apply to closed-ended ELTIFs?

b) If not, how may an open-ended ELTIF reconcile its obligation to comply with the portfolio composition and diversification requirements with the borrowing limits of the ELTIF

Regulation if the suspension referred to in Article 17(1)(c) is to apply at each subscription/redemption?

ESMA Answer

14-03-2025

Original language

Answer provided by the European Commission

Question (a) Do the requirements of Articles 16(4) and 17(1)(c) of the ELTIF Regulation only apply to closed-ended ELTIFs?

No, Article 16(4) and Article 17(1)(c) of the ELTIF Regulation apply to all ELTIFs, irrespective of whether they are closedended or open-ended. Neither Article 16 nor Article 17 exclude either closed-ended ELTIFs referred to in Article 18(1) or openended ELTIFs referred to in Article 18(2) of the ELTIF Regulation. Accordingly, the conditions set out in those two provisions should be interpreted in light of the type of ELTIF considered and calibrated as appropriate for the type of ELTIFs in question. Thus, where conditions are applicable only in respect of closed-ended ELTIFs, they shall be considered as moot as regards open-ended ELTIFs, and vice versa (e.g., Article 16(1)(d) which specifies that borrowing must have a maturity no longer than the life of the ELTIF is not applied to open-ended ELTIFs). This conclusion is also consistent with Recital (2) of Commission Delegated Regulation (EU) 2024/2759, which sets out that the alignment and coherence of an ELTIF's investment strategy should be assessed through the prism of the life of an ELTIF and the life cycles of the assets, implying all ELTIFs irrespective of their nature.

Question (b). If not, how may an open-ended ELTIF reconcile its obligation to comply with the portfolio composition and diversification requirements with the borrowing limits of the ELTIF Regulation if the suspension referred to in Article 17(1)(c) is to

apply at each subscription/redemption?

Article 17(1)(c) of the ELTIF Regulation sets out that the portfolio composition and diversification requirements laid down in Article 13 shall be temporarily suspended where the ELTIF raises additional capital or reduces its existing capital, so long as such a suspension lasts no longer than 12 months.

Further, Article 16(4) of the ELTIF Regulation sets out that the borrowing limits referred to in Article 16(1)(a) shall be temporarily suspended where the ELTIF raises additional capital or reduces its existing capital, and such suspension shall be limited in time to the period that is strictly necessary taking due account of the interests of the investors in the ELTIF and, in any case, shall last no longer than 12 months.

In the meantime, pending the temporary suspensions, where the ELTIF raises additional capital or reduces its existing capital in line with Articles 16(4) and/or Article 17(1)(c) of the ELTIF Regulation, ELTIF managers should take such measures as are necessary to comply with the composition and diversification requirements and/or the borrowing limits, taking due account of the interests of the investors, and not take any decisions or actions, outside of the ordinary course of business in line with the terms of the ELTIF, to further increase the level of borrowing or the concentration of exposures if the ELTIF exceeds the limits set out in Articles 16 and 17 of the ELTIF Regulation.

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The answers clarify provisions already contained in the applicable legislation. They do not extend in any way the rights and obligations deriving from such legislation nor do they introduce any additional requirements for the concerned operators and competent authorities. The answers are merely intended to assist natural or legal persons, including competent authorities and Union institutions and bodies in clarifying the application or implementation of the relevant legal provisions. Only the Court of Justice of the European Union is competent to authoritatively interpret Union law. The views expressed in the internal Commission Decision cannot prejudge the position that the European Commission might take before the Union and national courts.