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| 31 July 2015 |

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| Reply form for the  Draft regulatory technical standards under the ELTIF Regulation |
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| Date: 31 July 2015  2015/ESMA/1241 |

Responding to this paper

The European Securities and Markets Authority (ESMA) invites responses to the specific questions listed in the ESMA Consultation Paper on Draft regulatory technical standards under the ELTIF Regulation, published on the ESMA website.

*Instructions*

Please note that, in order to facilitate the analysis of the large number of responses expected, you are requested to use this file to send your response to ESMA so as to allow us to process it properly. Therefore, ESMA will only be able to consider responses which follow the instructions described below:

* use this form and send your responses in Word format (pdf documents will not be considered except for annexes);
* do not remove the tags of type <ESMA\_ QUESTION\_ELTIF\_RTS\_1> - i.e. the response to one question has to be framed by the 2 tags corresponding to the question; and
* if you do not have a response to a question, do not delete it and leave the text “TYPE YOUR TEXT HERE” between the tags.

Responses are most helpful:

* if they respond to the question stated;
* contain a clear rationale, including on any related costs and benefits; and
* describe any alternatives that ESMA should consider

**Naming protocol**

In order to facilitate the handling of stakeholders responses please save your document using the following format:

ESMA\_ELTIF\_RTS\_NAMEOFCOMPANY\_NAMEOFDOCUMENT.

E.g. if the respondent were ESMA, the name of the reply form would be:

ESMA\_ELTIF\_RTS\_ESMA\_REPLYFORM or

ESMA\_ELTIF\_RTS\_ESMA\_ANNEX1

To help you navigate this document more easily, bookmarks are available in “Navigation Pane” for Word 2010 and in “Document Map” for Word 2007.

***Deadline***

Responses must reach us by **14 October 2015.**

All contributions should be submitted online at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading ‘Your input/Consultations’.

***Publication of responses***

All contributions received will be published following the end of the consultation period, unless otherwise requested. **Please clearly indicate by ticking the appropriate checkbox in the website submission form if you do not wish your contribution to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure.** Note also that a confidential response may be requested from us in accordance with ESMA’s rules on access to documents. We may consult you if we receive such a request. Any decision we make is reviewable by ESMA’s Board of Appeal and the European Ombudsman.

***Data protection***

Information on data protection can be found at [www.esma.europa.eu](http://www.esma.europa.eu) under the headings ‘Legal notice’ and ‘Data protection’.

# General information about respondent

|  |  |
| --- | --- |
| Name of the company / organisation | EFAMA |
| Confidential[[1]](#footnote-2) |  |
| Activity | Investment Services |
| Are you representing an association? |  |
| Country/Region | Belgium |

# Introduction

Please make your introductory comments below, if any:

<ESMA\_COMMENT\_ELTIF\_RTS\_1>

EFAMA has welcomed the new regulatory framework for European Long Term Investment Funds. We consider this to be a concrete step forward in the debate on boosting long-term investment in the EU and towards meeting Europe’s pressing needs for financing growth and long-term development.

EFAMA also welcomes the fact that ELTIFs are one of the key priorities in the context of the Capital Markets Union and appreciates the Commission’s intentions to further increase the attractiveness of ELTIFs to different categories of investors.

At the same time, EFAMA has been vocal on the fact that the ELTIFs Regulation should avoid an one‐size-fits all approach that would fail to address the different needs of the wide range of investors it seeks to target. Given the different needs of each investor category, as well as the different strategy and projects each ELTIF will carry, we would like to stress once more that the new Regulation needs to ensure that the interests and needs of different types of investors are met and that the right incentives are in place for ELTIFs to become a market success.

The asset management industry would therefore be in favour of ensuring the maximum flexibility for the ELTIF framework, in particular on the eligibility of the underlying assets, the diversification rules for ELTIFs open only to professional investors, the possibility to treat certain types of investors as professional investors and the lifetime/lifecycle of the funds. Moreover, channelling investments towards infrastructure projects and SMEs will require removing existing EU and national regulatory and fiscal barriers when it comes to investing in more long-term and illiquid assets.

Therefore, we appreciate the intention to find practicable solutions in the context of the RTS and we would like to ask ESMA to apply such flexibility and adaptability in the final ESMA RTS, in order to ensure ELTIFs will materialize their added value and increase their market potential <ESMA\_COMMENT\_ELTIF\_RTS\_1>

1. Do you agree that the abovementioned pieces of legislation and associated regulatory framework are relevant for the purpose of the present advice on Article 9(3) of the ELTIFs Regulation? Which other pieces of legislation and associated regulatory framework do you identify for that purpose?

<ESMA\_QUESTION\_ELTIF\_RTS\_1>

The pieces of legislation listed in the ESMA Consultation Paper although related to the concept of hedging are not all relevant with the specific features of the investment funds. This is the case, in particular, concerning the IFRS 9, which can conflict with the existing accounting rules of the investment funds. Moreover, accounting standards such as IFRS 9 are not commonly used by asset managers, who therefore do not have an in depth knowledge and understanding of them.

It should also be stressed that IFRS 9 and all the international accounting standards interpreted by IASB are for the time being an optional accounting method, whereas the EU position as to the compliance with IASB interpretation is not yet finalised. In order to stay consistent with the general EU stance as to those international rules and compatible with the EU legislation, it should be avoided to make this accounting standard an obligation under the ELTIFs Regulation. If nevertheless any reference should be made to the IFRS 9, it should be by stating the text of the IFRS Standard directly in the RTS, rather than a simple reference to IFRS, which would leave the text open to any future changes.

CESR Guidelines can be more relevant, however they are also focusing on securities and not on funds or private equities.

Given that the ELTIFs regime cannot be unjustifiably less flexible compared to other types of investment funds – as that would deteriorate ELTIFs’ market perspectives (see also our introductory remarks) – the provisions or established practices in defining eligible hedging instruments in the case of other types of investment funds, such as the ones foreseen in the UCITS Directive, the AIFMD and the Eligible Assets Directive, should also be taken into account. In these pieces of legislation the objective has been to define the scope of eligible derivatives via the definition of an efficient portfolio management. It is clear that ELTIFs Regulation sets the same objective and therefore the same rules should apply as to what is an efficient portfolio management.

<ESMA\_QUESTION\_ELTIF\_RTS\_1>

1. Do you think that the main risks that are necessary to be covered at the level of the ELTIF are currency, inflation and interest rate risks? If no, which types of risk would the manager of an ELTIF potentially have to cover in your view?

<ESMA\_QUESTION\_ELTIF\_RTS\_2>

EFAMA agrees with the approach of the draft RTS to define hedging arrangements that are eligible for the portfolio of an ELTIF. However, this should not lead to an exhaustive list of risks.

The risks mentioned in that part of the consultation are amongst the risks that will require a hedging arrangement, but are not the only ones. Credit, commodity, duration risks are other (but not the only) examples of risks a manager of an ELTIF will need to hedge. The ELTIF regulation allows for a very wide range of long term investment projects and investment strategies. The individual characteristics of each project, as well as their clients’ risk appetite, should be the ones determining the risks that need to be hedged. Determining ex ante and for all ELTIFs the risks to be hedged would result in limiting the scope of actual possibilities for using ELTIFs. For that reason, no exhaustive list of risks should apply.

<ESMA\_QUESTION\_ELTIF\_RTS\_2>

1. Do you think that the approach to hedging should not limit ex ante the scope of risks that ought to be covered by the manager of the ELTIF?

<ESMA\_QUESTION\_ELTIF\_RTS\_3>

Yes, EFAMA considers that the approach to hedging should not limit ex ante the scope of risks that ought to be covered by the manager of the ELTIF – please see also our response to Q2.

<ESMA\_QUESTION\_ELTIF\_RTS\_3>

1. On the contrary, do you think that the approach to hedging should be tailored to the specific case of ELTIFs, and their possible eligible investments? Do you think that in this case the risks that might have to be covered by the manager of the ELTIF should be limited to the types of risk that were mentioned in question 2?

<ESMA\_QUESTION\_ELTIF\_RTS\_4>

The choice of the risks to be hedged should remain in the discretion of the manager of the ELTIF. EFAMA agrees with the approach of ESMA’s draft RTS to define the purposes of a financial derivative instrument and therefore to set the principles for the eligibility of a hedging arrangement, but considers that the guidance should remain at a high level and not enter in a prescriptive list of risks that can be hedged. It is important to leave the possibility to the ELTIF’s manager to tailor the hedging policies based on the specific needs of each ELTIF. The use of derivatives should be specified in the rules or instruments of incorporation of each ELTIF as appropriate with its underlying assets and investment strategy and as agreed by the investors.

<ESMA\_QUESTION\_ELTIF\_RTS\_4>

1. Do you identify any consequences in terms of costs or scope of the eligible investments of the ELTIF if the risks that might be covered at the level of the ELTIF are limited to those that were mentioned in the impact assessment of the Commission?

<ESMA\_QUESTION\_ELTIF\_RTS\_5>

A limited scope of risks to be hedged would mean that it will not be feasible to cover all types of exposures to different risks. That would result in either increased risks for the ELTIF investors or in avoiding particular asset classes and therefore limiting the scope of investments. Both options can lead to important losses or lower returns for investors, as a result of the restricted opportunities, as well as to significant disadvantages for ELTIFs as compared to other types of investment funds.

<ESMA\_QUESTION\_ELTIF\_RTS\_5>

1. Do you agree with the proposed approach? Should you disagree, please provide reasons and propose an alternative approach and justify it.

<ESMA\_QUESTION\_ELTIF\_RTS\_6>

EFAMA understands that in determining the sufficient in length lifetime for an ELTIF, the Level 1 text sets specific limits as to the ex-ante defined lifetime. We appreciate ESMA’s understanding that the ELTIF manager might not have identified all assets in which the ELTIF will invest at the beginning of the ELTIF’s lifecycle. This takes into account situations where an asset manager may not have already negotiated the respective terms of the acquisition or investment for all eligible assets. It also closely relates to the general challenge for the ELTIF manager to identify at least five eligible investment assets, negotiate the acquisition or investment terms and duration for all of them in order to ensure compliance with the investment limits.

We consider that for each ELTIF the need to have a defined or non-defined lifetime is to be assessed individually and by the ELTIF manager. The ELTIF manager should not be forced to sell assets in unfavourable market conditions where potential contract partners would be aware of the situation and could exploit this to the disadvantage of the long term investors.

However, given the limitations of the Level 1 Text, EFAMA can agree that a sufficient in length lifetime would need to relate to the life of the underlying assets and in particular to the individual asset with the longest life-cycle. A certain flexibility in that case can come via the possibility for the rules or instruments incorporation of the ELTIF to foresee the extension/reduction of its lifetime, as foreseen in article 18 para 1b of the ELTIF Regulation.

In addition, it needs to be clear that the term “life-cycle” does not refers to the life of the asset as such, but to the life of the envisaged investment in that asset. Given the references in the ESMA Consultation Paper on the fact that “the investment positions into which the ELTIF is invested in the course of its life may change” we assume that this is also the position of the draft RTS, but we would welcome the clarification as to that point in the text of the RTS. Moreover and for reasons of legal consistency, it would be appropriate to add the reference “eligible” assets in the text of article 2 as mentioned in the text of articles 3 and 4. This are the long-term individual assets and are therefore the ones that should be taken into account for the definition of the sufficient in length lifetime of the ELTIF.

Therefore, the following modifications are suggested in the text of Article 2

*Article 2*

**Sufficient length of the life of the ELTIF**

1. For the purpose of Article 18(3) of Regulation (EU) 2015/760, the life of an ELTIF shall be considered sufficient in length to cover the life-cycle of each of the individual ***eligible*** assets of the ELTIF ***as defined in Article 10 of Regulation (EU) 2015/760*** where:

(a) it is set with reference to the individual ***eligible*** asset within the ELTIF portfolio ***for*** which ***the investment*** has the longest life-cycle, and

(b) it is taken into account when setting the investment objective of the ELTIF in such a way that any investment made after the length of the life of the ELTIF is determined does not have a residual life-cycle that exceeds the time period remaining before the end of the life of the ELTIF.

2. For the purpose of paragraph 1(a), the individual asset ***for*** which ***the investment*** has the longest life-cycle has to be determined at the time of the submission of the application for authorisation as an ELTIF to the competent authority of the ELTIF, based on the assets in which the ELTIF envisages investing at that time according to its investment strategy.

<ESMA\_QUESTION\_ELTIF\_RTS\_6>

1. Do you agree with the risks identified and the related proposed criteria? Would you suggest the introduction of any additional/alternative risks/criteria? Please provide details and explain your position.

<ESMA\_QUESTION\_ELTIF\_RTS\_7>

EFAMA agrees that the risks to be taken into account should only relate to the eligible investment assets as defined in Article 10 of the ELTIF Regulation. We also consider that market risks are the key relevant ones when assessing the market for potential buyers.

However, not all of the risks listed in the Consultation Paper and the draft RTS are strictly market risks. The reference to risks associated with legislative changes and with the deterioration of an economic situation are not (only) market related, as they require also the assessment of the political and regulatory environment. For those risks it is not always feasible to make an assessment at a previous stage, i.e. at the time the schedule for orderly disposal is adopted (no later than a year before the end of the life of the ELTIF). Moreover, the liability of the asset manager should not be put into question for risks that cannot be anticipated, such as the risks that depend on the outcome of an election or of a political decision. It should be also stressed that a requirement to include these risks may provide with less and not more convergence of the national rules concerning ELTIFs, as the level of information requested in relation to more political and less market oriented risks may differ amongst national authorities. For that reason, the reference to this type of risks should be deleted.

The list of risks to be considered and assessed includes also a reference to the dependency of potential buyers to external financing. This is not a feasible assessment for the ELTIF manager, as at the time of the finalising of the schedule for orderly disposal not all buyers will necessarily have already been identified and therefore neither their source of financing. Moreover, the source of financing of each buyer is not an information that can always be obtained by the manager. For that reason, this reference should also be removed from the list of risks to be considered.

EFAMA would therefore suggest the following modifications in the text of Article 3

*Article 3*

**Criteria for the assessment of the market for potential buyers**

For the purpose of Article 21(2)(a) of Regulation (EU) 2015/760, the schedule for the orderly disposal of the ELTIF assets shall assess the following elements in relation to the eligible investment assets as defined in Article 10 of Regulation (EU) 2015/760:

(a) whether one or several potential buyers are present in the market;

***~~(b) whether the potential buyers are dependent on external financing;~~***

(c) if there are no potential buyers for all or any of the eligible investment assets, the length of time necessary to find one or several buyers for those assets;

(d) the different maturity profiles of the investments;

(***~~e) whether there is any risk associated with legislative changes that could affect the market for potential buyers;~~***

***~~(f) whether there is any political risk that could affect the market for potential buyers; and~~***

(g) the impact that the overall economic conditions in the market which is relevant to the ELTIF assets and their foreseeable evolution during the disposal period may have on the elements listed under (a) and (b), including in relation to a part of the ELTIF assets only.

<ESMA\_QUESTION\_ELTIF\_RTS\_7>

1. Do you agree with the proposed valuation criteria? Would you suggest the introduction of any additional/alternative criteria? Please provide details and explain your position.

<ESMA\_QUESTION\_ELTIF\_RTS\_8>

The use of the “Fair Value Measurement” as foreseen in IFRS 13 could be one of the reference criteria when performing the valuation of the assets to be divested. Indeed, this can be appropriate in particular for liquid markets and assets. However, these rules are not always appropriate for every type of asset.

EFAMA considers that the valuation requirements deriving from Level 2 text of the AIFMD should also be provided as alternative valuation criteria based on the characteristics of the assets to be divested. AIFMD requires application of a fair, appropriate and transparent valuation methodology and at the same time requires the AIFM to apply the designated valuation methodology across all AIFs managed by the same AIFM. Given that the market is already applying the AIFMD valuation rules also to assets that would qualify as ELTIF eligible assets, allowing the use of the existing AIFMD rules for the same type of assets will ensure consistency and avoid any unnecessary complexity (i.e. complexity and inconsistency that will derive by requiring an AIFM to run two valuation systems in parallel, one for ELTIFs and another for AIFs, and applying different valuation systems for the same type of assets)

The following change in the text of Article 4 is therefore suggested:

*Article 4*

**Criteria for the valuation of the assets to be divested**

For the purpose of Article 21(2)(c) of Regulation (EU) 2015/760, the criteria to be used for the valuation of the assets to be divested are as follows:

(a) the valuation shall take place no more than 6 months before the schedule referred to in Article 21(1) of Regulation (EU) 2015/760 is disclosed to the competent authority of the ELTIF; and

(b) for eligible investment assets as defined in Article 10 of Regulation (EU) 2015/760, the valuation shall be based on the price that would be received to sell an asset in an orderly transaction between market participants at the measurement date ***or on the criteria of the Commission Delegated Regulation (EU) No 231/2013, Section 8, Articles 67-74***.

For the purposes of point (a), valuations made according to Article 21 of the AIFMD may be taken into account to determine whether a valuation has taken place no more than 6 months before the schedule referred to in Article 21(1) of Regulation (EU) 2015/760 is disclosed to the competent authority of the ELTIF.

<ESMA\_QUESTION\_ELTIF\_RTS\_8>

1. Do you agree that the abovementioned pieces of legislation and regulatory material are relevant for the purpose of the RTS on Article 25(3) of the ELTIFs Regulation? Which other pieces of legislation and regulatory material do you consider relevant for that purpose?

<ESMA\_QUESTION\_ELTIF\_RTS\_9>

The pieces of legislation and regulatory material referred in the consultation paper are relevant. Having two different set of rules applied in the case of the ELTIFs Prospectus is not an ideal solution, still given that the PRIIPS KID format is not yet finalised, the intermediary solution proposed to use as a point of reference the disclosure requirements foreseen for the UCITS KIID is an acceptable alternative.

<ESMA\_QUESTION\_ELTIF\_RTS\_9>

1. Do you agree with the abovementioned assumptions?

<ESMA\_QUESTION\_ELTIF\_RTS\_10>

EFAMA agrees with aligning the cost disclosures of the ELTIFs Regulation with the equivalent requirements and the general principles for UCITS as set out in the CESR Guidelines, until the technical standards on the PRIIPs Regulation will be finalised.

At the same time, it should be ensured that the disclosure requirements are in the long-term aligned with the ones foreseen in the PRIIPs KID in order to ensure legal consistency and clarity for the investors.

Consequently, the costs disclosed by the fund should be only the ones charged by it to the investors and not any other costs borne by the investors. For instance, distribution costs such as an up-front subscription fee charged directly by the distributor, should be disclosed by the distributor in accordance with its point of sale disclosure requirements under MIFID II. Furthermore, we agree that unlike the ongoing charges figure, the overall cost ratio as provided for in the ELTIF Regulation has to include one off costs such as entry costs charged by the fund. In this regard, we agree with ESMA that such costs could be calculated on the assumption that the investment horizon equals the life of the ELTIF.

Finally, the principle of avoiding double counting of cost items should also apply. In this regard, payments such as retrocessions or costs for legal advice regarding the fund structure or the drafting of the Prospectus should not be accounted for twice within different section of cost items (for instance, for the two cases mentioned in the management fees and distribution fees in the first case and in the setting up costs and administrative costs in the second case).

<ESMA\_QUESTION\_ELTIF\_RTS\_10>

1. Do you agree that the types of costs mentioned in the present paragraph are annual costs that could be expressed as a percentage of the capital?

<ESMA\_QUESTION\_ELTIF\_RTS\_11>

EFAMA agrees that such costs can be expressed as a percentage of the annual capital. An expression in percentage terms does not require assumptions regarding the investment period or the amount invested, which may differ significantly amongst investors. Furthermore, regarding costs related to the acquisition of assets and administrative fees, these are not predictable in advance. We would therefore appreciate a clarification that when actual costs are not available, the ELTIF manager may base the cost disclosure in the Prospectus on reasonable estimations.

<ESMA\_QUESTION\_ELTIF\_RTS\_11>

1. Do you think that performance related fees would be relevant costs to be taken into account in the case of ELTIFs?

<ESMA\_QUESTION\_ELTIF\_RTS\_12>

We agree that performance related costs should be taken into account. But since these costs cannot be ascertained correctly ex-ante, the fees should be disclosed separately to the investor to highlight their incidental nature.

<ESMA\_QUESTION\_ELTIF\_RTS\_12>

1. How would you include performance related fees in the overall ratio referred to in paragraph 2 of Article 25?

<ESMA\_QUESTION\_ELTIF\_RTS\_13>

EFAMA supports the indication of performance fees as costs excluded from the total cost indicator. This is best suited to reflect the conditional nature of performance fees and, thus, can provide more accurate information on the fee structures applicable in investment funds.

Given that the application and amount of such fees is dependent on the future return of the fund, ex-ante disclosure of the amount of performance fees is most likely to be misleading. Such incidental costs should therefore, be excluded from the on-going charges figures and rather be disclosed separately due to their incidental nature.

On that point as well as on our position in relation to the concrete computation of performance fees, please see our response to Question 44 of the Technical Discussion Paper on PRIIPs published in June 2015.

<ESMA\_QUESTION\_ELTIF\_RTS\_13>

1. Do you agree that the types of costs mentioned in paragraph 54 are fixed costs and that an assumption on the duration of the investment is necessary to calculate these costs in the numerator of the overall ratio mentioned in Article25(2), provided that this overall ratio is a yearly ratio?

<ESMA\_QUESTION\_ELTIF\_RTS\_14>

EFAMA agrees that the costs of setting up an ELTIF are fixed costs.

Concerning the distribution costs this depends on how they are structured. In the case they are structured on a variable basis, they are not fixed.

Moreover, concerning the distribution costs, as already mentioned in our response to Q10 and for reasons of legal consistency with the PRIIPs KID Regulation, the disclosure obligation is to be assumed by the distributor unless those costs are charged directly by the fund to the investors.

EFAMA also agrees that an assumption on the duration of the investment is required for the calculation of the fixed costs.

<ESMA\_QUESTION\_ELTIF\_RTS\_14>

1. Do you agree that the types of costs mentioned in paragraph 54 may be considered as fixed costs in the case of an ELTIF?

<ESMA\_QUESTION\_ELTIF\_RTS\_15>

Please see our response in Q14.

<ESMA\_QUESTION\_ELTIF\_RTS\_15>

1. Do you agree with the proposed requirements? Would you suggest the introduction of any additional/alternative requirements? Please provide details and explain your position.

<ESMA\_QUESTION\_ELTIF\_RTS\_16>

It should be stressed that the requirements initially foreseen in the UCITS Directive for local facilities and paying agents were appropriate at the time of their adoption, when these were the main means to obtain the necessary information. They do not reflect, however, the current technological developments that have rendered them in the majority of the cases outdated and can increase the administrative costs for the ELTIF. Today the access to information, payments and issue handling services can be provided by other means and without having a physical facility in each member state in which the ELTIF is marketed. It would, therefore, be appropriate to give the possibility to the manager to put in place either physical facilities or on-line and telephone ones, bringing the requirements in line with the existing market conditions.

It is our understanding that the specification of the facilities as suggested by ESMA can also include the possibility to set up such facilities exclusively on-line, but we consider that it would be better to clearly indicate that in the text of the RTS.

<ESMA\_QUESTION\_ELTIF\_RTS\_16>

1. What would you consider as appropriate specifications for the technical infrastructure of the facilities?

<ESMA\_QUESTION\_ELTIF\_RTS\_17>

As mentioned in our previous response, we would suggest to clarify in the Article 6 that the current market practices and the recent technological progress related to the distribution models should be also taken into account.

EFAMA suggests the following modification:

*Article 6*

**Specifications on the facilities available to retail investors**

1. The facilities referred to in Article 26(1) of Regulation (EU) 2015/760 shall provide the following tasks:

(a) when receiving retail investors’ subscription, repurchase and redemption orders relating to the units or shares of the ELTIF, they shall process them according to the conditions set out in the ELTIF marketing documents;

(b) they shall inform retail investors on how the orders mentioned under letter (a) can be made and how the repurchase and redemption proceeds are paid;

(c) they shall make payments to unit- or shareholders of the ELTIF, including in relation to any distribution of proceeds and capital made according to Article 22 of Regulation (EU) 2015/760;

(d) they shall facilitate the handling of any issues that retail investors have relating to their investment in the ELTIF in the Member State where the ELTIF is marketed; and

(e) they shall make available to retail investors, for inspection and for the obtaining of copies of:

i) the fund rules or instruments of incorporation of the ELTIF;

ii) the prospectus and key information document of the ELTIF;

iii) the latest published annual report of the ELTIF.

***1a. The facilities to provide the information referred to in paragraph 1 can be one of the following:***

* ***Physical***
* ***On-line***
* ***Telephone facilities***

2. In case the facilities referred to in Article 26(1) of Regulation (EU) 2015/760 are not provided by the manager of the ELTIF, a written agreement shall be concluded between the manager of the ELTIF and the entity providing the facilities to ensure that the latter is provided by the manager of the ELTIF with all the relevant information and documents to perform the tasks mentioned under paragraph ***1***.

<ESMA\_QUESTION\_ELTIF\_RTS\_17>

1. In the event that the RTS enter into force after the date of application of the ELTIF Regulation and authorisations are granted between the date of application of the ELTIF Regulation and the date of application of the proposed RTS, do respondents see a need for specific transitional/grandfathering provisions for the proposed RTS?

<ESMA\_QUESTION\_ELTIF\_RTS\_18>

The need to foresee a specific transitional/grandfathering clause will depend on the time difference between the date of application of the ELTIF Regulation and the date of application of the RTS. In any case, EFAMA would urge for the RTS to be finalised in the shortest possible deadline in order to ensure legal clarity. In the case the time difference is longer than one month, it would be appropriate to propose a grandfathering clause to ensure that any ELTIF launched prior to the adoption of the RTS will not be considered non-complying by national supervisory authorities.

<ESMA\_QUESTION\_ELTIF\_RTS\_18>

1. Do you agree with the above-mentioned reasoning in relation to the possible costs and benefits of the options as regards hedging? Which other costs or benefits would you consider in this context?

<ESMA\_QUESTION\_ELTIF\_RTS\_19>

As mentioned in our response to question 5, we agree that narrowing the scope of risks to be hedged as proposed in option 2 would be costly.

<ESMA\_QUESTION\_ELTIF\_RTS\_19>

1. Do you agree with the assessment of costs and benefits above for the proposal on the sufficient length of the life of the ELTIF? If not, please explain why and provide any available quantitative data on the one-off and ongoing costs (if any) that the proposal would imply.

<ESMA\_QUESTION\_ELTIF\_RTS\_20>

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<ESMA\_QUESTION\_ELTIF\_RTS\_20>

1. Do you agree with the assessment of costs and benefits above for the proposal on the criteria for the assessment of the market for potential buyers? If not, please explain why and provide any available quantitative data on the one-off and ongoing costs (if any) that the proposal would imply.

<ESMA\_QUESTION\_ELTIF\_RTS\_21>

EFAMA considers that information for which the ELTIF manager will have to rely on third party sources (such as the sources of financing of a potential buyer) will come at a cost for the ELTIF manager.

<ESMA\_QUESTION\_ELTIF\_RTS\_21>

1. Do you agree with the assessment of costs and benefits above for the proposal on the criteria for the valuation of the assets to be divested? If not, please explain why and provide any available quantitative data on the one-off and ongoing costs (if any) that the proposal would imply.

<ESMA\_QUESTION\_ELTIF\_RTS\_22>

Given that for all AIFMs (as the ELTIF managers will be) the AIFMD valuation rules already apply, applying on top of them a new set of rules for ELTIFs regarding the valuation methodology of the assets to be divested will result into additional costs.

<ESMA\_QUESTION\_ELTIF\_RTS\_22>

1. Do you agree with the above-mentioned reasoning in relation to the possible costs and benefits of the option taken by ESMA as regards common definitions, calculation methodologies and presentation formats of costs of ELTIFs? Which other types of costs or benefits would you consider in this context?

<ESMA\_QUESTION\_ELTIF\_RTS\_23>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_ELTIF\_RTS\_23>

1. Do you agree with the assessment of costs and benefits above for the proposal on the facilities available to retail investors? If not, please explain why and provide any available quantitative data on the one-off and ongoing costs that the proposal would imply.

<ESMA\_QUESTION\_ELTIF\_RTS\_24>

Given the current technological developments the access to information, payments and issue handling services can be provided on-line and without having a physical facility. The requirement to have a physical facility in each member state in which the ELTIF is marketed is outdated and can, therefore, increase the administrative costs for the ELTIF with no added value for the investors. For that reason, it would be appropriate to give the possibility to the manager to put in place either physical facilities or on-line and telephone ones, bringing the requirements in line with the existing market conditions.

<ESMA\_QUESTION\_ELTIF\_RTS\_24>

1. The field will used for consistency checks. If its value is different from the value indicated during submission on the website form, the latest one will be taken into account. [↑](#footnote-ref-2)