

European Long-Term Investment Funds (ELTIFs) in a Nutshell

What you should know about ELTIF 2





European Long-Term Investment Funds (ELTIFs) in a Nutshell

1. ELTIF: DISTRIBUTING ALTERNATIVE STRATEGIES TO NON-PROFESSIONAL INVESTORS

Regulation (EU) 2015/760 on European long-term investment funds (ELTIF) has been amended by the revised ELTIF Regulation which is applicable since 10 January 2024.

On 19 July 2024, the European Commission published the draft delegated regulation supplementing the ELTIF Regulation (Draft RTS). This text is currently subject to a 3-month scrutiny period by the European co-legislators (subject to a possible extension of additional 3 months). It is expected that the Draft RTS will enter into force before the end of the year 2024.

The Luxembourg industry (and Elvinger Hoss Prussen in particular) have played an instrumental role historically in structuring investment products accessible to retail investors. More recently, we have been structuring investment funds, whether open-

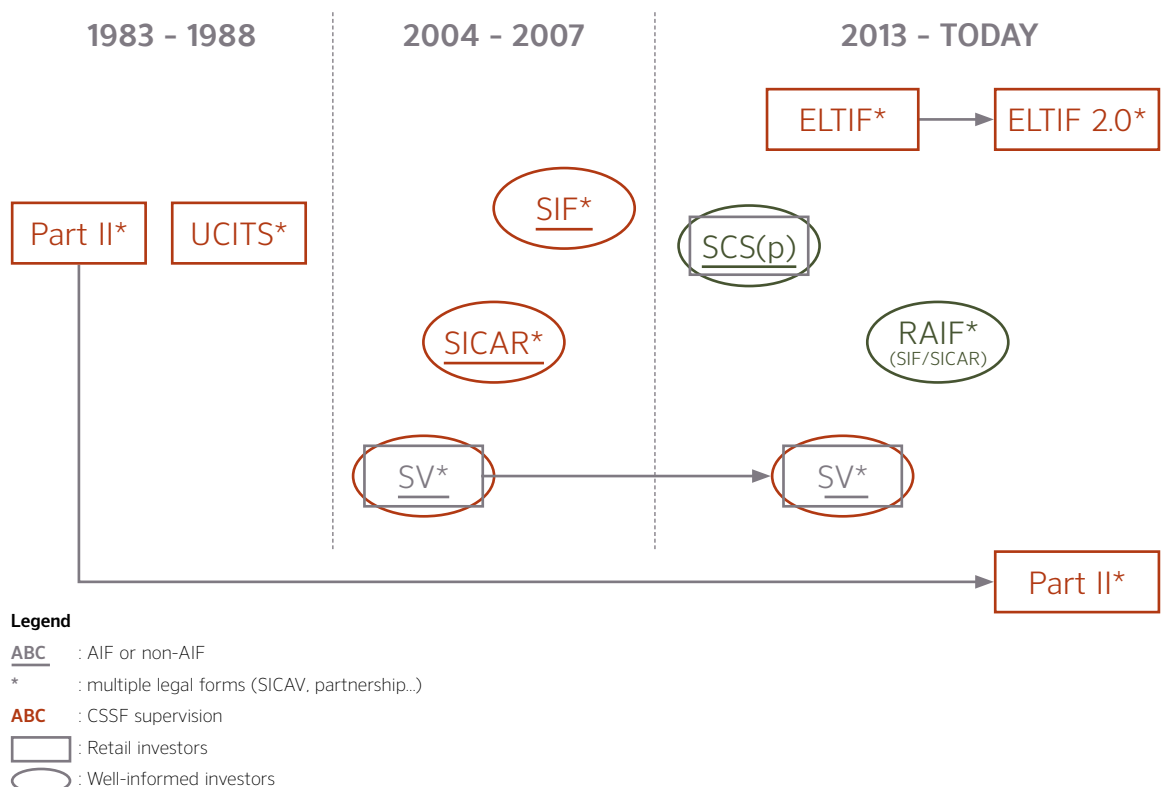
ended or closed-ended, that provide alternative strategies to non-professional investors.

These 'democratized' vehicles have been structured mainly as ELTIFs or Luxembourg undertakings for collective investment setup under part II of the Law of 2010 or the combination of ELTIFs and Part II structures. The Part II fund is a Luxembourg domestic AIF that may accept all types of investors, including retail.

The ELTIF regime enables alternative investment fund managers to market their AIFs in the EEA with a passport to retail investors. Part II funds have been well-known to investors beyond the EEA for several decades.

An ELTIF may be set-up as a Part II fund (or a compartment thereof) to release the full potential of its retail marketing passport.

2. OVERVIEW OF LUXEMBOURG INVESTMENT VEHICLES



3. ELTIF KEY FEATURES

- **Alternative investment fund (AIF)** – subject to AIFMD
- **Managed by an authorised AIFM** – no sub-threshold AIFM
- **Authorised and supervised by the financial regulator (CSSF)** – for compliance with ELTIF Regulation aspects
- **Authorisation at the level of the sub-fund** – possible to add ELTIF sub-funds to an existing structure
- **EU marketing passport for professional and retail investors** – unique advantage for AIFs
- **Objective to facilitate the raising and channeling of capital towards long-term investments in the real economy**

4. EU MARKETING PASSPORT

- The ELTIF Regulation is **directly applicable** in all EU countries
- **Member states are not allowed to add requirements** in the field covered by the ELTIF Regulation (art. 1 paragraph 3)
- **Notification procedure as per AIFMD for both professional and retail investors**

5. ELIGIBLE INVESTORS AND DISTRIBUTION

ELTIF	ELTIF - UCI Part II	ELTIF - RAIF, SIF or SICAR
ELIGIBLE INVESTORS		
<ul style="list-style-type: none"> • No restrictions <ul style="list-style-type: none"> • Professional investors • Retail investors 	<ul style="list-style-type: none"> • No restrictions 	<ul style="list-style-type: none"> • Only well-informed investors <ul style="list-style-type: none"> • Institutional investors • Professional investors • Any other investors who: <ul style="list-style-type: none"> • confirm in writing adhesion to the status of well-informed investor, AND • invests a minimum of EUR 100,000 (or has been the subject of an assessment by a credit institution, an investment firm, a management company or an authorised AIFM certifying his expertise, his experience and his knowledge in adequately appraising the contemplated investment)
DISTRIBUTION		
<ul style="list-style-type: none"> • EU marketing passport for professional and retail investors 	<ul style="list-style-type: none"> • EU marketing passport for professional and retail investors 	<ul style="list-style-type: none"> • EU marketing passport for professional and retail investors (but retail investors must qualify as well-informed investors)

Delegating to / appointing distributor(s) possible

6. MARKETING TO RETAIL INVESTORS – ADDITIONAL REQUIREMENTS

Suitability test

- **Obtaining information about retail investor (MIFID II):**
 - their knowledge and experience in the investment field
 - their financial situation
 - their investment objective
- **Providing statement** on suitability (MIFID II)
- **Express consent** of investor possible in case of negative statement
- **No MIFID II license required** for AIFM marketing directly

Depository – additional requirements (application of UCITS depository regime):

- Entity authorised to act as depository for UCITS (e.g. credit institution)
- No discharge of liability in the event of loss of financial instruments held by a 3rd party
- Liability of depository cannot be excluded or limited
- Assets cannot be reused by depository

PRIIPs Regulation

- PRIIPS KIDs

AIFMD

- Facilities: arrangement in host country(ies) to inform investors, handle orders, liaise with regulator... (no physical presence required)

7. ELTIF SECONDARY MARKET

- **Listing of ELTIF possible**
- **Allowing free transfer of shares/units/interests is mandatory**
 - subject to complying with regulatory requirements and conditions set out in the prospectus
- **Possibility to provide for full or partial matching of transfer requests** between existing and potential investors as detailed in the Draft RTS
 - subject to conditions set out in a detailed policy (role of AIFM, timing, price, ratio, costs and fees)

8. CONDITIONS FOR REDEMPTIONS UPON REQUEST

- ELTIFs can be structured as **closed-ended vehicles** or **open-ended vehicles**
- **Redemptions are possible if provided for in the ELTIF documentation**
- Timeframe: not during ramp-up OR not during minimum holding period (except for feeder ELTIFs)
- ELTIFs have to put in place a **redemption policy** and **liquidity management tools** compatible with the long-term investment strategy
 - **Anti-dilution liquidity management tool:** ELTIF manager may discretionarily select and implement at least one tool among anti-dilution levies, swing pricing and redemption fees and may select other tools under certain conditions
- Redemptions on **pro rata basis** if requests exceed maximum % (possibility to foresee **gating provisions**)

CONDITIONS FOR REDEMPTIONS IN AN OPEN-ENDED ELTIF (1/2)

- Redemptions on a given redemption date are limited to the sum of (a) the **portion of UCITS eligible assets** at the redemption date and (b) the **expected cash flow** forecasted on a prudent basis over 12 months
- Two **methods** for the determination of max. % of redemptions at a given redemption date under the Draft RTS:

First method: as a function of the redemption frequency and the notice period (including extensions), if any, as specified in Annex I of the Draft RTS

Option 1 – Baseline option							
Notice Period \ Redemption frequency	No Notice Period	2 weeks Notice Period	1 month Notice Period	3 months Notice Period	6 months Notice Period	9 months Notice Period	12 months Notice Period
12 months	100,0%	100,0%	100,0%	100,0%	100,0%	100,0%	100,0%
6 months	50,0%	52,2%	54,5%	66,7%	100,0%	100,0%	100,0%
3 months	25,0%	26,1%	27,3%	33,3%	50,0%	100,0%	100,0%
2 months	16,7%	17,4%	18,2%	22,2%	33,3%	66,7%	100,0%
1 month	8,3%	8,7%	9,1%	11,1%	16,7%	33,3%	100,0%
Bi-weekly	4,2%	4,3%	4,5%	5,6%	8,3%	16,7%	100,0%
Weekly	1,9%	2,0%	2,1%	2,6%	3,8%	7,7%	100,0%

Option 2 – Aggregation on a one-month basis

Notice Period \ Redemption frequency	No Notice Period	2 weeks Notice Period	1 month Notice Period	3 months Notice Period	6 months Notice Period	9 months Notice Period	12 months Notice Period
12 months	100,0%	100,0%	100,0%	100,0%	100,0%	100,0%	100,0%
6 months	50,0%	52,2%	54,5%	66,7%	100,0%	100,0%	100,0%
3 months	25,0%	26,1%	27,3%	33,3%	50,0%	100,0%	100,0%
2 months	16,7%	17,4%	18,2%	22,2%	33,3%	66,7%	100,0%
1 month or more frequent than 1 month	On an aggregate basis, during the period of one month: 8,3%	On an aggregate basis, during the period of one month: 8,7%	On an aggregate basis, during the period of one month: 9,1%	On an aggregate basis, during the period of one month: 11,1%	On an aggregate basis, during the period of one month: 16,7%	On an aggregate basis, during the period of one month: 33,3%	On an aggregate basis, during the period of one month: 100,0%

Option 3 – Aggregation on a two-months basis

Notice Period \ Redemption frequency	No Notice Period	2 weeks Notice Period	1 month Notice Period	3 months Notice Period	6 months Notice Period	9 months Notice Period	12 months Notice Period
12 months	100,0%	100,0%	100,0%	100,0%	100,0%	100,0%	100,0%
6 months	50,0%	52,2%	54,5%	66,7%	100,0%	100,0%	100,0%
3 months	25,0%	26,1%	27,3%	33,3%	50,0%	100,0%	100,0%
2 months or more frequent than 2 months	On an aggregate basis, during the period of 2 months: 16,7%	On an aggregate basis, during the period of 2 months: 17,4%	On an aggregate basis, during the period of 2 months: 18,2%	On an aggregate basis, during the period of 2 months: 22,2%	On an aggregate basis, during the period of 2 months: 33,3%	On an aggregate basis, during the period of 2 months: 66,7%	On an aggregate basis, during the period of 2 months: 100,0%

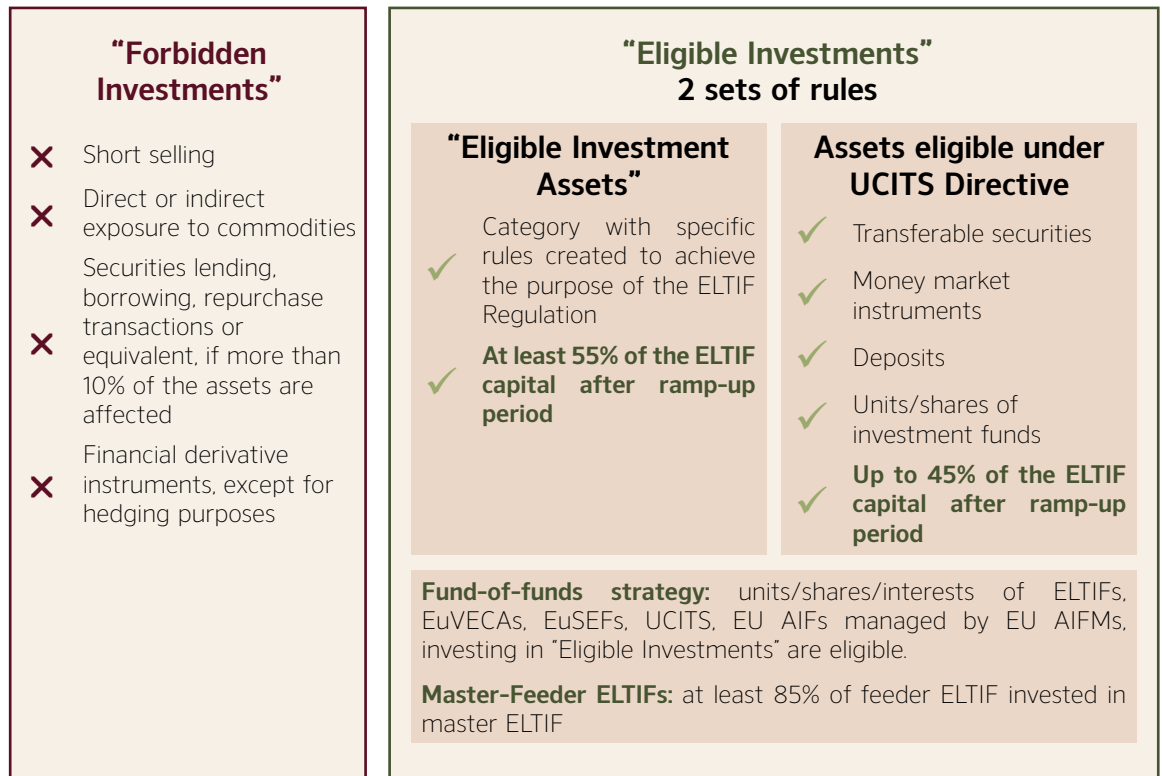
CONDITIONS FOR REDEMPTIONS IN AN OPEN-ENDED ELTIF (2/2)

Second method: as a function of the redemption frequency and the minimum percentage of UCITS eligible assets, as specified in Annex II of the Draft RTS

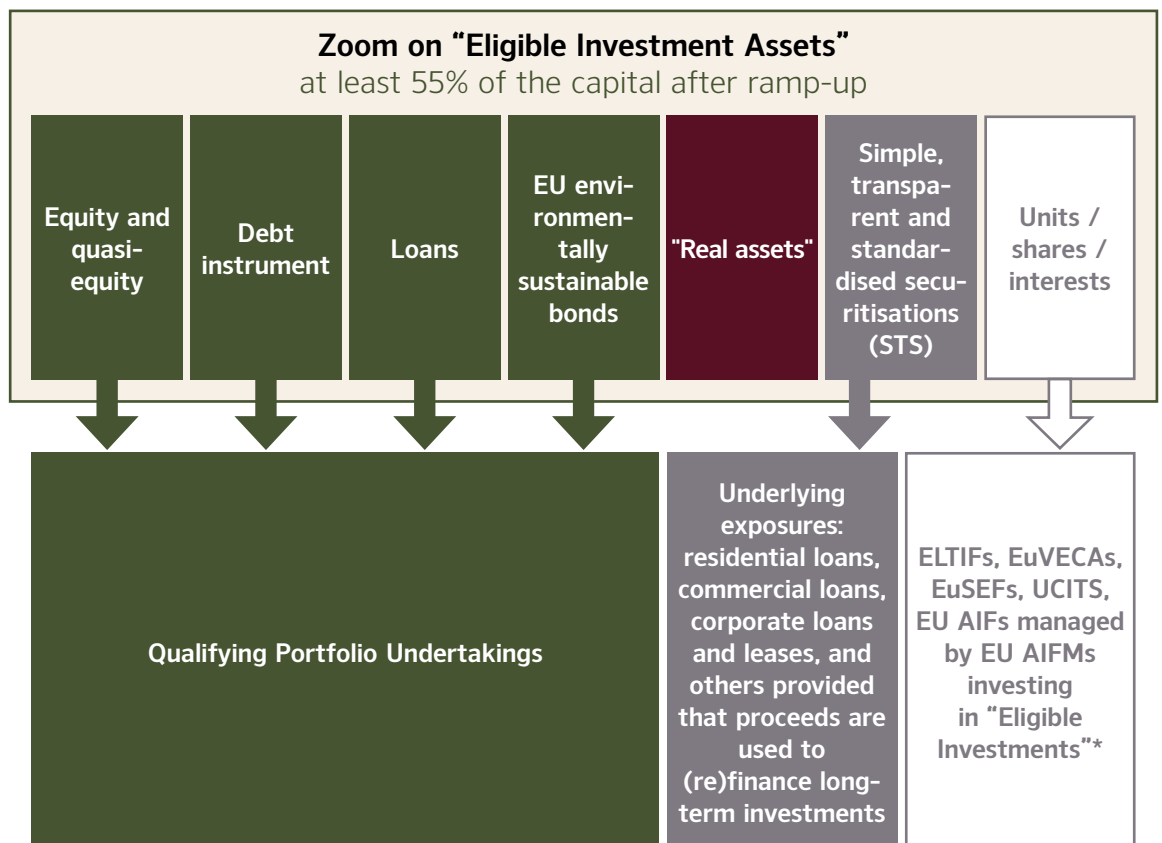
Redemption frequency	Minimum percentage of assets referred to in Article 9(1), point (b)	Maximum percentage referred to in Article 18(2), first sub-paragraph, point (d)
12 months, and less frequent	10%	100%
6 months	15%	67%
3 months	20%	50%
1 month or more frequent	25%	20%, applied on a monthly aggregate basis



9.1. ELTIF ELIGIBLE ASSETS



9.2. ELIGIBLE INVESTMENT ASSETS



*Only “Eligible Investment Assets” shall be taken into account for the purpose of determining compliance with investment limits laid down by the ELTIF Regulation (i.e. min. 55%).

9.3. QUALIFYING PORTFOLIO UNDERTAKING

Zoom on Qualifying Portfolio Undertaking ("QPU")

Any undertaking that is, **at the time of the initial investment:**

- ✗ Not a financial holding company
- ✗ Not a mixed-activity holding company
- ✗ Not a financial undertaking unless authorised or registered more recently than 5 years before the date of investment
- ✗ Not listed with market capitalisation of more than EUR 1.5 B
- ✗ Not on EU list of high-risk third country with deficiencies in AML/CTF regimes
- ✗ Not on EU list of non-cooperative jurisdictions for tax purposes

Not applicable to a QPU financing QPU(s) or real asset(s)

9.4. REAL ASSETS

Zoom on "Real assets"

"Real asset" means an asset that has an intrinsic value due to its substance and properties.

EXAMPLES:

Comprises:

- ✓ immovable property, such as communication, environment, energy or transport infrastructure, social infrastructure, including retirement homes or hospitals, as well as infrastructure for education, health and welfare support or industrial facilities, installations, and other assets, including intellectual property, vessels, equipment, machinery, aircraft or rolling stock
- ✓ Investments in commercial property, in facilities or installations for education, counselling, research, development, including infrastructure and other assets that give rise to economic or social benefit, sports, or in housing, including in senior residents or social housing
- ✓ investments in water rights, forest rights, building rights and mineral rights

Does not comprise:

- ✗ Works of art, manuscripts, wine stocks, jewellery or other assets, which do not in themselves represent long-term investments in the real economy

9.5. USE OF INTERMEDIARY VEHICLES

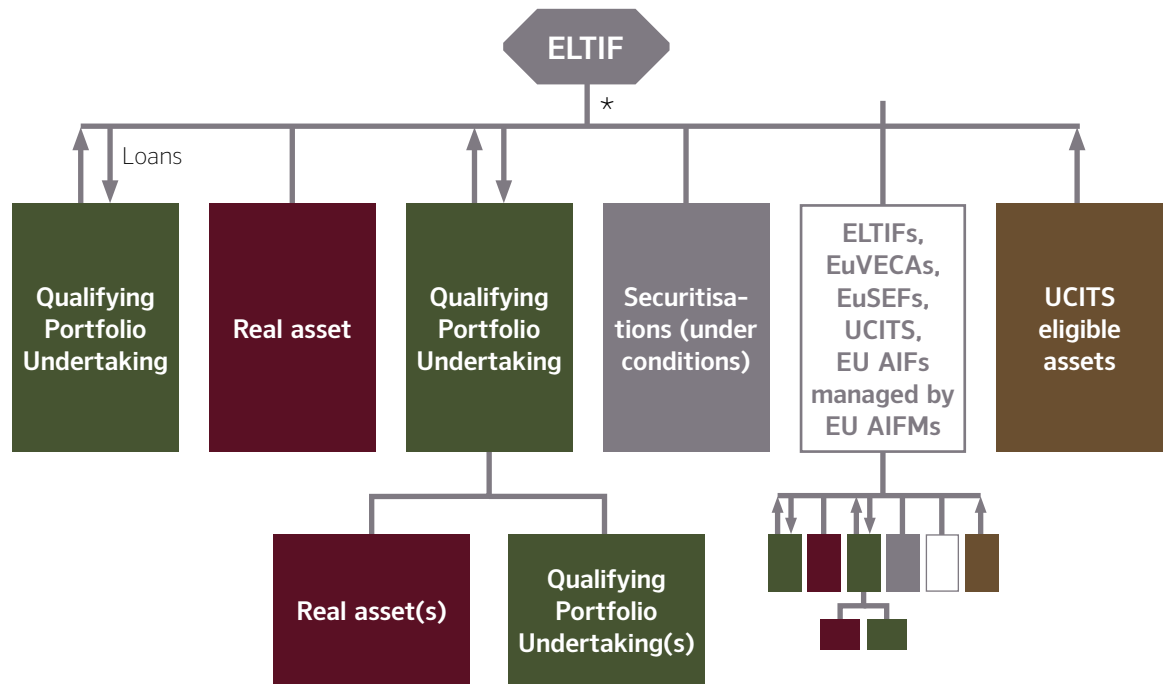
Investments by the ELTIF can be structured through the use of intermediary vehicles, including:

- SPVs;
- securitisation or aggregator vehicles; and
- holding companies

Possibility of minority co-investment in investment opportunities

9.6. ELTIF ELIGIBLE ASSETS – SUMMARY

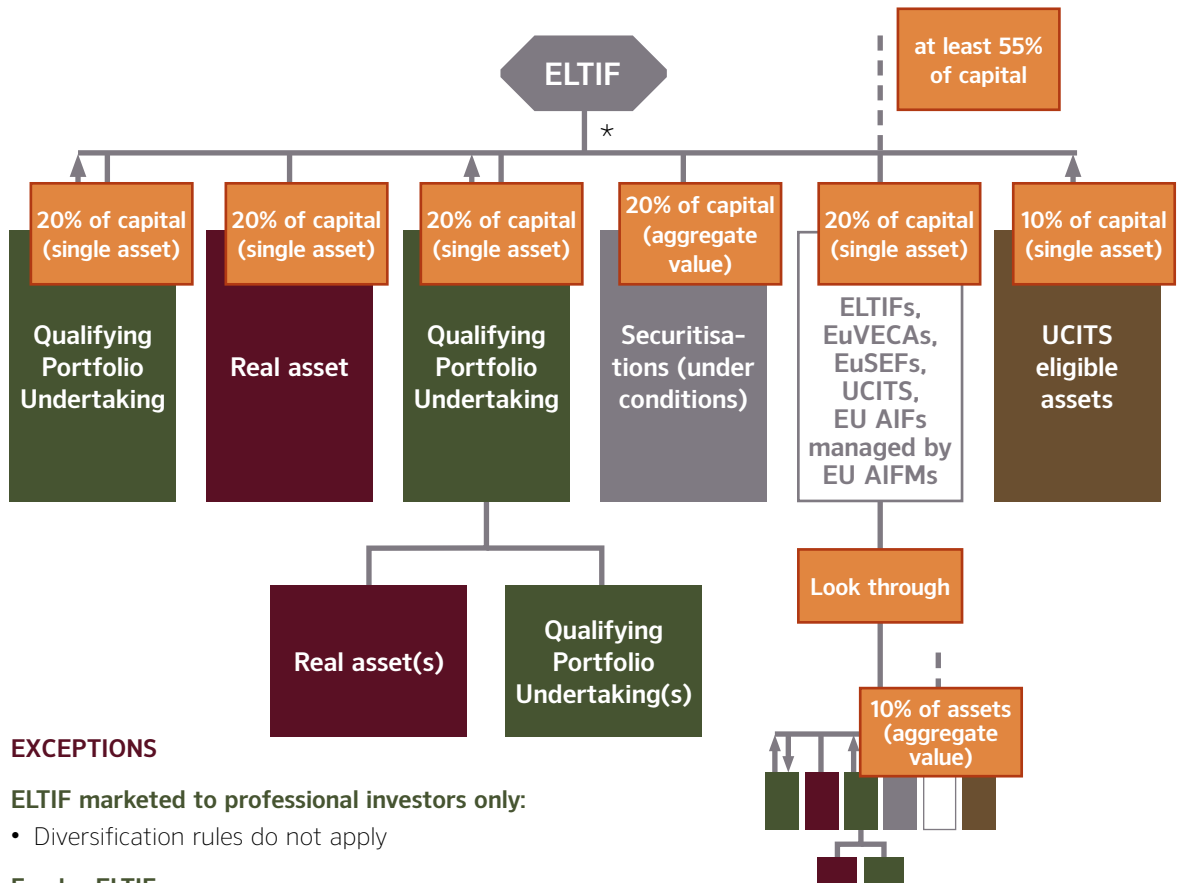
- Equity
- Quasi-equity
- Debt instruments
- EU environmentally sustainable bonds



*Possibility to invest via intermediary vehicles

10. ELTIF INVESTMENT RESTRICTIONS

- Equity
- Quasi-equity
- Debt instruments
- EU environmentally sustainable bonds



EXCEPTIONS

ELTIF marketed to professional investors only:

- Diversification rules do not apply

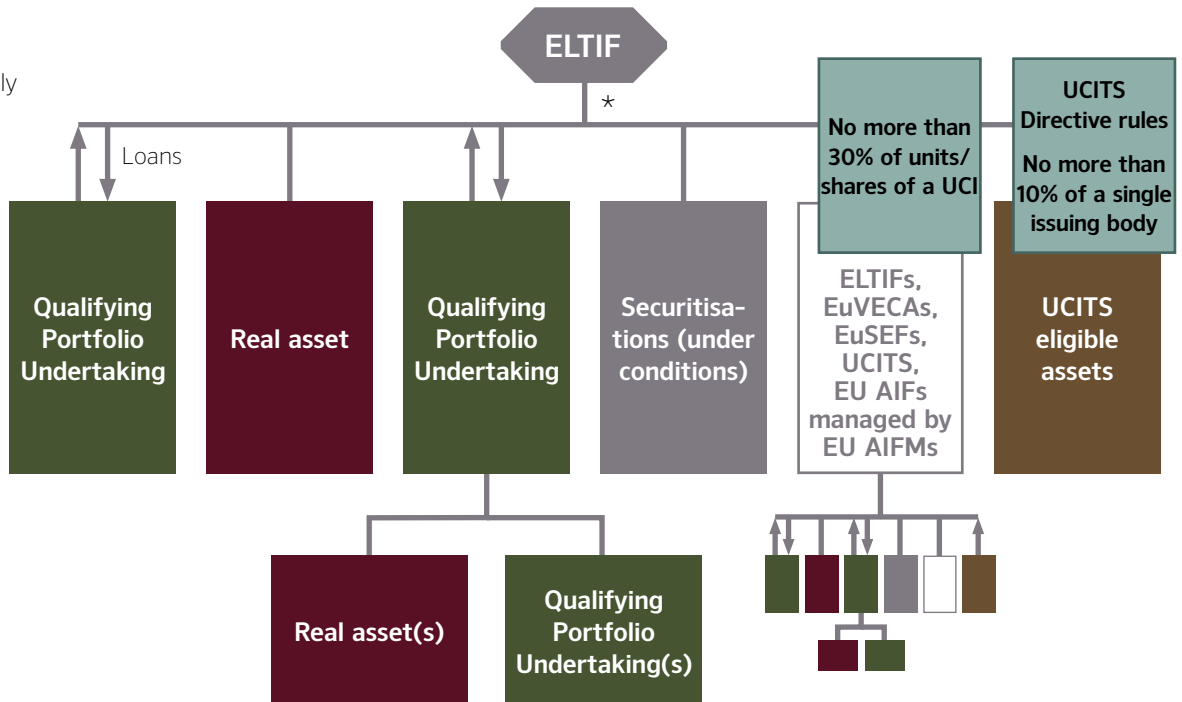
Feeder ELTIF:

- 85% of capital invested in master ELTIF

*Possibility to invest via intermediary vehicles

11. ELTIF CONCENTRATION LIMITS

- Equity
- Quasi-equity
- Debt instruments
- EU environmentally sustainable bonds



*Possibility to invest via intermediary vehicles

12. ELTIF BORROWING RESTRICTIONS

Conditions applicable to borrowing arrangements that are not covered by investors' capital commitments:

- ✓ Intention to borrow, borrowing limit and starting date (no later than 3 years after start of marketing) must be indicated in the prospectus
- ✓ No more than 50% of the NAV if ELTIF marketed to retail investors
- ✓ No more than 100% of the NAV if ELTIF marketed to professionals only
- ✓ Those limits of 50%/100% may be suspended for max. 12 months when ELTIF raises or reduces its capital
- ✓ If contracted in currency different than assets to be acquired, exposure must be appropriately hedged
- ✓ Maturity does not exceed the life of the ELTIF

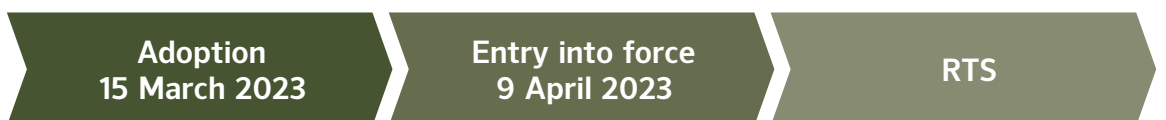
13. TAXATION

- Taxation of an ELTIF depends on its legal form and applicable product law
- If Part II UCI, SIF or RAIF: exemption of annual subscription tax for ELTIFs

14. TYPICAL STRUCTURING OF LUXEMBOURG ELTIFS (IN A NUTSHELL)

	RAIF	SIF	UCI Part II	Partnership (not regulated or subject to product law)
Additional investor eligibility requirements	Yes, well-informed investors only	Yes, well-informed investors only	NO	NO
Contractual form possible (common fund)	YES	YES	YES	N/A, but partnership form is also very flexible
Umbrella possible (compartments)	YES	YES	YES	NO
Authorisation and supervision (on top of ELTIF process)	NO	YES	YES	NO

15. TIMELINE OF THE NEW ELTIF REGIME



- Draft RTS published by European Commission on 19 July 2024
- Determining life of ELTIF
- Features of redemption policy
- Conditions for matching transfer requests
- Cost disclosure



- ELTIF authorization under ELTIF 2
- ELTIF authorized before can choose to opt into the new regime by a notification to the CSSF
- ELTIF under old regime (raising additional capital) must comply with ELTIF 2 by 11 January 2029
- ELTIF under old regime that do not raise additional capital are deemed to comply with ELTIF 2

OUR TEAM

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