BAI comments on
Commission draft Delegated Regulation amending Delegated Regulation (EU) 2015/35 as regards technical provisions, long-term guarantee measures, own funds, equity risk, spread risk on securitization positions, other standard formula capital requirements, reporting and disclosure, proportionality and group solvency

I. Introductory remark

Bundesverband Alternative Investments e.V. (BAI) welcomes the opportunity to respond to this consultation paper on amendments on the Solvency II Delegated Regulation (EU) 2015/35. As an industry association we represent more than 300 national and international members (asset manager, AIFMs, banks, service providers, etc.) active in the institutional alternative investments sector (i.a. infrastructure, private equity, private debt, liquid alternatives). Our responses therefore primarily focus on the amendments proposed with regard to Art. 171a.

II. Art. 171a – Art. 171c Draft DR 2015/35

We support the Commission's intention to make the equity risk requirements for the long-term equities (LTE) more usable for Solvency II undertakings. As explained in multiple papers including our Solvency II position paper 2020 (BAI position paper on Solvency review final.pdf) and the underlying study performed by Cepres and SOF in 2018 "Methodological review of EIOPA's final advice regarding the Unlisted equity module", long-term equities have been employed in institutional portfolios for many years due to various benefits from the investment and risk management perspectives. Solvency II undertakings, typically being liability-driven investors, would determine the optimal allocations incl. the expected holding period based on their internal Strategic Asset Allocations (SAA) and Own Risk and Solvency Assessments (ORSA) including stress tests under different assumptions. This approach is in line with the principle-based approach of Solvency II.

As per EIOPA's study and conclusion, the current usage of the LTE category is very limited due to overly restrictive criteria outlined in Art. 171a DR 2015/35. However, the draft requirements outlined in the Art. 171a – Art. 171c Draft DR 2015/35 don't seem to resolve this issue. Both alternative approaches, the methodologies as per Art. 171b and the forced selling as per Art. 171c, are designed in a rather burdensome, incomprehensible, theoretical and complex way. Our first conversations with German Solvency II insurers demonstrate that it is unlikely that any of them will consider implementing the requirements in the current form. For instance, Art. 171c Draft DR 2015/35 requires an additional layer of the entire business planning including stress testing for a virtual sub-segment/ balance sheet with long-term equities. This was one of the key burdens why the previous ringfencing-like requirement wasn't broadly implemented. Introducing Art. 171c in the current format would mean a return to the previous ring-fencing requirements. Besides, the requirements are highly rule based instead of principle based and are therefore not in line with the overall general Solvency II approach.

It is worth mentioning that the Solvency II pillar 2 requirements in DR 2015/35 alongside with various EIOPA Guidelines as well as FAQs released by national supervisors already provide a risk-based regulatory framework designed to ensure a prudent planning of liquidity and capital as well as to avoid fire sales while reaching liability-driven investment targets. **An introduction of an additional and redundant layer of restrictive LTE requirements will increase the amount of required work and limit the investment opportunities without any material risk reduction.**

Therefore, our recommendation would be to **replace Art. 171a – Art. 171c Draft DR 2015/35 by the referral to the existing requirements including SAA, PPP (Prudent Person Principle) and ORSA**. The Solvency II undertakings would have to clearly provide evidence in ORSA reports that LTE portfolios are able to satisfy Level 1 LTE requirements. Alternatively, we see a clear need to simplify the methodology/criteria in order to ensure supervisory convergence.

III. Art. 171d Draft DR 2015/35

We support the state-of-the-art list of lower risk CIUs in Art. 171d (2) Draft DR 2015/35. It is consistent with the current regulatory requirements and sufficiently captures typical fund structures including open-ended and closed-ended, ELTIF and non-ELTIF structures. Typical private equity and infrastructure equity products should be captured by Art. 171 (2) (a) or (d) in our view.

However, Art. 171d (3) Draft DR 2015/35 might benefit from further clarifications. In our view, the majority of equity fund structures are currently reported based on the look-through approach as per Art. 84 DR 2015/35 so that Art. 171d (3) (a) Draft DR 2015/35 should be applicable. We understand that if the CIU itself fulfils the criteria of 105 a (1) Solvency II Directive, then the capital charge of 22% will only apply to the equities within the CIU. Other investments such as bank deposits, receivables, derivatives will be subject to the same categories as it is currently the case.

Also, where Art. 105 a (1) Solvency II Directive is applied on the level of the CIU as per Art. 105a (2) Solvency II Directive, a further clarification could be helpful that such CIU may also include other non-equity assets such as bank deposits, receivables or derivatives. The question if such CIU may also include other instruments such as loans, warrants or other instruments to a material extent would be also helpful to clarify.

IV. Art. 178 DR 2015/35

We support the reduction of risk weights for rated junior and non-senior STS and non-STS securitizations. If possible, we would like to encourage reviewing the economic spread risks of non-STS securitizations in institutional investment portfolios and calibrate spread risks based on those findings. We would also like to encourage reviewing the overly punitive capital charge of 100% for unrated securitizations in Art. 178 (9) Draft DR 2015/35 since the economic risk profile for unrated securitizations in institutional portfolios is significantly under 100%.

******

Bonn, September 5, 2025

Contact:

Frank Dornseifer, Attorney/Rechtsanwalt
- Managing Director -

Bundesverband Alternative Investments e.V
Poppelsdorfer Allee 106
D-53115 Bonn
Phone: +49 (0)228-96987-50
dornseifer@bvai.de
www.bvai.de

The **Bundesverband Alternative Investments e.V. (BAI)** is the cross-asset and cross-product lobby association for the alternative investment industry in Germany and we consider ourselves as a catalyzer between professional German investors and suppliers of Alternative Investment products worldwide. The overarching goal is that German institutional and professional investors must be able to diversify their investment with regard to Alternatives better and more easily. The BAI is promoting a broad diversification which includes Alternative Investments as indispensable, in particular in terms of safeguarding long-term retirement pensions and the provision of money for construction, maintenance, and development of public infrastructure and renewable energies.

BAI members are recruited from all areas of the Alternative Investments' industry, e.g., AIF managers and banks as well as service providers. At present, the BAI counts about 300 national and international member companies and is growing continuously.