



EUROPEAN COMMISSION  
Impact Assessment Board

Brussels,  
D(2013)

**Opinion**

**Title**

**DG MARKT - Impact Assessment on a Proposal for an European framework on Long Term Investment Funds**

**(draft version of 2 May 2013)\***

**(A) Context**

One of the conclusions drawn following the financial crisis is that investors have tended to focus on short term investment returns, strongly reflecting market fluctuations, and on assets that are capable of being readily sold. Yet taking a long term perspective and investing in asset classes which require longer term commitments from investors could have benefits for investors and for the economy more widely. For instance, investments in infrastructure can reduce costs for individual firms, raise employment opportunities and provide investors with a steady rate of return.

The Commission Green Paper on financing long term investment in the European economy examines options that might be considered in different areas for encouraging long term investments (LTI). This impact assessment focuses specifically on asset management and on the options for fostering long term investments through private investment funds.

**(B) Overall opinion: POSITIVE**

**The report needs to be improved in a number of respects. First, it should better explain what the real drivers of the problem are, i.e. regulatory failures or the result of LTIs particularities/investors' preferences. The problem definition should also better describe and substantiate, with quantitative elements where possible, the magnitude and cross-border dimension of the problem. Moreover, the reasons justifying the timing of the initiative should be clarified, given the on-going Green Paper consultation on LTI. Regarding the assessment of the options, the analysis should be strengthened, where possible with quantitative elements, notably with respect to the impact on administrative burden of the retained option. Furthermore, the superiority of the preferred option should be better established, for instance by demonstrating its greater effectiveness in addressing all identified problems and in attracting sufficient interest from retail investors despite its lack of redemption facilities. Finally, the report should clearly justify why some of the choices made deviate from the preferences expressed by stakeholders.**

\* Note that this opinion concerns a draft impact assessment report which may differ from the one adopted.

## **(C) Main recommendations for improvements**

**(1) Improve the problem description.** The report should identify more clearly what the real drivers of the problem are by clarifying (i) whether inefficiencies are derived from inadequate (or non-existing) legislation at national level or are due to the particular characteristics of long term investments and the way they are managed by fund managers and (ii) whether the low level of cross-border demand for LTI funds results from divergent national frameworks and possibly national incentives or from investors' preferences. The problem definition should also be strengthened with further evidence, including quantitative elements where possible. In particular, it should better describe the magnitude of the problem, notably, in terms of the potential cross-border, including retail, demand for LTI funds. The shortcomings of existing EU legislation (e.g. the Alternative Investment Funds Management Directive or the Venture Capital Funds Regulation) to address the identified problems should be better explained. Finally, the report should also more convincingly explain why action needs to be taken now, i.e. before the Green Paper consultation on LTIs is completed.

**(2) Better describe and assess the options.** The report should provide greater clarity about the actual content of the envisaged rules for LTI funds, e.g. product, management and distribution related rules to allow a better assessment of the effectiveness of the retained option (see below under recommendation 3). On that basis, the analysis of the impacts should be strengthened with further evidence, where possible quantitative. In particular, the impacts on administrative burden of the envisaged transparency requirements should be assessed in greater detail. The analysis should also more clearly explain the advantages of the preferred option 6 (i.e. retail fund with no redemption) over option 7 (retail fund with redemption possibilities). Currently, both the text and the comparison table in section 6.2 do not clearly convey the superiority of option 6. Furthermore, the report should develop further the assessment of the environmental impacts by better justifying the positive effects anticipated.

**(3) Better demonstrate the effectiveness of the retained option.** The report should critically assess (e.g. in section 7.2) to what extent the preferred option would pull in the retail investors given the absence of redemption possibilities. It should also explain why a two-tier approach (i.e. different treatment of institutional and retail investors) would not be more effective. In addition, it should clarify whether the envisaged Regulation would be enough or whether there are prudential rules issues that discourage investment in long term assets. Moreover, given the different nature of the three categories of LTIs covered (i.e. equity, real estate and infrastructure), the report should better explain why a single investment vehicle is an appropriate solution. Likewise, the report should explain more clearly how the retained measures would solve the conflicts of interest and lack of expertise of fund managers identified in the problem definition section.

**(4) Better discuss stakeholders' views.** When the choices or conclusions made deviate from stakeholders' views this should be acknowledged and justified. In particular, the report should better explain the reasons to prefer a fund with no redemption facilities while the consultation results point at a stakeholders' preference for retail funds that allow redemptions.

*Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated in the final version of the impact assessment report*

**(D) Procedure and presentation**

A reduced focus on some of the non-retained options (e.g. option 5) should free space to developing the presentation and analysis of the key options. Presentation should be enhanced by spelling out acronyms in full the first time they are used and by systematically providing the sources of the data/views reported. The executive summary sheet should be included in the report directly after the table of contents. In addition, the public consultation feedback statement should be published on the consultation webpage.

**(E) IAB scrutiny process**

Reference number	2013/MARKT/046
External expertise used	No
Date of IAB meeting	29 May 2013