

## Review of Solvency II technical rules

### Invest Europe comments

5 September 2025

Invest Europe, the association representing private equity, venture capital and infrastructure managers as well as insurers committing capital to the asset class, welcomes the proposed revision of the Solvency II Delegated Acts.

Managers of long-term funds (private equity structures are closed-ended structures of 10-year life on average) raise most of their capital from institutional investors, such as pension funds and insurers. Solvency II capital requirements have constrained the latter's ability to commit capital to these funds – for reasons we detailed in previous submissions (see [here](#)). This naturally limited the amount of support EU venture and growth funds were able to give to innovative companies.

#### **Our comments on the long-term equity (LTE) category**

In that context, a massive **take-up of the voluntary long-term equity portfolios** - set in Article 105a of the Solvency Directive and defined in Articles 171 of the Delegated Acts - is needed **by insurers** to meet the Savings & Investments Union (SIU) objectives.

Without a strong take-up, **long-term investments will continue to be disincentivised compared to short-term investments**. As a result, insurers will be tempted to invest their much-needed long-term capital in more liquid products with a smaller value to the EU innovative ecosystem.

The Solvency II Delegated Acts introduced two major clarifications to Article 105a:

- the conditions under which an insurer is deemed to ensure the holding of equities for the long-term (5 years); and
- the types of funds that are deemed low risk – and hence can waive look-through requirements.

We examine below whether these changes will be effective in meeting the SIU objectives.

#### **“Forced selling” test**

The flexibility given by the European Commission on the “forced selling” test could allow insurers to use the test they find most appropriate to their business and their local jurisdiction. Nonetheless, both tests remain overly complex for the objective they aim to achieve. This complexity will likely make it harder for insurers to set up these categories.

**Low risk funds (Article 171d)**

The Delegated Acts require that all criteria of the LTE category should be examined “looking-through” to underlying investments. This makes it *de facto* impossibly difficult for insurers to include certain types of long-term equity funds within the category, despite these being logical additions to these portfolios.

Applying the criteria at the level of underlying investments means that, instead of assessing eligibility for its investment in a venture capital fund, the insurer would have to assess eligibility for all the fund’s underlying investments, i.e.: start-ups and scale-ups the VC fund has invested in (or in the case of a fund-of-fund investment, all investments in underlying funds and underlying investments).

The exemption to “waive” the “look-through” where the fund is deemed “low risk” (Article 171d) is essential because, in practice, **no insurer is expected to accept in its portfolio a fund where it will have to, one by one, assess the eligibility of its underlying exposures**. It also does not correspond to the economic reality of the investment.

From an economic and business point of view, an insurer does not invest in a series of portfolio companies but in a fund with a strategy defined by its manager. The insurer - as any other of the fund investors - will not necessarily be in a position to determine what the fund’s investments are: its only ability will be to remove the manager from its responsibilities (a rare occurrence in practice). At the beginning of the closed-end fund’s life, the insurer will be unable to even make that assessment in the first place. Indeed, at the time the insurer does decide to invest in the fund, no investment will have yet been made, making any prior assessment impossible.

Unfortunately, with the proposed Delegated Acts, only the funds with “**no leverage**” – as defined under the AIFMD commitment method - will be eligible to the “no-look through” approach in new Article 171d.

Solely excluding completely unleveraged funds will mean that **many funds using low levels of leverage will de facto be excluded from the category’s eligible assets**, despite these funds representing very limited risk.

While it is true that private equity funds are not following a strategy similar to hedge funds to increase the fund exposures through the use of debt, it does not mean that every fund will appear completely unleveraged with the use of the commitment method.

This is largely for technical reasons. For example, the **AIFMD commitment method does not specifically exclude cash from the calculation of the exposure**, to the contrary of the gross method. Given cash or cash-equivalents do not pose market risk, we have long argued these should not be included in the definition of the exposure. Including cash in the definition of exposure under the commitment method gives rise to a misleading result, because cash which was available to settle a liability would have the effect of both

increasing the Net Asset Value (NAV) and increasing the exposure. As a result, funds will appear to have a leverage ratio above 1:1 despite it having more than enough cash to cover a liability appearing on its balance sheet of an equivalent amount.

Data collected from ESMA ([Annual Risk assessment of leveraged AIFs](#)) has both demonstrated that private equity funds are generally not using leverage from an economic perspective, but that it is also far from rare that they are deemed leveraged from a legal perspective.

In other words, as it stands, the **Delegated Acts will prevent insurers from including many private equity and venture capital funds within these portfolios, even when they are effectively posing no risk.**

To avoid this very negative outcome that would likely prevent LTE portfolios to support funds whose value to the economy has been underlined in the SIU, the most logical solution would be for no “look-through” to be allowed for any types of exposures to **non-substantially leveraged funds, as defined in Article 111(1) of the AIFMD Delegated Regulation**<sup>1</sup>. The concept of a “substantially leveraged” fund is already one that is regularly used in a financial stability context.

#### *The comparison with ELTIFs*

ELTIFs, which are automatically eligible under the Directive, can be moderately leveraged. The proposed approach could have the unintended effect of treating ELTIFs differently from AIFs with identical features. This could in turn lead fund managers to set up ELTIFs for the sole reason of making a fund eligible to the long-term equity category – while the original purpose of ELTIF is rather to allow managers to market to non-professional investors.

To avoid this situation, and reflect the intention of the co-legislators, the Delegated Acts could at the very least recognise that **AIFs which meet the borrowing conditions set under ELTIF should be eligible to Article 171d.**

Finally, if the legislator is concerned that the use of debt is preventing eligibility, they could simply require from the manager to disclose information to the insurer about its use of debt, in line with AIFMD requirements, instead of altogether preventing the use of the category.

#### **Legislative programmes (Article 173)**

We welcome the ability of insurers to give equity exposures, incurred under national programmes, a more appropriate risk weight. EIF programmes have played a key role in supporting venture capital and growth funds in their investments in start-ups and scale-ups. Allowing insurers to benefit from a lower risk weight when participating to these

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<sup>1</sup> COMMISSION DELEGATED REGULATION (EU) No 231/2013

programmes, provided the credit risk is deemed to be lowered by its involvement, could have positive consequences.

Here are a few comments:

- Regarding the definition of what is government oversight, the description in the Communication (*robust and transparent criteria and screening procedures to select the beneficiaries, periodical monitoring of the performance...*) mirrors the existing conditions imposed by the EIF and national promotional banks to VC fund managers.
- Regarding the question of restrictions on equity investments, we would suggest broadening one of the criteria focusing the investment to undertakings “meeting the definition of SME, small mid-cap, start-up or scale-up; or companies whose growth is perceived to be of a high value to the Union’s objectives”.
- It is disappointing that the proposed changes would only apply to smaller insurers that are not using the internal model – integration of these provisions within internal models would help larger insurers to also benefit from these rules.
- The definition of public development credit institutions is limited compared to the one in CRR 2 (art429a(2)) and therefore too restrictive. We would suggest amending Solvency II as follows: *“It should be clearly stated that this applies to all public development credit institutions as defined in Article 429a(2) CRR and to National Promotional Banks and Institutions, as defined in Article 2(20) of the Regulation 2021/523 establishing the InvestEU Programme”*.
- The absence of a definition of “subsidies” in the proposal is also problematic: we suggest that a similar definition to the one provided in the Commission guidance on legislative programmes under CRR should be added.
- We would also recommend that, as for the CRR’s proposed approach, the Commission maintains a public register of the legislative programs. Member States should be allowed to notify the legislative programmes for which they seek the inclusion in the above-mentioned register to the Commission.

All these changes could ensure a much greater take-up of these otherwise helpful provisions.

## Conclusion

Technical measures to define the criteria of the long-term equity category can have a significant impact on the take-up of the category by insurers. They can drive the choice for insurers to commit capital to long-term equity funds, and ultimately to businesses of value to the EU economy.

As it stands, the Delegated Acts will likely prevent insurers from including many types of long-term equity funds, such as venture, growth, infrastructure and buy-out funds, within these long-term equity portfolios. The result will naturally be a low take-up of the

category and the perpetuation of a situation which has led to a lack of equity funding in the EU.

While acknowledging risks that substantially leveraged funds can have on the economy, preventing non-substantially leveraged AIFs to be eligible stands in the way of the SIU objectives. It is therefore essential to revise the proposed Delegated Acts to reflect this.