

## A “ELTIF” STATUS FOR BELGIAN ALTERNATIVE INVESTMENT FUNDS?

21 August 2019

The “European long-term investment fund” (ELTIF) label was created by the European regulation in order to facilitate a financing of lasting duration to various infrastructure projects and to specific unlisted companies or listed small and medium sized enterprises. On different aspects Belgian alternative investment funds (AIF) could in principle already access the ELTIF regime by incorporating its specific constraints in their articles of association, though an amendment of the applicable Belgian legislation would facilitate and promote the use of the ELTIF label.

### The ELTIF

The status of European long-term investment fund (ELTIF) was created by Regulation (EU) 2015/760 of the European Parliament and of the Council of 29 April 2015 on European long-term investment funds (the ELTIF Regulation) and is in force under Belgian law since 9 December 2015.

The ELTIF was created to promote long-term financing across the European Union, in line with the Europe 2020 strategy which aims at putting the European economy on a path of smart, sustainable and inclusive growth.

Its main characteristic is that it is not a new type of fund but a “label” that applies to a national alternative investment fund (AIF). Such AIF can thus be authorised as ELTIF if it complies with different requirements, which include being managed by a specifically authorised AIF manager and complying with specific rules regarding its functioning (portfolio diversification, redemption policy, transparency, permitted and prohibited activities, distribution of proceeds, disposal of assets, etc.).

AIF authorised as ELTIF are allowed to raise capital from both institutional and retail investors across the Member States of the European Union.

### Types of investment

ELTIF must invest mainly in eligible assets, i.e. in long-term illiquid assets (such as tangible assets related to infrastructure projects or equity and debt instruments issued by unlisted companies or listed small and medium-sized enterprises).

The ELTIF regime could therefore be used to structure different types of long-term investment funds:

- infrastructure funds: investing in public buildings, social infrastructures, transport, sustainable energy or communications infrastructures;
- real estate funds: investing in nursing homes, schools, hospitals, prisons, social accommodations or, under certain conditions, in commercial or residential real estate;



- debt funds: providing credits to or investing in debt instruments issued by medium-sized enterprises; or
- private equity funds: investing in equity or equity-related instruments issued by medium-sized enterprises.

### **ELTIF and Belgian investment funds**

Various funds have been set-up in Europe under the ELTIF label, e.g. in France, Italy or Luxembourg.

Unlike other Member States, Belgium has taken no steps in its legislation in order to facilitate or favour the use of the ELTIF label for AIF set-up under Belgian law.

In principle, Belgian AIF could access the ELTIF regime for certain types of investment by incorporating its specific constraints in their articles of association. For instance, in the real estate sector, an infrastructure fund could take the form of a “*sicaf*” / “*vastgoedbevak*” and could be authorised as an ELTIF. Such fund would be subject to the ELTIF requirements, in addition to its specific regulations (in the example, the “*sicaf*” / “*vastgoedbevak*” regulation) and would be able to operate effectively on a cross-border scale in the European Union\*.

It would however be preferable to amend the applicable Belgian legislation in order to facilitate and promote the use of the ELTIF label.

*\* For further developments: T. TILQUIN et K. ALFERS, « Le fonds européen d'investissement à long terme et les investissements immobiliers », numéro spécial de la revue Jurimpratique (Revue pratique de l'immobilier), Larcier, 2017, p. 289 and f.*

**For more information, do not hesitate to contact:**

Thérèse Loffet  
[t.loffet@lime.law](mailto:t.loffet@lime.law)

Thierry Tilquin  
[t.tilquin@lime.law](mailto:t.tilquin@lime.law)

Kevin Alferts  
[k.alfers@lime.law](mailto:k.alfers@lime.law)

Follow our latest publications on [LinkedIn](#)