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Asset Management: a year of review

The year 2021 is a significant year for the EU asset management sector as the European Commission prepares its proposals on the reviews of the AIFMD and the ELTIF frameworks. While this work is still ongoing, a number of policy areas have been identified from the public consultations aimed at further facilitating EU AIF market integration and enhancing prudential tools where necessary while supporting the overall achievement of the Capital Markets Union.

The AIFMD Review

Since its adoption almost a decade ago, the AIFMD has contributed to the development of the Single Market for Alternative Investment Funds, established an effective supervisory regime, improved transparency for investors and regulators, the monitoring of market developments and has set out new tools for market oversight.

In June 2020, the Commission published a report for the EU co-legislators on the functioning of the AIFMD, providing an assessment of the experience of industry and regulators in applying the AIFMD. The report concluded that the framework was generally functioning as intended but that it could benefit from some targeted improvements and clarifications to improve its implementation and efficiency of operation.

In terms of the feedback to the public consultation some early issues have been identified that will be subject to further analysis including the lack of a depositary passport, the availability and use of liquidity management tools, reviewing data reporting requirements, the differential treatment of custodians of AIF assets and the fragmented market for loan originating funds.

At the same time, we must bear in mind that the AIFMD is still a relatively new framework, particularly compared to UCITS. While ensuring adequate levels of investor protection will remain our key priority, we must also support the further development of the EU AIF market and provide investors with access to a wide range of investment opportunities while ensuring a level playing field for EU managers and their overall competitiveness.

The ELTIF Review

Since the introduction of the ELTIF framework, the uptake of the ELTIFs has remained relatively modest. Only four Member States have domestic ELTIFs with only 28 funds launched to date and the total asset base remains below EUR 2 billion.

Based on the High-Level Forum on the CMU report of 2020 and stakeholder feedback to the ELTIF public consultation the Commission services have undertaken a focused review of the ELTIF framework. The aim is to introduce targeted improvements to the ELTIF regime given its potential to play an important role in providing capital investment to the real economy and supporting long-term sustainable economic development. While the review is still ongoing, the following policy themes are particularly noteworthy:

- Reducing barriers to investments and finding a balanced approach to the marketing and distribution of ELTIFs to retail investors while improving the attractiveness and usability of the ELTIF regime for the professional investors. These potential amendments need to be assessed in the broader context of the risk-benefit analysis of increased retail investor participation, higher uptake in ELTIFs and applicable investor-protection safeguards.
- Broadening the scope of eligible investment assets and strategies to include structures such as fund of funds or other indirect investments that support the ELTIF label and its objective of long-term sustainable growth.
- Reviewing the portfolio composition, diversification requirements and the concentration limits in a manner that would introduce more flexibility for managers and provide appropriate diversification.
- Amending the redemption policies and the frequency, liquidity management tools and life cycle of ELTIFs in a manner that does not compromise the integrity of the funds, protects the interests of the investors and facilitates the execution of the investment strategies pursued by the managers.

These policy considerations mainly pursue the twofold objective of promoting the ELTIF market by broadening access to these investments and facilitating a broader range of investment strategies while ensuring the necessary levels of investor protection.

The Commission is aiming for Q4 2021 to submit its AIFMD and ELTIF proposals to the co-legislators.