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| |  |  |  |  | | --- | --- | --- | --- | |  | CMS Newsletter Italia | |  | |  |  | |  | |  | http://www.cms-legal.net/enews/2013/img/firms/CMS_Law_Tax.png | |  | |  | |  | | --- | | http://www.cms-legal.net/nl_generator_global/img/full-bleed/cmshead22.jpg | | |  | |  |  |  |  | |  |  |  |  |        |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | | CMS Newsletter Italia   |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | |  | |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | |  | ***ELTIF – European Long Term Investment Funds*** | |  | |  |  |  |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | --- | --- | --- | | |  |  | | --- | --- | | http://i.datasrvr.com/1837254350143592580873/icon3v3.gif | [**LinkedIn**](https://www.linkedin.com/company/cms-adonnino-ascoli-&-cavasola-scamoni?trk=biz-companies-cyf) | | **LN** | [**Law-Now**](http://www.cms-lawnow.com/) | | **RZ** | [**RegZone**](http://www.cms-lawnow.com/regzone) | |  |  | | | |  | |  | | On September 8th, 2017, the Italian Council of Ministers approved, by preliminary examination, the draft legislative decree laying down rules for the adaptation of national legislation to the provisions of the European Parliament and Council Regulation (EU) 2015/760 of 29 April 2015 (the "**Regulation**") on the European Long Term Investment Funds ("**ELTIF**").    ELTIF are a particular kind of alternative investment fund introduced by the EU Legislator in order to "*stimulate long-term investment in the real economy*" (see recital 4 of the Regulation), nowadays mostly represented by the real estate, private equity and venture capital, infrastructure and private debt sectors, completing the great mosaic developed in recent years by the European Legislator to support the creation of the capital market union within the European Union also through the participation of various actors of asset management (both professional and retail).    It should be noted that ELTIF can invest primarily in companies (preferably SMEs) through the use of equity, quasi-equity or debt instruments, (i) operating in the infrastructure sector (energy, transport and communications), or (ii) industrial and service sectors or (iii) investing in housing and climate change and eco-innovation technologies, or (iv) operating in the fields of education, research and development, or (v) those which promote innovation and competitiveness , provided that: (a) they are not financial enterprises, as defined in Art. 2, n. 7 of the Regulation; (b) are not admitted to trade on a regulated market or multilateral trading system or to trade on a regulated market or multilateral system trading and at the same time have a  market capitalization of less than five hundred million Euros; (c) be established in a Member State or a third country, provided that: (i) it is not a country designated by the International Financial Action Task Force as a high risk and non-cooperative country; (ii) has signed an agreement with the home Member State of the manager of the ELTIF and with any other Member State where it is provided that the shares of the ELTIF are marketed in such a way as to ensure that the third country fully respects the standards referred to in Article 26 of the OCSE tax and benefit convention, tax model and ensure effective exchange of tax information, including any multilateral tax agreements. On the other hand, since ELTIF may have specific risk and operational complexity related to the closed form and the predominantly illiquid nature of the investments, the Regulation identifies a number of strengthened hedges to protect retail investors, in addition to those already provided by AIFMD (2011/61/ EU), the Prospectus Directive (2003/71/EU) and the MiFID Directive (2004/39/EU) as amended by the MiFID II Directive (2014/65/EU). By way of example but not exhaustive, it is worth recalling the obligation for the ELTIF manager whose units or shares are intended to be marketed to retail investors, to adopt and apply a specific internal evaluation procedure for ELTIF, to assess whether the product is suitable for commercialization with the investor category or the choice to locate the ELTIF distribution channel for retail investors, which may be marketed on the condition that retail investors receive adequate investment advice. Furthermore, in accordance with the Regulation, if the client's financial portfolio does not exceed 500,000 euros, the minimum initial investment shall be at least 10,000 euros with a concentration limit that the investment itself cannot exceed 10% of the value of the portfolio.    The provisions contained in the Regulation have been mandatory and directly applicable in Member States  since December 9th, 2015, so regulatory action to allow implementation in our system is marginal and mainly relates to the identification of the national authorities responsible for monitoring compliance of the provisions contained in the regulation and the allocation of all powers of investigation and sanctioning necessary for the exercise of their duties. In particular, the draft legislative decree was drafted after a technical comparison with the Bank of Italy and Consob in collaboration with the Ministry of the Economy and Finance in the European framework negotiations for the approval of the Regulation. | | |  | | |  | | | | | | | |  | | | | | | | |  |  |  |  |  |  |  |      |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | | |  |  |  |  |  | | --- | --- | --- | --- | --- | |  | | | | | | **http://cecollect.com/tl/space.gif** | **Andrea Arcangeli** **Counsel** [andrea.arcangeli@cms-aacs.com](mailto:andrea.arcangeli@cms-aacs.com) |  | **Alfredo Gravagnuolo** **Associate**  [alfredo.gravagnuolo@cms-aacs.com](mailto:alfredo.gravagnuolo@cms-aacs.com) | **http://cecollect.com/tl/space.gif** | | **http://cecollect.com/tl/space.gif** | | | | | | | **http://cecollect.com/tl/space.gif** | | | |  | |  |  |  |  |  | |  |  |  |  |  | | |
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| |  |  |  | | --- | --- | --- | |  | Le opinioni ed informazioni contenute nella presente Newsletter hanno carattere esclusivamente divulgativo. Esse pertanto non possono considerarsi sufficienti ad adottare decisioni operative o l’assunzione di impegni di qualsiasi natura, né rappresentano l’espressione di un parere professionale. La Newsletter è proprietà di CMS Adonnino Ascoli & Cavasola Scamoni.  The views and opinions expressed in CMS Adonnino Ascoli & Cavasola Scamoni's Newsletter are meant to stimulate thought and discussion. They relate to circumstances prevailing at the date of its original publication and may not have been updated to reflect subsequent developments. CMS Adonnino Ascoli & Cavasola Scamoni's Newsletter does not intend to constitute legal or professional advice. CMS Adonnino Ascoli & Cavasola Scamoni's Newsletter is CMS property.  **CMS Adonnino Ascoli & Cavasola Scamoni** è membro di CMS, organizzazione internazionale di studi legali e tributari indipendenti.    **Uffici CMS:** Aberdeen, Algeri, Amburgo, Amsterdam, Anversa, Barcellona, Belgrado, Berlino, Bogotá, Bratislava, Bristol, Bruxelles, Bucarest, Budapest, Casablanca, Città del Messico, Colonia, Dubai, Duesseldorf, Edimburgo, Francoforte, Funchal, Ginevra, Glasgow, Hong Kong, Istanbul, Kiev, Lima, Lione, Lipsia, Lisbona, Londra, Lubiana, Lussemburgo, Madrid, Manchester, Medellín, Milano, Monaco, Monaco di Baviera, Mosca, Muscat, Parigi, Pechino, Podgorica, Praga, Reading, Rio de Janeiro, Roma, Santiago del Cile, Sarajevo, Shanghai, Sheffield, Singapore, Siviglia, Sofia, Stoccarda, Strasburgo, Teheran, Tirana, Utrecht, Varsavia, Vienna, Zagabria e Zurigo.      [cms.law](https://cms.law/it/ITA/)    Se non desiderate ricevere in futuro questa email [Cliccare qui](mailto:legal@cms-aacs.com?subject=Non%20desidero%20ricevere%20la%20newsletter)  If you do not wish to receive any future e-mails [Click here](mailto:legal@cms-aacs.com?subject=I%20do%20not%20wish%20to%20receive%20any%20future%20e-mails%20) |  | |