European long-term investment funds

2013/0214(COD) - 26/06/2013 - Legislative proposal

PURPOSE: to stimulate long-term investment in the real economy through EU Long Term Investment Funds or ELTIFs.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: the Commission considers that there is a clear need to ensure that **barriers to investment with a long term perspective are tackled at the European Union level**. This is particularly the case for assets such as infrastructure projects that depend on long term commitments. These assets depend, in part, on what is often called 'patient capital'. Capital invested in this long term, 'patient' manner benefits the **real economy** by providing predictable and sustained flows of finance to firms and creates employment.

The large-scale and long-term capital commitments required for operating efficient investment pools for long-term assets have hitherto been hampered by **regulatory fragmentation** among Member States. Investment opportunities are restricted to a few very large investors, such as large pension funds or insurance undertakings, able to raise and commit sufficient capital by virtue of their own resources. This, in turn, acts as a barrier to smaller investors such as local pension plans, municipalities, the pension schemes run by the liberal professions or corporate pension plans who might otherwise benefit from diversifying their investments into such assets.

Currently, there is no readily available mechanism to channel funds that are to be committed for long periods of time to real economy projects in need of such financing. Therefore, the Commission proposes to create a **new form of fund vehicle**, EU Long Term Investment Funds or ELTIFs. ELTIFs, by virtue of the asset classes that they are allowed to invest in, are expected to be able to provide investors with long term, stable returns. The proposed new ELTIF will be available for marketing to investors across the European Union.

The wider context of this work has been set out in the European Commission's Green Paper, the Long-Term Financing of the European Economy. The importance of tackling these issues was set out already in the Single Market Act II (SMA II). One of its twelve key objectives is to boost long-term investment in the real economy.

IMPACT ASSESSMENT: the impact assessment contained a wide range of policy options, ranging from taking no action, integrating long-term asset classes into the existing UCITS framework, to creating a fund vehicle for professional investors only, or a fund vehicle open to all investors, with or without redemption facilities.

The selected option is to create a long-term investment fund vehicle open to both professionaland retail investors. In line with the illiquid properties of long-term asset classes, there would be no redemption rights prior to the termination of the fund’s lifecycle.

LEGAL BASIS: Article 114 of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: this proposal intends to help increase the pool of capital available for long term investment in tomorrow's economy of the European Union with a view to finance transition to the smart, sustainable and inclusive growth. This will be done by **creating a new form of fund vehicle, EU Long Term Investment Funds or ELTIFs**.

The proposed legislative measure will **create a regulatory framework for ELTIFs**, with a view to ensure that such funds are subject to consistent rules across the EU and that they are identifiable as such by investors throughout the EU. It shall harmonise the operating conditions for all relevant players in the investment fund market, for the benefit of all

investors and for the smooth functioning of the single market in financial services.

Management and autorisation: ELTIFs should be managed by undertakings that are duly authorised under the AIFMD to manage and market alternative investments in accordance with Directive 2011/61/EU on Alternative Investment Fund Managers which lays down the general rules for alternative investment fund managers who manage and market their funds to professional investors.

The proposed ELTIF framework builds on the cross-border provisions in the AIFMD, adding to the "European" passport for marketing professional investors a **"European" passport for**

marketing to retail investors across the EU with regard to ELTIFs. Specific LTIF product rules will be added so that ELTIFs can be easily identified by both professional and retail investors who are interested in the yield and return profiles associated with investments in long-term assets.

The designation 'European Long-term Investment Funds' (ELTIFs) shall be reserved to those EU AIFs that comply with the proposed Regulation.

Obligations concerning the investment policies: the proposal contains the rules on permissible investment policies to be pursued by an ELTIF, such as rules relating to eligible investments, portfolio composition and diversification, conflict of interest, concentration and cash borrowing.

The proposal describes two categories of financial assets that an ELTIF can invest in: long-term assets and a category of long-term asset classes whose successful development requires a long-term commitment from investors.

Over-concentration in a single asset or undertaking creates risks for investors that can prove to be very difficult to manage. To mitigate this risk an ELTIF will have to comply with **diversification rules**. Moreover, **limits are proposed on the use of derivatives** in relation to ELTIF assets as well as a **cap on borrowing**.

Redemption, trading and issue of ELTIF shares or units and distribution of income: the proposal:

- **precludes an ELTIF from offering a redemption right to its investors before the end of the life-cycle of the ELTIF**. The life-cycle is defined in the ELTIF rules and corresponds to the life-cycle of the individual assets of the ELTIF and its long-term investment objectives;
- the possibility of trading units or shares of ELTIF on regulated markets, as well as the free transfer of units or shares of an ELTIF to third parties;
- lays down the applicable rules for the distribution of the income generated by the assets of the ELTIF and requires an ELTIF to set out its distribution policy in its fund rules.

Moreover, the proposal:

- lays down **transparency requirements** which require the prior publication of a key information document and a prospectus before the ELTIF is marketed to retail investors;
- establishes **marketing rules** applicable to an EU AIFM for marketing units or shares of an ELTIF to professional and retail investors;
- sets out the applicable rules on **supervision** of ELTIFs.

BUDGETARY IMPLICATION: the budgetary impact of the ELTIF regulation on the EU budget (operational appropriations) is estimated at **EUR 788 000 for the period 2015-2020**.