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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 20152015/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 | KBC ASSET MANAGEMENT NV |
| Confidential[[1]](#footnote-2) |[ ]
| Activity | Banking sector |
| Are you representing an association? |[ ]
| Country/Region | Belgium |

# Introduction

Please make your introductory comments below, if any:

<ESMA\_COMMENT\_ELTIF\_RTS\_1>

TYPE YOUR TEXT HERE

<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>

We agree

<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>

See answer Q4

<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>

See answer Q4

<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>

While these are risks that should be permitted to be hedged, it is not straightforward that it by definition in the best interest of the client to always hedge those risks. For example, an ELTIF that invests in equity, should not by definition hedge currency risk or inflation risk. Hence, it should be left to the manager of the ELTIF to decide which risks are to be hedged – taking into account the specificities of the ELTIF.

Neither should the risks that are permitted to be covered be limited to the risks metioned in question 2. For example, the manager of an ELTIF could decide to cover credit risk, provided that there financial instruments available to do so.

<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>

No, we don’t

<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>

Two questions the RTS could take into account additionally:

1. During the life of the ELTIF, should additional investments also not exceed the end date of the ELTIF?
2. In defining the maturity date of each individual investment, how do we take into account callable/puttable features, or any other features that makes the maturity date path dependent?

<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>

The risks that are mentioned can be interpreted in such a broad way that they are comprehensive

<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>

We agree

<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>

We agree

<ESMA\_QUESTION\_ELTIF\_RTS\_9>

1. Do you agree with the abovementioned assumptions?

<ESMA\_QUESTION\_ELTIF\_RTS\_10>

We agree

<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>

We agree

<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>

No, we don’t

<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>

No comment

<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>

We agree

<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>

We agree

<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>

This new product is not straightforward neither easy to explain, especially if compared with PEPPs which has a larger retail bias. However some features are quite interesting to retail investors too, e.g.:
1) investments in infrastructure ;
2) the investment limits idea which is similar to the popular Belgian pension savings funds.
Transparancy will nevertheless be a very important one, starting with a fully-fledged (i.e. containing all elements) investment policy, but also including an in-depth analysis and correct ventilation of the portfolio holdings/reality check with limits & eligible assets (integrated in the yearly report ?). This one has to be taken into account before the set-up of any ELTIF and will take considerable IT efforts.
Moreover we need a consistent sales story which should focus on existing client needs. The only way to make this clear is an inquiry where a full assessment can be distillated from.

I would plead for a semi-open structure as retail investors are used to have an exit possibility (even when penalised if they do so). The conditions should be very clear and integrated in all relevant (legal and commercial) documents. Low frequency exit possibility do not form a hurdle as this is already specific for alternative investments (considering ELTIF can be classified as such).

As for concentration rules we should act carefully and avoid arbitrary behaviour. It could be difficult to find European consensus on some elements there (e.g. rules in function of the portfolio)
A regular asset test (on portfolio basis, at first glance I do not see a good argument for a one-to-one approach) is quintessential (already in place as a MiFID I requirement).
The preferred (ESMA) option 1 seams to me the logical and fair one as MiFID II and UCITS specific legislation is integrated. I would prefer this one over an internal evaluation process around appropriateness.

<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>

Not clear at all what is meant by this one.

<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>

No, we don’t/

<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>

We agree the above – mentioned reasoning. No other costs needed.

<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>

See answer Q22

<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>

See answer Q22

<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>

The length of the ELTIF should be accommodating to the market conditions at that time.

2 very important issues concerning the maturity date : imagine we can’t liquidate the ELTIF because there is no market at that moment ?:

1. it should be possible to extend the life of the ELTIF? Therefore conditions or circumstances under which we can extend need to be specified.
2. on the contrary, under what conditions or circomstances can we shorten te life of the ELTIF ?

We would advice to allow the necessary arrangements (and amendments afterwards if necessary) within the articles of association, legal and/or marketing documents. e.g. it should be possible that the shareholders may differ from the conditions to extend of shorten the life of the ELTIF if an agreement is reached by 80%-95% of the shareholders assuming that marketconditions are OK at that moment.

<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>

We agree

<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>

We agree

<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)