

Amundi response on ESMA Consultation on ELTIF

August 2023

As an ELTIF manufacturer, Amundi welcomes the opportunity to share its experience and contribute to ESMA's consultation on the ELTIF draft regulatory technical standards (RTS).

Amundi launched its first ELTIF in 2016. To this date we have 8 ELTIFs domiciled in Luxembourg, France and Italy, distributed locally and cross-border.

We support the changes that have been made to improve the level 1 framework and to foster the uptake of ELTIF. The calibration of the RTS preserving the objectives of this review will be key to ensure success of new ELTIFs and their distribution to retail investors.

In order to promote the diversity of ELTIFs (strategies, horizon, liquidity), it is important to maintain flexibility in the Level 2 legislative framework so that the ELTIF manager chooses the best tools to manage its fund (LMTs, redemption frequency, holding period), and so that investors are offered a variety of ELTIFs suiting their needs.

In particular we would like to highlight the following key features:

- Holding periods:

It should be the responsibility of the AIFM to determine the minimum holding period on a case-by-case basis, depending on the fund's specificities. We would recommend ESMA not to add further constraints in the RTS as to minimum holding period in order to leave flexibility for innovation in ELTIFs strategies.

- Redemption frequency:

We consider that the setting of a maximum redemption frequency is not an adequate option since it does not cover the needs of all investors and ELTIFs investment strategies. Rather, we suggest common qualitative principles for LMTs and redemption frequency adapted for each funds.

- Notice period:

A notice period needs to be proportional and consistent with redemption frequency. Retail investors accustomed to products with greater flexibility may view such an extensive notice period, as proposed by ESMA in its consultation document, as a deterrent rather than an attractive feature. To set the notice period, it is important to focus on the strategy of the fund and consider this period as an LMT amongst others.

- LMTs:

In our opinion it is key for asset managers to be able to choose the most appropriate mandatory LMT depending on the fund's structure and on a case-by-case basis.

Below are the detailed answers to the consultation.

➤ **Existing ESMA empowerments under Articles 9(3), 21(3) and 26(2)**

Question 1: Do you agree with the proposed approach in relation to the RTS under the abovementioned Articles 9(3), 21, and 26(2) of the ELTIF Regulation?

We generally agree with ESMA's proposed draft.

We would like to draw attention to the wording "verifiable and objectively measurable reduction" of the risk used under Article 1, paragraph 2 which lacks clarity. In this respect, we recommend to draw inspiration from the UCITS provisions on liquid pocket (in particular the wording of UCITS article 11) which foresees the following criteria:

- a) they are economically appropriate in that they are realised in a cost-effective way;
- b) they are entered into for one or more of the following specific aims:
 - (i) reduction of risks;
 - (ii) reduction of cost;

Generation of additional capital or income for the UCITS with a level of risk which is consistent with the risk profile of the UCITS and the risk diversification rules laid down in Article 22 of Directive 85/611/EEC.

➤ **ESMA empowerment under Article 25(3) on cost disclosure**

Question 2: 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 ELTIF Regulation?

Which other pieces of legislation and regulatory material do you consider relevant for that purpose)?

It is important to highlight that investors costs disclosures rules are foreseen in several other EU legislations (UCITS, AIFMD, MiFID, PRIIPs), some of them currently under review in the context of the Retail Investment Strategy proposals. It is important to take this new developments into account in order to achieve consistency.

Question 3: Do you agree with the abovementioned assumptions?

In relation to the ELTIF cost ratio figures to be expressed as yearly percentages (of the capital of the ELTIF), would you see merit in expressing it instead in terms of maximum percentages (and, in the prospectus, only refer to the corresponding yearly figures included in the KID, or in the annual report of the ELTIF)?

We would like to recall that cost ratio calculations are impacted by the actual fund raising and the final size of the fund. Those calculations are also affected by the investment horizon of the fund, and whether it is closed-ended or semi-liquid.

The difference between the scenario forecast of the average annual fee and the reality is complex to express to retail investors. It is quite complex and difficult to explain to retail investors. We see limited benefits for the investors in communicating and sharing those technical elements with them.

In order to cater for this complexity and the inconsistency in the different disclosure documentation, we support a cost ratio disclosure which includes:

- ex-ante disclosure in the PRIIPs documentation of the expected costs and fees and their impact on the return on investment,
- clear information on maximum costs for each cost components in the prospectus documentation (which could be expressed in ranges),
- yearly disclosure of the actual costs in the annual report.

Question 4: Do you agree that the types of cost mentioned in the present paragraph are annual costs that could be expressed as a percentage of the capital? What are your views on the list of “other costs” referred to above in paragraph 32(b) which are suggested to be added, as compared to the list of “other costs” referred to in Article 25(1)(e) of the ELTIF Regulation?

We agree with the draft RTS as to what constitutes annual costs that could be expressed as percentage of the capital. As far as paragraph 32 (b) is concerned we would suggest to make a clear distinction (separate rows) between carried interests and performance fees.

Question 5: Do you agree that the types of cost mentioned in paragraph 33 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 cost ratio mentioned in Article 25(2), provided that this overall ratio is a yearly ratio? Would you see merit in specifying what is to be meant by the “setting-up” of the ELTIF, as referred to in Article 25(1)(a) of the ELTIF Regulation? If yes, could you indicate which elements of the “setting-up” of the ELTIF should be clarified?

We do not see the necessity to specify what is meant by the setting up of the ELTIF. However should this be developed, we stress that “setting-up costs” are to be understood as costs linked to the launch of the fund (e.g. research, filing, costs incurred for the fund to go live).

We disagree with paragraph 33.b, as we believe distribution costs are not one-off costs. For instance, an ELTIF fund could enlarge its distribution base at some points in its life (e.g. to a new countries) and this would incur new costs.

Question 6: Do you agree that the types of costs mentioned in paragraph 36 may be considered as fixed costs in the case of an ELTIF?

We disagree, on the assumption that acquisition costs are “one-off costs”. Indeed, depending on the duration of the ELTIFs and its portfolio diversification, the concept of main asset might not be predictable and a new investment cycle may take place incurring new acquisition costs.

Question 7: Would you see merit in including a specific grand-fathering clause (in relation to the RTS under Article 25(3) of the ELTIF Regulation) for ELTIFs benefitting from the grand-fathering clause provided for in Article 2 of Regulation 2023/606?

Yes. A grand-fathering clause would provide legal certainty and clarity to both managers and investors.

ESMA empowerment under Article 18 on redemption policy

Question 8: Do you agree with the proposed amendment to the existing RTS under the first paragraph of Article 18(6) of the ELTIF Regulation?

Amundi would like to recall that ELTIFs are already regulated under the AIFMD (all the rules of the AIFMD apply to all the ELTIF managers, thus applicable rules of the AIFMD correspond to the characteristics of the ELTIF regulation).

Amundi believes that the list of circumstances in which the life of an ELTIF is considered compatible with the life-cycle of each of its individual assets as per Article 2 of the draft RTS is fair and comprehensive.

However, circumstances of the point h may be difficult to foresee as by nature an ELTIF is a long term investment and the behavior of investors could not be used as a reference for the calculation of the portfolio model and liquidity approach.

Question 9: Do you agree with the proposed criteria to determine the minimum holding period (referred to in point (a) of paragraph 2 - Article 18(6)(a)) of the ELTIF Regulation?

What are your views on the setting of a minimum of X years for all ELTIFs, irrespective of their individual specificities (with X equal to 3, for example), with respect to the abovementioned minimum holding period?

Amundi supports the criteria to determine a minimum holding period referred to in Article 3 of the draft RTS.

Paragraph 61 recognizes that a minimum holding period could be different from one type of ELTIF to another, as asset classes, sectors and markets differ. This will have an impact and therefore some ELTIFs may require longer or shorter minimum holding periods. We concur with ESMA's views that

ELTIFs' variety of fund terms, asset classes (infrastructure, private equity, real estate, among others) and investment strategies call for common standards that are based on qualitative, rather than quantitative criteria.

ESMA draft RTS setting a minimum holding period of three years for all ELTIFs, unless the manager of the ELTIF is able to justify that it could be shorter, seems unnecessary and inconsistent with market practice. In addition, Article 18 of the amended ELTIF Regulation provides for the possibility of redemption during the life of the ELTIF, provided that redemptions are not granted before the end of the minimum holding period or before the end of the ELTIF ramp-up period specified in the rules or instruments of incorporation of the ELTIF. We would like to recall that no reference is made to a mandatory minimum holding period in the revised ELTIF Regulation.

The PRIIPs Regulation is applicable when ELTIFs are marketed to retail investors. Article 8, paragraph 3, letter g (iv) of Regulation 1286/2014 provides that the key information document shall contain an indication of the recommended holding period. Having two different requirements on the minimum holding period – mandatory under the ELTIF regime and recommended under the PRIIPs Regulation – could be misleading and create uncertainty.

Therefore it should be the responsibility of the AIFM to determine the minimum holding period on a case-by-case basis, depending on the fund's specificities. We would recommend ESMA not to add further constraints in the RTS as to minimum holding period in order to leave flexibility for innovation in ELTIFs strategies (e.g. linked to secondary markets, or local individual lock-up period mechanisms).

Question10: Do you agree with the proposed approach in relation to the minimum information to be provided to the competent authority of the ELTIF (referred to in point (b) of paragraph 2 - Article 18(6)(b) of the ELTIF Regulation)?

The AIFMD should serve as a basis for the requirements under the ELTIF Regulation (i.e. the ELTIF requirements should add on to those of the AIFMD, as ELTIFs are a specific type of AIF). In this context, it should be noted that the AIFMD distinguishes between semi-liquid and closed ended funds.

Overall, Amundi agrees with the list of minimum information that managers should provide to competent authorities.

However, we note that Article 4, paragraph 2 of the draft RTS establishes that *"(...) the ELTIF should provide to the competent authority (...) the updated information, where possible, before the application of such material changes, and in any case not later than 10 days from the date the respective material changes became known or should have become known to the ELTIF manager."*

Amundi notes the 10-day deadline for providing the required information is difficult to meet. In addition the term "should have become known" should be removed from the sentence as it is

difficult to update information that the manager does not actually know (but only should have known).

We propose a 30 business-day period instead, in line with the usual delay for the breach of investment reporting.

Question 11

- a) Do you agree with the proposed approach in relation to the requirements to be fulfilled by the ELTIF in relation to its redemption policy and liquidity management tools, referred to in points (b) and (c) of Article 18(2) - Article 18(6)(c) of the ELTIF Regulation)?

The ELTIF is a closed-ended fund which can propose redemption windows to investors. The redemption policy of the ELTIF should be defined taking into account primarily allocation of liquidity pockets and life cycles of the invested assets.

Further, on both liquidity management tools and redemption policies, it is important to preserve a flexible approach to foster the development of diversified ELTIFs funds. As redemptions will need to be met out of liquid assets or for available cash, the ELTIF should generally not have to sell long-term assets to meet redemptions. Therefore those redemption policies have to be calibrated carefully.

- Redemption policies

Redemption policies have to be set in coherence with the asset allocation of the ELTIF and limited to a percentage of the liquidity pocket of the fund. This percentage needs to be clearly disclosed in the fund documentation and is a tool which gives control to asset managers over the liquidity risk in the portfolio. The regulatory technical standards should ensure that the ELTIF has the flexibility to manage subscriptions and redemptions while maintaining liquidity consistent with its redemption terms. We consider that the setting of a maximum redemption frequency is not an adequate option since it does not cover the needs of all investors and the ELTIFs investment strategies. Rather, we suggest common qualitative standards in order to determine redemption frequencies that can be fit for the different elements.

- Liquidity management tools

Regarding liquidity management tools (LMTs), ESMA seems to indicate that ELTIF shall select and implement at least one anti-dilution LMT while, only during stressed market conditions, implement redemption gates to reduce the possibility of selling assets at discounted prices.

It is important to preserve the principle, that managers should be able to choose the most appropriate mandatory LMT depending on the fund's structure and on a case-by-case basis.

- b) What are your views on the setting of a maximum redemption frequency on a quarterly basis, for all ELTIFs, irrespective of their individual specificities, as suggested in paragraph 84?

We consider that the setting of a maximum redemption frequency is not an adequate option since it does not cover the needs of all investors and the ELTIFs investment strategies. We would rather suggest common qualitative principles for LMTs and redemption frequency adapted for each funds.

- c) **What are your views on the setting of a notice period of Y months for all ELTIFs (with Y equal to 12, for example)?**

What are your views on the options 1 and 2, set out in paragraphs 87 to 90, in relation to the specific requirements/circumstances where the notice period could be less than one year, and the numerical values of the parameters Z(1) to Z(4), under option 1, and Y, under option 2?

ESMA seems to recommend a minimum notice period of 12 months for all ELTIFs.

While we recognize that a minimum notice period could be an option alongside the remaining LMTs, the 12-month notice period suggested by ESMA is too long, given that funds already have sufficient LMTs in place to manage their liquidity without relying on a long notice period.

First of all, notice period needs to be proportional and consistent with redemption frequency. Retail investors accustomed to products with greater flexibility may view such an extensive notice period as a deterrent rather than an attractive feature. It will also create confusion amongst retail investors as the notice period is usually consistent with the redemption frequency. In the draft RTS the suggestion of a 12-month notice period would be impracticable with the quarterly redemption suggested.

Secondly, we need to focus on the strategy of the fund and consider this period as an LMT amongst others. We do not support this tool becoming mandatory as one needs to consider the diversity of assets eligible and adapt to the strategy.

As far as liquid assets are concerned (option 1), a too high percentage would not be suitable for ELTIFs. Should this approach be chosen, it should be clear that those percentages would be set by the asset manager in line with the fund strategy and characteristics, and should not be set by the regulator.

- d) **In your view, how do these requirements on the redemption policy and liquidity management tools of the ELTIF would compare to those applying to existing long-term investment AIFs which would be similar to ELTIFs (e.g. in terms of eligible assets)?**

We are in favor of option 2 as it seems to be much closer to market practices and would avoid putting the majority of retail AIFs outside of the scope for the ELTIF structure hampering the goal of making ELTIF a successful brand.

Where possible, please support your answers by providing examples of current liquidity set-up for similar long-term funds marketed to retail investors, analyses of the data available to assess the value of ELTIF long-term assets and the length of the valuation process.

Question 12: Do you agree with the proposed criteria to assess the percentage referred to in point (d) of Article 18(2) - Article 18(6)(d))?

Amundi stands for the level 1 text which is already detailed enough for the purpose of the determination of the liquid pocket on which the redemption would be calculated. Not only the liquid investments but also the respective cash flow.

These elements will be included in the model portfolio on the basis of which the approval is discussed with the regulator (i.e. on a case by case basis according to the specific features of the fund).

➤ **ESMA empowerment under Article 19 on the matching mechanism**

Question 13: Do you agree with the principle-based approach suggested above, in relation to the ESMA RTS under Article 19(2a)?

As the impact of the use of the matching mechanism is still unknown, we firmly support ESMA's principle-based approach. However, it appears that ESMA goes beyond the ELTIF Regulation in specifying the circumstances for the use of matching.

ESMA suggests that the matching mechanism and redemption windows could be used during the same period. It will be however important to explain the difference between the two instruments to investors while avoiding arbitrage between the redemption and the matching price. We are in

favour of using the matching mechanism and thus supports the principle-based approach presented by ESMA. We consider this mechanism to complement the redemption policy. In this respect, the matching mechanism should be further described in the fund documentation.

Question 14: Do you agree with the proposals suggested above and corresponding draft RTS, in relation to the transfer process for both existing and potential investors, and the role of the manager of the ELTIF or the fund administrator in conducting transfers, and the matching of respective requests?

We agree to a certain extent with the proposals and would like to note that there are different types of liquidity for investors in ELTIF in the process in question, namely three:

- Liquidity linked to redemptions (regulated and organized on art 18);
- The matching operational offset of the exit request with the subscriptions;
- A secondary organized market of the shares/units of an ELTIF.

We believe it is important to highlight that matching isn't a secondary market and orders should be offset with subscription at a price related to the NAV.

Question 15: Do you agree with the proposed approach and corresponding draft RTS, in relation to the periods of time during which existing and potential investors may request transfer of shares or units of the ELTIF?

If both systems under Article 18(2) and 19(2a) coexist, how could the risk of arbitrage between different prices in the primary and the secondary markets be, in your view, mitigated?

How could (retail) investors be ensured that the purchase or sale of shares on the secondary market will be executed at prices that reflect the value of the ELTIF?

Regarding the matching operations and as mentioned above, matching should be made clear in the fund documentation to the client.

We believe the matching mechanism can be implemented during the valuation dates of the ELTIF as long as the execution price is based on the corresponding NAV. It may only deviate from the NAV between the valuation dates. This should mitigate the risk of arbitrage and should allow longer period of time of operation of this mechanism.

On secondary markets it is a different situation: it is supply and demand and thus the market which set the price and this cannot be determined in advance nor in the fund documentation. (e.g. listing on an MTF or regulated exchanges).

Question 16: Do you agree with the proposals above and the corresponding draft RTS, in relation to the determination of the execution price and the proration conditions and the level of the fees, costs and charge, if any, related to the transfer process?

We agree with the principles set out above.

Question 17: Do you agree with the proposal above, and the corresponding draft RTS, in relation to the timing and the nature of the disclosure of information with respect to the transfer process conditions?

Yes, we generally agree with ESMA's proposals in relation to the timing and the nature of the disclosure of information with respect to the transfer process conditions.

➤ **Cost-benefit analysis**

Q18: Are you of the view that any of the requirements of the draft RTS under the amending ELTIF Regulation should be adjusted to take into account the specificities of listed ELTIF? If yes, could you specify which requirement should, in your view, be amended?

The most relevant issue to be taken into consideration is to guarantee that the final RTS make clear distinctions between rules applicable to matching and rules application to secondary markets.

If this principle is observed we do not see *a priori* at this stage any problematic requirements.

Q19: Do you agree with the above-mentioned reasoning in relation to the possible costs and benefits of the option taken by ESMA as regards the redemption policy of ELTIF under Article 18(2) of the ELTIF Regulation? Which other types of costs or benefits would you consider in this context?

Q20: Do you agree with the above-mentioned reasoning in relation to the possible costs and benefits of the option taken by ESMA as regards the matching mechanism of ELTIF under Article 19(2a) of the ELTIF Regulation? Which other types of costs or benefits would you consider in this context?

Q21: 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?