ACTUARIAL ASSOCIATION OF EUROPE
ASSOCIATION ACTUARIELLE EUROPÉENNE

1 PLACE DU SAMEDI
B-1000 BRUSSELS, BELGIUM
(+32) 2 201 60 21
INFO@ACTUARY.EU
WWW.ACTUARY.EU

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Re: Financial Services – Rules on Solvency for Insurance Companies Draft Delegated Regulation

The AAE welcomes the opportunity to comment on the proposed changes at this stage.

We have provided feedback in relation to the EIOPA proposals in response to EIOPA consultations and as participants in stakeholder meetings. We do not comment further on those aspects here.

We will restrict our comments to the areas where we have identified change from the EIOPA proposals.

Article 43:

We welcome the considerable extension of this article in order to ensure a sound process when changing the basic risk-free interest rate term structure. This term structure is crucial for the valuation of long-term liabilities. A holistic view covering all components is necessary whenever changes are intended.

Article 171a in combination with Article 169:

The introduction of a new class of equities was not part of the EIOPA proposal. We have the following concerns in relation to this proposal:

1) The nature of equity investment is that the same considerations in respect of portfolio management are likely to apply to equities regardless of the purpose for which they are held (other than for unit-linked business). It is likely that sound investment discipline would dictate that equities should only be held in a (non-unit linked) portfolio if there is clear evidence that the portfolio can withstand volatility associated with equity assets.

It is unclear to us that a subset of equities in a portfolio can be legitimately identified as having separate portfolio characteristics from another subset.

We are of the view that it is not justifiable to apply separate stresses to different categories of equities unless the categories are clearly distinct. For reasons above, we argue that it is unlikely that subsets are effectively distinct.

We note the onerous requirements set out for equities to be regarded as distinct for the purpose of application of stress. We would caution against requiring that equity investment be subject to restrictions which would go against the disciplines which should be part of any equity investment strategy, i.e. there will be times to buy and times to sell and there should not be restrictions which prevent appropriate transactions from occurring

2) The proposed change of the Delegated Regulation has not been part of earlier consultations. A reliable assessment of the related risk resulting from this lowered stress is missing. An impact assessment is not available.

3) We consider that a deviation from the required one-year period for the Value-at-risk calculation is not technically enabled by current regulation.

Art. 101 Par. 3 of the Directive 2009/138/EC of the European Parliament and of the Council (Solvency II) requires that the Solvency Capital Requirement shall correspond to the Value-at-Risk of the basic own funds of an insurance or reinsurance undertaking subject to a confidence level of 99.5% over a one-year period.

This fundamental principle would be overwritten by the proposed extension of a Level 2 document, so the one year time horizon cannot be altered. A different time horizon should not then be considered in assessing the risk in any investment.

While Article 304 contains an explicit exemption from this requirement in relation to the duration-based equity-risk sub-module, there is no empowerment referring to the new class of assets referenced here.

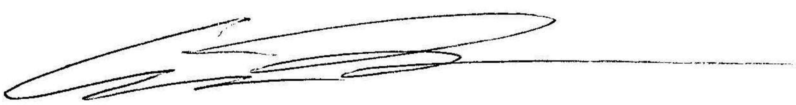
Moreover, the Level 1 framework fixes the valuation of equity-type assets for the Basic Own Funds and thus for the calculation/calibration of the Solvency Capital requirement. Long-term equity investments are assets. Therefore they enter Basic Own Funds at the amount for which they could be exchanged between knowledgeable willing parties in an arm's length transaction (Art. 88 1d and Art 75 Par 1(a) 1d).

In addition, the Solvency II Solvency Capital Requirement under the current Level 1 framework does not depend on whether assets are classified as "long-term equity Investments" as opposed to "equity investments". The Value-at-Risk referenced in Art. 101 Id. is a 'risk measure' in the sense of Art. 13 Par (39) Id. Art. 101 Id. specifies that the "probability distribution forecast" of the Basic Own Funds needs to be considered. Consideration of the classification of equity-type assets in this context leads to the conclusion that the value of the SCR does not vary for different equity-type assets because their value does not differ at any point of the probability space. Any valid calibrations must then be the same.

Article 260

The Commission did not follow EIOPA's proposal to alter Article 272, concerning the tasks of the actuarial function. We welcome the clarity around the role of the actuarial and risk management functions in relation to the calculation of the loss absorbing capacity.

Yours sincerely,



Esko Kivisaari
Chairperson