

Studio Legale Crocenzi e Associati

Via Canova, 1
CH - 6900 Lugano
Tel. +41 91 970 2718 | Fax +41 91 970 2720

Via Monte di Pietà, 21
I - 00121 Milano
Tel. +39 02 8633 7317 | Fax +39 02 8633 7431

crocenzifp@crocenzilex.com

Italian Regulatory Update¹

Issue 2019 06

To: Primary contacts
Date: June 20, 2019
Re: Italian Law Decree no 34/2019 (“DL 34”) – Tax benefits for ELTIFs introduced by the Parliament in ratifying the DL 34

1 The DL 34

The main purpose of DL 34 is to provide stimulus for the Italian economy. Thus, the DL 34 - nicknamed “Growth Decree” (“*Decreto Crescita*”) – aims to facilitate the growth of the Italian GDP in order to improve the ratios between GDP and public debt and deficit, which are the main source of dispute with the EU.

A “Law Decree” like the DL 34 is a statute issued by the Italian Government, which has to be ratified by the Parliament through a “Law of Ratification” within sixty days. Since the DL 34 was issued on April 30, the “Law of Ratification” has to be approved by June 30, 2019. In elaborating the “Law of Ratification”, the Parliament introduced some changes and new provisions into DL 34, including a brand-new article 36-bis.

2 The new article 36-bis of DL 34, providing for tax benefits for some ELTIFs

The new article 36-bis of DL 34 (hereinafter, “A36 bis”) introduces tax benefits in connection with the investments in some European Long-term Investment Funds or

¹ **IMPORTANT INFORMATION** This memorandum is not given in performance of a professional engagement during an attorney-client relationship and is only given for a general information to the reader regarding the matters discussed herein. Therefore, this document should not be relied upon as a legal opinion and no action should be taken on the basis of the information herein contained.

“ELTIF”, disciplined by the Regulation (EU) 2015/760 of the European Parliament and of the Council of 29 April 2015 on European long-term investment funds (the “ELTIF Regulation”).

In particular, A36 bis provides for a tax exemption applicable to the capital gains (which would be otherwise subject to a 26%/12.50% withholding tax) obtained by individuals who invest in ELTIFs complying with the requirements set out by A36 bis (the “Eligible ELTIFs”).

In order to be an Eligible ELTIF, the following conditions have to be satisfied:

- the portfolio manager of the Eligible ELTIF cannot collect more than Euro 200 million during a single year, and no more than Euro 600 globally; this means that the total AUM of the Eligible ELTIF cannot exceed Euro 600 million, to be raised in at least three years;
- at least 70% of the portfolio of the Eligible ELTIF has to be invested in assets (eligible under the ELTIF Regulation) “referred to” either companies having their registered office in Italy or to companies of the EU/EEA with a permanent establishment in Italy (e.g., a branch).

The tax benefits apply if the investments in Eligible ELTIFs by the individuals do not exceed Euro 150,000= per year and Euro 1.5 million globally, and the investment is held for at least five years. In case of divestment before the fifth year, the ordinary taxation will apply, unless the relevant proceeds are entirely invested into another Eligible ELTIF within ninety days from the divestment from the first ELTIF.

The tax benefits apply either to the direct investments in Eligible ELTIFs and to the investments in other collective investment scheme that invest in Eligible ELTIFs.

The Minister of Economy and Finance will issue second-level rules for the actual implementation of A36 bis; finally, the tax benefits discussed herein will apply from 2020.

Please contact crocenzifp@crocenzilex.com for any clarification.

Best regards

STUDIO LEGALE CROCENZI E ASSOCIATI

Francesco P Crocenzi