

## Consultation Deadline – 19<sup>th</sup> January 2021

Full [Online questionnaire](#) available here

ELTIF [Regulatory Text](#) available here

**Question 2.** Please indicate the areas and provisions in the ELTIF regime where policy action would be most needed to improve the functioning of the ELTIF regulatory framework? Please rate as follows:

	1 (no policy action needed)	2 (policy action could be considered)	3 (policy action desirable)	4 (policy action needed)	5 (policy action very strongly needed)	Don't know - No opinion - Not applicable
Rules pertaining to eligible investments				X		

**Question 2.1** Please explain your position on your answer to question 2, providing your arguments, and where appropriate, concrete examples and data to support your answers:

Under Regulation 2015/760 EU, Article 9 – Eligible Investments 2(a & c)

*'An ELTIF shall not undertake any of the following activities: (a) short selling of assets; (c) entering into securities lending, securities borrowing, repurchase transactions, or any other agreement which has an equivalent economic effect and poses similar risks, if thereby more than 10 % of the assets of the ELTIF are affected;'*

ISLA advocate for a removal of the 10% limit on securities lending activity and the short selling of assets, for which our industry facilitates, as a means to increase liquidity and promote the attractiveness of investing in European Long Term Investment Funds. The nature of securities lending activity is often misconceived as a short-term transaction, and hence against the spirit and objective of a long-term investment fund however, ISLA and its membership disagree with this perception. Many market participants insist that short selling provides a range of benefits including promoting price discovery against overvalued securities. In December 2019, ESMA issued a [report](#) titled 'undue short term pressure on corporations' in which it stated;

*'ESMA has considered the general arguments in relation to the impact of short-selling and securities lending practices and their potential link with short-termism. Nevertheless, ESMA points out that short-selling and securities lending are key for price discovery and market liquidity. Moreover, ESMA is not aware of concrete evidence pointing to a cause-effect connection between these practices and the existence of undue short-term market pressures.'* They also acknowledged that 'securities lending, if done in a controlled way, is an opportunity to add value for fund investors and compatible with long-term investment strategies.'

In December 2019, ISLA created the Council for Sustainable Finance (ICSF) which introduced a series of principles to encourage sustainable securities lending, to embed an element of governance in our practices. The completion of the foundation of our policy framework was complete and in December 2020, ISLA formulated an ESG Steering Group, to review best practices around voting and stewardship to provide reassurance to investors around the reasons for borrowing. The recent go-live of the EU's Securities Finance Transaction Regulation (SFTR) in 2020 also provides much needed transparency for investors.

Benefits of Securities Lending:

- Important function in EU capital markets
- Would provide greater liquidity and efficiency to ELTIFs

ISLA believe that limiting this activity acts as a key barrier to the development of this market.

Further information can be found in our [Regulator and Policy makers guide to Securities Lending](#).