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13 December 2023

Response to Consultation Paper 155 – Consultation on ELTIF chapter in the AIF Rulebook

Dear Sir/Madam,

We are writing to you in response to Consultation Paper 155 – Consultation on ELTIF chapter in the AIF Rulebook (“CP155”).

Introduction

Greencoat Renewables plc (“GRP”) is a company incorporated in Ireland under the Companies Act 2014 with registered number 598470.

GRP invests in euro-denominated renewable energy infrastructure assets. Initially focused solely on the acquisition and management of operating wind farms in Ireland, GRP is now investing in renewable generation assets in Ireland and certain other continental European and Nordic countries with stable and robust renewable energy frameworks.

The ordinary shares of €0.01 each in the capital of the GRP are admitted to trading on the Euronext Growth Market of Euronext Dublin (“Euronext Growth Dublin”) and the AIM market of the London Stock Exchange (“AIM”). GRP is a public limited company and is not a variable capital company established under Part 24 of the Companies Act 2014. As such, there are no ongoing subscriptions or redemptions of its shares in the manner of a fund. Apart from specific rounds of fund-raising, any purchases or sales of shares by investors are typically carried out via brokers on one of the designated stock exchanges, providing daily liquidity to investors at a market price.

GRP is categorised as an externally managed alternative investment fund (“AIF”) for the purposes of the Alternative Investment Fund Managers Directive (“AIFMD”) and is subject to and fully complies with the requirements of AIFMD. GRP is not authorised by the Central Bank of Ireland (the “Central Bank”) under domestic investment fund legislation but is deemed to be an AIF for the purposes of AIFMD and so is categorised as an unauthorised AIF and is not regulated by the Central Bank.

Given the nature of the assets in which GRP invests, we might consider converting to an ELTIF structure at some point in the future. As part of this conversion process, we might also consider ‘stepping up’ our listing to an EU regulated market (as such term is defined in Directive 2014/65/EU (“MiFID”)).

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	<i>Irish</i>	<i>Irish</i>	<i>Irish</i>	<i>Italian</i>	<i>Swedish</i>

Endorsement Of Irish Funds' Submission In Respect Of CP155

We have reviewed the submission in respect of CP155 prepared by Irish Funds, the Irish funds industry association, and wish to express our support for the detailed responses made in that submission.

Additional Points That Are Relevant To GRP

We have outlined below some points from CP155 that are relevant to GRP as an AIF that is not established as a collective investment scheme and which is listed on Euronext Growth Dublin and on AIM in the event that GRP were to convert to become an ELTIF vehicle.

In each case, we have explained why the proposed provisions set out in CP155 are problematic and suggested that such provisions are disappplied. We would also contend that dis-applying the relevant provisions would not undermine investor protection because vehicles with shares listed on an EU regulated market are also subject to a number of other legal and regulatory regimes (including, amongst others, the Prospectus Regulation, the Transparency Directive, the Market Abuse Regulation and the Packaged Retail and Insurance-based Investment Products Regulation ("PRIIPs")).

Part I, Section 1, Sub-section iii, paragraph 3 and Section 2, Sub-section xi, paragraph 2

As stated above, GRP is listed on Euronext Growth Dublin and on AIM and so any purchases or sales of shares by investors are typically carried out via brokers on one of the stock exchanges, providing daily liquidity to investors at the prevailing market price.

However, if GRP conducts fund-raisings from investors, as is the case with other listed, closed-ended investment companies which raise cash from an issue of new shares, it will typically do so by way of an institutional private placing and it will set the offering price of the new shares in one of two ways.

The first is for the directors to set a fixed price, typically based on a premium to the company's net asset value but at a discount to the current market price, with the aim of making it attractive enough for investors to subscribe through the placing rather than buying on the stock market but also ensuring that there is as little as possible dilution of the current net asset value through the issue costs that the company is bearing.

The second is to use an accelerated book build, especially if there is no public offer of shares being conducted at the same time. Under this process, once the offering has been announced, the book build opens. Investors are called by the syndication desk of the relevant bookrunner(s) or themselves call the bookrunner(s) in response to the announcement, and place their bids of the number of shares they wish to acquire in the offering and the price (or prices as investors can place multiple bids for acquire blocks of shares at different prices) they are prepared to pay for such shares. Bids are made on the terms and conditions set out in the announcement and are legally binding and cannot be changed or revoked. The book will usually be built over the course of one day, and the offering will usually be stated to close at the end of the day on which it is announced. (Usually, however, the book closes earlier than that.) Once the book has been built and the placing price set (meaning agreed between the bookrunner(s) and the company), a further announcement setting out the results of the placing and the placing price is then released to the market. Investors (placees) are then informed of their allocation.

In neither case is the issue price directly related to the net asset value per share and so is not consistent with the proposed provisions in CP155 that state that the ELTIF "*shall only issue or sell its units at a price arrived at by dividing the net asset value of the ELTIF by the number of units outstanding; such price may be increased by duties and charges*" and that a closed-ended ELTIF "*may, with the prior approval of the Central Bank, provide for the issue of units other than at net asset value*".

In light of the above, we would suggest that, as is the case for closed-ended QIAIFs, ELTIFs that are listed on an EU regulated market and whose shares are actively traded on that market should be permitted to issue units other than at net asset value as a matter of course and should not require the prior approval of the Central Bank to do so.

Part I, Section 1, Sub-section vi and Section 3, Sub-section x

We note the provisions of the AIF Rulebook and also the clarifications to these provisions set out in the 49th edition of the Central Bank's AIFMD Q&A in IDs 1157, 1158 and 1159 in respect of investing through subsidiary companies. However, in our opinion, these provisions will still be unduly burdensome on ELTIFs that invest in real assets which, because of their nature, are typically held in special purpose vehicles ("SPVs").

In the case of GRP, virtually all of our investments are held via SPVs and it is not practical and would cause an undue operational burden if GRP was required to comply with the requirements set out in the AIF Rulebook. In GRP's case, whether we hold 100% of the shares in an underlying SPV or the SPV represents a co-investment vehicle, we secure our shareholder rights through shareholders' agreements and other transaction documents and have conflicts of interest policies and procedures to govern the relationship with the SPVs and our service providers.

In addition, GRP buys and sells such SPVs on a periodic basis so it would not be possible to disclose the names of all its wholly-owned subsidiaries in its prospectus.

In light of the above, we would suggest that the detailed provisions of this section be amended and be replaced with a broad provision that ELTIFs should have adequate legal agreements in place to secure their shareholder rights in respect of any wholly-owned subsidiaries established by the ELTIFs.

Part I, Section 2, Sub-section ii

As a company that had an initial public offering at the time that it launched and listed on Euronext Growth Dublin and on AIM, GRP no longer has an ongoing offer period. Instead, as stated above, if additional capital is required, GRP conducts a fund-raising exercise in the market from investors.

In light of the above, we would suggest that the provisions of this section which relate to offer periods would be dis-applied to ELTIFs that are listed on an EU regulated market and whose shares are actively traded on that market and that such ELTIFs would be permitted to raise additional capital at any time.

Part I, Section 2, Sub-section xi, paragraph 1

As stated above, because GRP is listed on Euronext Growth Dublin and on AIM, any purchases or sales of GRP's shares by investors are typically carried out via brokers on one of the designated stock exchanges, providing daily liquidity to investors at a market price. In addition, GRP does not have a pre-determined termination date.

Accordingly, an investor that purchases shares in GRP is not necessarily investing on a long term basis and is not basing their investment decision on the termination date of the company as being the date on which they will be able to realise their investment. Instead, the investor is assuming that they can sell their shares via the relevant stock exchange at any time.

In light of the above, we would suggest that ELTIFs that are listed on an EU regulated market and whose shares are actively traded on that market should not be required to have a finite closed-ended period and should not need to provide in the prospectus for this period to be a material part of the investment policy.

Part I, Section 3, Sub-section i, paragraph 1

As stated above, GRP is listed on Euronext Growth Dublin and on AIM and so is not required by virtue of this listing to keep its prospectus/admission document up to date. Instead, in accordance with the provisions of AIFMD and PRIIPs, GRP publishes periodic and pre-investment disclosures (as required by Article 23 of AIFMD) and a PRIIPs Key Information Document. These disclosure requirements are deemed sufficient for retail investors in companies listed on an EU regulated market.

In light of the above, we would suggest that ELTIFs that are listed on an EU regulated market and whose shares are actively traded on that market should not be required to keep their prospectus up to date unless required to do so by other regulation applicable to such listed entities (such as the Prospectus Regulation).

Conclusion

We appreciate that we have raised points in this submission that are based on GRP's experience as a listed company. However, in some cases, these points overlap with points raised by the Irish Funds submission which would suggest that some of the proposals in CP155 are problematic for all ELTIFs. Furthermore, given the nature of the ELTIFs, we think that it is possible that a listing might be sought by ELTIFs to provide their investors with liquidity that might not otherwise be available based on the long-term illiquid nature of the underlying assets. We think, therefore, that it is worthwhile considering these points in advance of the new ELTIF regime coming into effect.

We also appreciate that not all of the points above might be relevant to each listed ELTIF and/or that the fact pattern for some of the above points might be different for different ELTIFs. Accordingly, rather than amend each of the points above, a more practical and flexible solution might be to include a standalone provision that permits ELTIFs that are listed on an EU regulated market and, if applicable, whose shares are actively traded on such a market to apply to the Central Bank for derogations from certain provisions of the AIF Rulebook. The wording of such a provision might read as follows:

"Where the shares of the ELTIF are listed on an EU regulated market, the ELTIF may, with the prior approval of the Central Bank, seek derogations from provisions of this Chapter where it is considered that such listing provides shareholders with equivalent investor protection."

We hope that you find this submission constructive and we would be happy to discuss any of the points raised in this submission with you in more detail if this would be helpful.

Yours faithfully,



Rónán Murphy
Chairman
Greencoat Renewables plc