

THE EU AIF LABELLING

A PRACTICAL GUIDE

The European Long-Term Investment Fund (“ELTIF”) complements the European Venture Capital Fund (EuVECA) and the European Social Entrepreneurship Fund (EuSEF), both these regulations entered into force on 22 July 2013. The main goal of these regulations was to provide a comprehensive strategy to the implementation of the political objective of high level of employment and smart, sustainable and inclusive growth inspired by the Europe 2020 Strategy.

At the date of publication of this Expert View, the EU Labels have achieved only modest results with few ELTIFs (no register maintained at ESMA level and only 2 domiciled in Luxembourg), 137 EuVECAs (10 domiciled in Luxembourg) and 7 EuSEFs (none of which domiciled in Luxembourg). Faced with these disappointing results, the European Commission carried out a review process of the EuVECA and EuSEF Regimes, whose improved regulations have entered into force on 1 March 2018.

WHAT DOES IT MEAN IN PRACTICE?

	European Long-Term Investment Fund (ELTIF)	European Venture Capital Fund (EuVECA)	European Entrepreneurship Fund (EuSEF)
REGULATION	EU 2015/760	2017/1991 amending regulation 345/2013	2017/1991 amending regulation 346/2016
FRAMEWORK	<p>Voluntary fund framework</p> <p>The ELTIF is inspired by the Undertakings for Collective Investments in Transferable Securities (“UCITS”) label and is a hybrid concept lying between the Alternative Investment Fund Manager (“AIFM” – Directive 2011/61/EU) and the UCITS world.</p>	<p>Voluntary fund framework</p> <p>The EuVECA is a Pan-European regime for European AIF. Compared to the ELTIF, it should be noted that the EuVECA labels offer less restrictive opportunities to fund managers. This revised regulation is part of a comprehensive package of actions launched by the European Commission to support venture capital financing in the EU.</p>	<p>Voluntary fund framework</p> <p>The EuSEF is a Pan-European regime for European AIFs. Compared to the ELTIF, it should be noted that the EuSEF labels offer less restrictive opportunities to fund managers. This revised regulation is part of a comprehensive package of actions launched by the European Commission to support social investing in the EU.</p>
STRUCTURING	<p>ELTIFs may adopt any legal form available to an AIF and thus the creation of either mono-compartment or umbrella ELTIFs is possible (the ELTIF label can be applied for an umbrella AIF and co-exists with non-ELTIF sub-funds).</p> <p>In Luxembourg, an ELTIF can have any legal form available for regulated or unregulated AIFs (including contractual forms (SLP and FCP)). Consequently, an ELTIF label can be used for regulated Specialised Investment Funds (“SIF”) and unregulated RAIFs (but only well-informed investors allowed here) and a regulated Investment Company in Risk Capital (“SICAR”) if the capital risk requirement (Circular 06/241) is respected.</p> <p>A securitisation vehicle qualifying as an AIF could also benefit from the ELTIF label.</p> <p>A compartment/sub-fund of an EU AIF may be authorised as an ELTIF.</p> <p>Units of ELTIFs may be admitted to trading on a regulated market or a multilateral trading facility (“MTF”).</p>	<p>The EuVECA may adopt any legal form available to an AIF and thus the creation of either mono-compartment or umbrella EuVECA is possible.</p> <p>In Luxembourg, an EuVECA can have any legal form available for regulated or unregulated AIFs (including contractual forms (SLP and FCP)). Consequently, an EuVECA label can be used for regulated Specialised Investment Funds (“SIFs”) and unregulated RAIFs (but only well-informed investors are allowed here) and a regulated Investment Company in Risk Capital (“SICAR”) if the capital risk requirement (Circular 06/241) is respected.</p> <p>A securitisation vehicle qualifying as an AIF could also benefit from the EuVECA label.</p>	<p>The EuSEF may adopt any legal form available to an AIF and thus the creation of either mono-compartment or umbrella EuSEF is possible.</p> <p>In Luxembourg, an EuSEF can have any legal form available for regulated or unregulated AIFs (including contractual forms (SLP and FCP)). Consequently, a EuSEF label can be used for regulated Specialised Investment Funds (“SIFs”) and unregulated RAIFs (but only well-informed investors are allowed here) and a regulated Investment Company in Risk Capital (“SICAR”) if the capital risk requirement (Circular 06/241) is respected.</p> <p>A securitisation vehicle qualifying as an AIF could also benefit from the EuSEF label.</p>

European Long-Term Investment Fund (ELTIF)

European Venture Capital Fund (EuVECA)

European Entrepreneurship Fund (EuSEF)



An ELTIF is usually a closed-ended fund (no redemption is allowed until the end of the life of the ELTIF).

Redemptions can be authorised after five years from the date of the authorisation or half of the life of the ELTIF, whichever is the earliest, if the Manager can demonstrate an appropriate liquidity management system and effective procedures for monitoring the liquidity risk, limited to a defined amount.

Investors shall be treated fairly and are treated on a pro rata basis if the total redemption requests exceed the amount invested in eligible assets for UCITS.

EuVECA managers are allowed to structure open or closed funds. Unlike the ELTIF, no specific requirements exist for redemption rights.

EuSEF managers are allowed to structure open or closed funds. Unlike the ELTIF, no specific requirements exist for redemption rights.



Should be a fund vehicle which provides long-term and stable returns and follows a long-term investment strategy. The EU did not define the term "long term" but stated that an asset that is not traded on a regulated market will qualify as a long term asset.

At least 70% of the ELTIF's capital shall be invested in eligible long-term assets invested within the shorter time period between a maximum of five years after authorisation and half the life of the ELTIF. Consequently, up to 30% of the ELTIF's capital can be held in assets that are eligible investments for UCITS.

Eligible assets are:

- Eligible investments: qualifying portfolio undertakings, real assets, parts ELTIF, EuVECA, EuSEF, SMEs. Qualifying portfolios are undertakings which are either unlisted or listed with a market capitalisation not exceeding EUR 500 million.
- Assets eligible for UCITS (equity, bonds, money market and UCITS).

Prohibited investments: short selling, direct and indirect exposure to commodities, investments in securities lending, securities borrowing, repurchase securities if this represents more than 10% of assets and derivatives used for speculation purposes (use of derivatives for hedging purposes of current risks only).

EuVECA's are only authorised to invest in qualified portfolio undertakings which covers all unlisted companies with up to 499 employees not admitted to trading on a regulated market or on a multilateral trading facility, and SMEs listed on SME growth markets.

EuSEFs can only invest in social impact investments as their primary objective. The new regulation broadens the definition of positive social impact and now covers undertakings that provide services or goods which generate a social return rather than only maximising profit.



The Regulation lays down specific diversification rules including:

- up to 10% of the ELTIF's capital can be invested in ELTIFs, EuVECA's and EuSEFs (with a maximum of 20% of the ELTIF's capital invested in other ELTIF, EuVECA and EuSEF all together),
- up to 10% of its capital in instruments issued by or loan granted to any single qualifying portfolio undertaking,
- up to 10% of its capital in a single real asset (directly or indirectly),
- up to 30% of its capital in UCITS with a maximum 5% of its capital in eligible assets for UCITS issued by any single body.

No specific diversification rule required by the regulation. As usual, the EuVECA manager shall comply with the Luxembourg product regime chosen and applicable diversification rules, if any (ie SIF, SICAR, RAIF, Corporate form or Partnership form).

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European Long-Term Investment Fund (ELTIF)

European Venture Capital Fund (EuVECA)

European Entrepreneurship Fund (EuSEF)



The ELTIF is subject to two layers of regulatory approvals and supervision. The AIF must be approved by its national Regulator (ie for both externally and internally managed). If it is externally managed, the Manager must be a full-scope AIFM authorised to manage the ELTIF. In Luxembourg, an ELTIF must be approved by the Regulator (CSSF). The latter must inform the European Regulator (ESMA) who maintains a central public register.

The label can only be provided by a national Regulator for regulated AIFs. In Luxembourg, a SIF or SICAR EuVECA must be approved by the Luxembourg Regulator (CSSF). For sub-threshold EuVECAs, they must be managed (if externally managed) by a registered AIFM. However, the Regulator must keep a register of EuVECAs. A maximum review period of two months is required to inform the Manager whether a fund has been registered as an EuVECA. The regulation prohibits member states of the EU from fees and other charges on EuVECA and EuSEF managers if no supervisory task is required to be performed.

The label can only be provided by a national Regulator for regulated AIFs. In Luxembourg, a SIF or SICAR EuSEF must be approved by the Luxembourg Regulator (CSSF). For sub-threshold EuSEFs, they must be managed (if externally managed) by a registered AIFM. However, the Regulator must keep a register of EuSEFs. A maximum review period of two months is required to inform the Manager whether a fund has been registered as an EuSEF. The regulation prohibits member states of the EU from fees and other charges on EuSEF managers if no supervisory task is required to be performed.

Fully authorised alternative investment fund managers are permitted to manage EuVECA. Consequently registered managers are also permitted to manage EuVECAs for passporting rights.

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The new Regulation now harmonises the initial capital and funds requirements for Managers of an EuVECA. The initial capital is now set at EUR 50,000, plus own funds which shall at all times amount to at least one-eighth of the fixed overheads incurred by the Manager in the preceding year. In cases where the Manager has not yet completed a year of business, the requirement shall amount to one-eighth of the fixed overheads expected in its business plan. Where the value of the EuVECA managed by the manager exceeds EUR 250 million, the manager shall provide an additional amount of own funds equal to 0.02% of the amount by which the total value of the EuVECA exceeds EUR 250 million. Those requirements do not apply to authorised AIFMs, as the AIFMD already provides for similar minimum capital requirements. The requirements are also not applicable to Managers in relation to EuVECA that were launched prior to 1 March 2018.

The new Regulation now harmonises the initial capital and funds requirements for Managers of an EuSEF. The initial capital is now set at EUR 50,000, plus own funds which shall at all times amount to at least one-eighth of the fixed overheads incurred by the manager in the preceding year. In cases where the Manager has not yet completed a year of business, the requirement shall amount to one-eighth of the fixed overheads expected in its business plan. Where the value of the EuSEF managed by the manager exceeds EUR 250 million, the manager shall provide an additional amount of own funds equal to 0.02% of the amount by which the total value of the EuSEF exceeds EUR 250 million. Those requirements do not apply to authorised AIFMs, as the AIFMD already provides for similar minimum capital requirements. The requirements are also not applicable to Managers in relation to EuSEF that were launched prior to 1 March 2018.



The assets of the ELTIF must be entrusted to a Luxembourg-based depositary for safe-keeping, appointed in accordance with the dispositions of the AIFMD Law. In case of liquid assets and in accordance with the Luxembourg AIFM law dated 12 July 2013, only a financial institution can handle the role of safe-keeper for these specific asset types.

EuVECAs not managed by authorised AIFMs are not required to appoint a depositary agent and have a simplified marketing process if they remain outside of AIFMD requirements.

EuSEFs not managed by authorised AIFMs are not required to appoint a depositary agent and have a simplified marketing process if they remain outside of AIFMD requirements.



Retail investors can invest with a minimum of EUR 10,000. However, retail investors with a portfolio of up to EUR 500,000 representing in aggregate an amount not exceeding 10% of their portfolio can invest in an ELTIF. An ELTIF with a life cycle exceeding 10 years may not be suitable for retail investors that are unable to sustain a long-term and illiquid commitment.

Cross-border marketing passport across the EU to collect capital from investors who are able to commit at least EUR 100,000. Consequently, the EuVECA is open to professional and non-professional investors.

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The ELTIF offers a EU Passport distribution for retail distribution.

European Long-Term Investment Fund (ELTIF)

European Venture Capital Fund (EuVECA)

European Entrepreneurship Fund (EuSEF)



The ELTIF is a suitable structure for Private Equity, Private Debt, Real Estate, Infrastructure, Real Assets and UCITS. The ELTIF manager shall also comply with the Luxembourg product regime chosen (eg only risk-capital investments for SICAR).

The EuVECA is a suitable structure for Private Equity, Private Debt, Real Estate, Infrastructure and Real Assets. The EuVECA manager shall also comply with the Luxembourg product regime chosen (eg only risk-capital investments for SICAR).

The EuSEF is a suitable structure for Private Equity, Private Debt, Real Estate, Infrastructure and Real Assets. The EuVECA manager shall also comply with the Luxembourg product regime chosen (eg only risk-capital investments for SICAR).



The ELTIF is subject to the obligation to release an issuing document whose key elements shall be maintained up-to-date.

The EuVECA is subject to the obligation to release an issuing document whose key elements shall be maintained up-to-date.

The EuSEF is subject to the obligation to release an issuing document whose key elements shall be maintained up-to-date.

The Manager shall notify the national authority of any material changes. The national authority must inform the manager if it decides to impose restrictions or rejects the change within one month of the receipt of the notification.

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An ELTIF is authorised to use leverage limited to 30% of its capital. The borrowing must serve to invest in eligible investment assets and be in the same currency.

No specific requirement foreseen by the amended regulation.

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The Regulations impose specific marketing requirements for retail investors (ie complaint handling policy, a PRIIPs compliance KID to be issued, a clear written alert if the life cycle of the ELTIF exceeds 10 years).

Because the EuVECA is open to retail investors, specific marketing requirements are required like a complaint handling policy and a PRIIPs compliance KID to be issued among others.

Because the EuSEF is open to retail investors, specific marketing requirements are required like complaint handling policy and a PRIIPs compliance KID to be issued among others.



Under Solvency II, ELTIFs benefit from lower capital charges. This brings them in line with investments in EuVECAs and EuSEFs, which benefit from the same equity capital charge as equities traded on regulated markets, lower than that for other equities.

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CONCLUSION – OUR VIEW

Europe will continue to fuel the alternative investment industry with attractive and innovative products promoting long-term investments in innovative small and medium size enterprises and in social undertakings across the European Union.

The ELTIF, EuVECA and EuSEF could not be viewed as being the most significant addition to the product armoury. However as they may have any legal form for Alternative Investment Funds available in the local jurisdictions of each European-Union member state and Luxembourg being the world's second largest hub for investment funds, at Alter Domus, we consider these regulations as bringing new opportunities for the continued development of new product labels with a worldwide recognised brand.

In answering market requirements, we believe the new regulations contribute to a more dynamic and competitive European marketplace.

YOUR EU AIF LABELLING EXPERT



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We are proud to serve 9 of the 10 largest private equity houses, 6 of the 10 largest real estate firms and 5 of the 10 largest private debt managers in the world.

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