Council of the European Union

Brussels, 29 November 2021
(OR. en)

Interinstitutional File:
2021/0377 (COD)

14367/21
ADD 3

EF 365
ECOFIN 1167

COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	25 November 2021
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	SEC(2021) 571 final
Subject:	Regulatory Scrutiny Board Opinion on the Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) 2015/760 as regards the scope of eligible assets and investments, the portfolio composition and diversification requirements, the borrowing of cash and other fund rules and as regards requirements pertaining to the authorisation, investment policies and operating conditions of European long-term investment funds

Delegations will find attached document SEC(2021) 571 final.

Encl.: SEC(2021) 571 final

EUROPEAN COMMISSION

Brussels, 9.7.2021

SEC(2021) 571 final

REGULATORY SCRUTINY BOARD OPINION

Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2015/760 as regards the scope of eligible assets and investments, the portfolio composition and diversification requirements, the borrowing of cash and other fund rules and as regards requirements pertaining to the authorisation, investment policies and operating conditions of European long-term investment funds

{COM(2021) 722}

{SWD(2021) 342}

{SWD(2021) 343}

EUROPEAN COMMISSION
Regulatory Scrutiny Board

Brussels,
RSB

Opinion

Title: Impact assessment / European long-term investment funds review

Overall opinion: POSITIVE

(A) Policy context

The Regulation on European long-term investment funds (ELTIF) was adopted in 2015 with the aim to promote long-term finance in the EU as part of the Capital Market Union. Since then, only a limited number of ELTIFs have been created with a relatively small amount of net assets (below EUR 2 bn). In the EU, there are 51 registered ELTIFs domiciled in only four Member States (Luxembourg, France, Italy and Spain). While the ELTIF regulation is still a new framework, the market has not scaled up as intended. A limited evaluation of the framework concludes that there is a need for a targeted review of it, which is the subject of this impact assessment.

(B) Summary of findings

The Board notes the useful additional information provided in advance of the meeting and commitments to make changes to the report.

The Board gives a positive opinion. The Board also considers that the report should further improve with respect to the following aspects:

(1) The definition and analysis of options do not reflect fully the policy choices to be made.

(2) The report does not sufficiently explain the causes of the data gaps and does not examine how to avoid them in future monitoring.

(C) What to improve

(1) To show the growth potential of ELTIFs, the report should present information on the recent increase in their uptake. It should clarify the relative importance of the problems identified in the report and of national taxation for their future growth.

(2) The report should better describe the link with parallel initiatives and should incorporate relevant evolutions in the baseline. Options should reflect more clearly the problems and their relative importance. The report should analyse options on the protection

This opinion concerns a draft impact assessment which may differ from the final version.

Commission européenne, B-1049 Bruxelles - Belgium. Office: BERL 08/010. E-mail: regulatory-scrutiny-board@ec.europa.eu

of retail investors in a more granular way. In particular, it should elaborate the minimum required investment for retail investors. It should clarify how fund rules will be diversified between professional and retail investors, without legal separation.

(3) The report should distinguish views of different stakeholder groups more clearly throughout the report, including in the annexed presentation of stakeholder input and the evaluation.

(4) The comparison of options should use the standard assessment criteria (effectiveness, efficiency and coherence) and more systematically identify all affected groups in the summary of impacts.

(5) The report should clarify the reasons for the data gaps in the report. In view of the limited evidence base of the annexed evaluation, it should explore how to improve future monitoring.

The Board notes the estimated costs and benefits of the preferred option(s) in this initiative, as summarised in the attached quantification tables.

Some more technical comments have been sent directly to the author DG.

(D) Conclusion

The DG must take these recommendations into account before launching the interservice consultation.

If there are any changes in the choice or design of the preferred option in the final version of the report, the DG may need to further adjust the attached quantification tables to reflect this.

Full title	**Review of the Regulation on European long-term investment funds**
Reference number	PLAN/2020/7951
Submitted to RSB on	11 June 2021
Date of RSB meeting	7 July 2021

2

ANNEX – Quantification tables extracted from the draft impact assessment report

The following tables contain information on the costs and benefits of the initiative on which the Board has given its opinion, as presented above.

If the draft report has been revised in line with the Board's recommendations, the content of these tables may be different from those in the final version of the impact assessment report, as published by the Commission.

I. Overview of benefits (total for all provisions) – Preferred Option		
Description	***Amount***	***Comments***
Direct benefits		
Reduction in compliance costs for fund managers	No estimate available.	Removal of the ad-hoc suitability test foreseen under ELTIF as it duplicates the suitability test linked to the provision of financial advice already provided for under ELTIF regulation. Reduced compliance costs for funds that target only professional investors.
Retail investors able to invest from smaller amounts	No estimate available.	Improved access to funds for retail investors will allow ELTIFs to better meet their investment goals and diversify their portfolios.
Reduced fund registration/issuance costs for fund managers	No estimate available.	Improvements in operational efficiency and any cost reductions (thanks to such adjustments as removal of local facilities and streamlining the authorisation requirements) may translate into higher profitability for asset managers.
Increased flexibility in fund rules for fund managers	No estimate available.	By increasing the flexibility of the fund rules, and therefore the size of ELTIFs, investment managers will be able to invest in a broader range of asset classes and pursue more investment strategies.
Increased redemption opportunities for investors	No estimate available.	By allowing investors to redeem their holdings before the funds maturity, the product may be more attractive to new investors increasing the flow of funds to ELTIFs.
Indirect benefits		
Increased availability of alternative sources of finance for SMEs	No estimate available as this will be driven by market uptake and investment decisions on capital allocation.	SMEs in Europe are overly reliant on traditional credit providers such as banks. However, they can face increased borrowing costs or be prevented entirely from accessing these funding channels based on the level of perceived risk and the banks capital requirements. ELTIFs can provide an alternative source of long term financing for SMEs.
Fund returns for investors	No estimate available	Improving fund returns and allowing investors to access products that are tailored to meet their investment needs.
Increased long-term investments in the real economy	No estimate available – benefit cannot be quantified.	The long term focus of ELTIFs makes them an effective vehicle for investors to invest in capital projects such as green energy, infrastructure, housing and medical facilities they would otherwise not have access to. This means ELTIFs can mobilise further savings for long-term projects. Increased use of the ELTIF vehicle could also assist in diverting funding towards long term projects supporting the recovery from the global pandemic.

(1) Estimates are relative to the baseline for the preferred option as a whole (i.e. the impact of individual actions/obligations of the preferred option are aggregated together); (2) Please indicate which stakeholder group is the main recipient of the benefit in the comment section;(3) For reductions in regulatory costs,

3

please describe details as to how the saving arises (e.g. reductions in compliance costs, administrative costs, regulatory charges, enforcement costs, etc.; see section 6 of the attached guidance).

II. Overview of costs – Preferred option							
		Investors		Fund Managers		Supervisors	
		One-off	Recurrent	One-off	Recurrent	One-off	Recurrent
Reducing retail investor barriers to entry	Direct costs	No cost impact	No cost impact	No cost impact	No cost impact	No cost impact	No cost impact
	Indirect costs	No cost impact	No cost impact	No cost impact	Increased size of funds may allow realisation of economies of scale cost savings	No cost impact	No cost impact
Increased flexibility in fund rules	Direct costs	No cost impact	No cost impact	No cost impact	No cost impact	No cost impact	No cost impact
	Indirect costs	No cost impact	No cost impact	No cost impact	Increased size of funds may allow realisation of economies of scale cost savings	No cost impact	No cost impact
Differentiated treatment of retail and professional investors	Direct costs	May reduce search costs for professional investors	No cost impact	May reduce marketing and placement costs for professional investor funds	May reduce reporting/compliance costs for professional only funds	No cost impact	No cost impact
	Indirect costs	No cost impact	No cost impact	No cost impact	No cost impact	No cost impact	No cost impact
New redemption options	Direct costs	No cost impact	Ability to redeem more frequently reduces opportunity cost for investors.	May lead to additional administration costs and increased drag on fund returns to maintain liquidity pocket	May lead to additional administration costs and increased drag on fund returns to maintain liquidity pocket	No cost impact	No cost impact
	Indirect costs	No cost impact	No significant cost impact	No cost impact	No cost impact	No cost impact	No cost impact

(1) Estimates to be provided with respect to the baseline; (2) costs are provided for each identifiable action/obligation of the preferred option otherwise for all retained options when no preferred option is specified; (3) If relevant and available, please present information on costs according to the standard typology of costs (compliance costs, regulatory charges, hassle costs, administrative costs, enforcement costs, indirect costs; see section 6 of the attached guidance).

4

Electronically signed on 09/07/2021 10:40 (UTC+02) in accordance with article 11 of Commission Decision C(2020) 4482