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Submitted via email to: michiel.hoogeveen@europarl.europa.eu;
sebastien.raspiller@dgtresor.gouv.fr

24 March 2022

Dear Michiel and Sébastien,

Use of borrowing by ELTIFs

The Alternative Credit Council (ACC), the Alternative Investment Management Association (AIMA) and Bundesverband Alternative Investments e.V. (BAI)¹ believe that the proposed reforms to the European Long-Term Investment Fund (“ELTIF”) Regulation will enable it to become a key pillar of the Capital Markets Union. A fully developed ELTIF market will address the SME financing gap, support the transition to more sustainable business models and help savers across the EU become investors.

We have communicated our support for the proposed reforms publicly² and in our engagement with co-legislators since the Commission’s proposals were published. I am writing to you today to highlight a critical issue with the proposed reforms to borrowing rules that will significantly hinder take up of the ELTIF by our members.

Proposed Recital 27 and Article 16(1)(b) of the Commission’s proposal prohibit ELTIFs from using borrowing to grant loans to qualifying portfolio undertakings. This is in sharp contrast with other

¹ For more information about the ACC, AIMA and BAI, please see Annex 2

² ACC Press release: [ELTIF reform critical to boost finance options for EU SMEs](#)



types of professional ELTIFs that may use up to 100% of their net asset value (NAV) and retail ELTIFs to use 50% of NAV in borrowings to extend their investment activity.

The proposal therefore discriminates between loan-focused ELTIFs and ELTIFs investing in other assets. We find this illogical given that other assets may have a much higher risk and illiquidity profile than loans. An outcome whereby loan-focused ELTIFs distributed to professional investors are prohibited from using leverage but ELTIFs investing in other assets distributed to retail investors are able to use leverage is also inconsistent.

Preventing loan-focused ELTIFs from using borrowing in this manner would not only be unjustifiably discriminatory, it will also lead to a significant degradation of loan-focused ELTIFs to extend credit to the EU economy – a key objective of the reformed ELTIF Regulation.

As you are aware, most loans extended in the non-bank sector will be typically senior and collateralised, meaning they are much less likely to suffer losses than equity instruments that are lower in capital structure or real assets. Loans are also typically repaid within three to four years, providing for a much lower liquidity and maturity risk than other types of ELTIF eligible assets.

We therefore do not recognise the stated concerns around shadow banking applying to borrowing by ELTIFs to grant loans. ELTIFs using borrowing to extend loans would not be creating new money – they would be using borrowings for investments in the same manner as other ELTIFs. These borrowings would be financed by the banking sector that would still maintain full control over the money creation process. Banks will also undertake their own analysis before providing financing to private credit funds and their activities with respect to the financing of borrowing by ELTIFs are also subject to the extensive oversight of bank regulators.

There are also important mechanisms to protect investors elsewhere in the ELTIF Regulation. Any use of borrowing by the ELTIF remains subject to an absolute cap as per proposed Article 16(1)(a). In addition, the proposed amendments to point (2) of Article 16 require ELTIF managers to disclose how borrowing would help implement the ELTIF strategy and how they will mitigate any risks which may arise from the use of fund borrowing. We would also note that all ELTIF managers are subject to supervisory oversight under the Alternative Investment Fund Managers Directive (AIFMD) which provides another specific layer of oversight on the use of leverage and borrowing within their investment activities.

The prudent use of borrowing increases the amount of finance available for European SMEs. Enhanced lending capacity to borrowers is one of the main purposes of borrowing by an ELTIF engaged in lending activity. If the proposed Recital 27 and Article 16(1)(b) are implemented as policy, this will remove a significant source of financing for EU firms. The consequence of this will be to render ELTIFs as significantly less attractive investment structures for both professional and retail investors looking to invest in loan-focused investment strategies.

Annex 1 of this letter proposes amendments to Recital 27 and Article 16 (1)(b) that would ensure consistent treatment for all types of ELTIFs and confirm that borrowing can be used by ELTIFs to grant loans, subject to the conditions listed in the rest of Article 16 as well as other leverage-related provisions within the ELTIF Regulation and the AIFMD.



The proposed discriminatory treatment of borrowing for loan-focused ELTIFs undermines the positive reforms made elsewhere in the Regulation. We therefore strongly urge you to consider the proposed amendments to prevent this outcome.

We would be happy to elaborate further on any of the points raised in this letter. For further information please contact Nicholas Smith, Director, Private Credit at nsmith@aima.org.

Yours sincerely,

/s/

Jiří Król
Deputy CEO, Global Head of Government Affairs, AIMA
Global Head of the ACC

Frank Dornseifer
CEO
Bundesverband Alternative Investment eV

cc: Commissioner Mairead McGuinness, Commissioner for Financial Services
Financial Stability and Capital Markets Union, European Commission



Annex 1 – Proposed amendments to the ELTIF Regulation to ensure consistency of treatment across investment strategies

Recital (27):

ELTIFs should be able to encumber their assets to implement their borrowing strategy. ~~To address concerns about shadow banking activities, however, cash borrowed by ELTIFs should not be used to grant loans to qualifying portfolio undertakings.~~ However, to increase the flexibility of ELTIFs in executing their borrowing strategy, the borrowing arrangements should not count as borrowing where that borrowing is fully covered by investors' capital commitments.

Article 16.1 (b)

it serves the purpose of making investments or providing liquidity, including to pay costs and expenses, ~~except for loans as referred to in Article 10, point (e)~~, provided that the holdings in cash or cash equivalents of the ELTIF are not sufficient to make the investment concerned;



ANNEX 2

The Alternative Credit Council

The Alternative Credit Council (ACC) is the global body representing asset management firms in the private credit and direct lending space. It currently represents over 200 members that manage \$450bn of private credit assets. The ACC is an affiliate of AIMA (the Alternative Investment Management Association). It is governed by its own board which ultimately reports to the AIMA Council. ACC members provide an important source of funding to the economy. They finance mid-market corporates, SMEs, commercial and residential real estate developments, infrastructure and the trade and receivables business. The ACC provides guidance on policy and regulatory matters, supports wider advocacy and educational efforts and produces industry research to strengthen the sector's sustainability and economic and financial benefits. Alternative credit, private debt or direct lending funds have grown substantially in recent years and are becoming a key segment of the asset management industry. The ACC seeks to explain the value of private credit by highlighting the sector's wider economic and financial stability benefits.

The Alternative Investment Management Association

AIMA, the Alternative Investment Management Association, is the global representative of the alternative investment industry, with around 2,000 corporate members in over 60 countries. AIMA's fund manager members collectively manage more than \$2 trillion in assets. AIMA draws upon the expertise and diversity of its membership to provide leadership in industry initiatives such as advocacy, policy and regulatory engagement, educational programmes, and sound practice guides. AIMA works to raise media and public awareness of the value of the industry. AIMA is committed to developing skills and education standards and is a co-founder of the Chartered Alternative Investment Analyst designation (CAIA) – the first and only specialised educational standard for alternative investment specialists. AIMA is governed by its Council (Board of Directors). For further information, please visit AIMA's website, www.aima.org.

Bundesverband Alternative Investments

The Bundesverband Alternative Investments e.V. (BAI) is the asset class- and product-spanning representation of interest for Alternative Investments in Germany. Founded 1997 in Bonn, the association's members are active in any field of the professional alternative investments business. 237 national and international companies are members of the BAI. We are supported by the BAI Investor Advisory Board with members from insurance companies, pension funds, pension schemes and foundations.

Our goals

- To improve public awareness of alternative strategies and asset classes.
- Ensure internationally competitive and attractive (regulatory) conditions for the alternative investments industry.
- Representing the interests of the industry to politicians and regulators.



- Act as a catalyst between professional German investors and recognized worldwide providers of alternative investments products and services.
- Support scientific research in the field of alternative investments. We advocate for a competitive environment for alternative investments in AI, especially with a view to securing German old-age provision.
- It is our core responsibility to accomplish legal reforms and the development of case law on behalf of our members and their investors.

For that purpose, BAI contributes to several legislative procedures and consultations on a national and European level and participates as an expert at hearings. We maintain intense dialogue with political institutions as well as supervisory bodies (BaFin, Bundesbank, ESMA, EIOPA, IOSCO) and work towards a better understanding of our industry's concerns in legal and regulatory practice.