Feedback statement of

Bundesverband Alternative Investments (BAI e.V.)

on EBA CP (2021/30)

Draft RTS on criteria for the identification of shadow banking entities under Article 394(4) of Regulation (EU) No. 575/2013

I. Introduction:

Bundesverband Alternative Investments e.V. (**BAI**) welcomes the opportunity to respond to the a.m. EBA consultation paper. Before responding to the questions raised by EBA we would like to mention some general aspects that EBA should consider when finalising the RTS in question, especially also with regard to relevant work undertaken by the IMF, the FSB and the ESRB on non-bank-financial intermediation.

Firstly, we would like to reiterate – like we already did years ago in the EBA consultation related to limits on exposures to shadow banking entities (EBA/GL/2015/20) – that the terminology used, i.e. "shadow banking", even it is laid down in Art. 394 CRR, is not just misleading, but also inaccurate and therefore should be avoided by EBA.

Secondly, we would like to stress that there is a fundamental dissimilarity of banking and asset management business and therefore there is still no rationale either to qualify funds in general, but also debt funds in particular as (shadow) banks or to apply bank regulation to (debt) funds.

Thirdly, EBA has to acknowledge that European regulation of funds is a highly regulated prudential framework.

a) terminology

EBA as a highly reputable supervisory institution should follow the approach of the IMF, the FSB and the ESRB and other institutions and shift away from the stigmatizing term "shadow banking". Not only for the sake of objectivity EBA should demonstrate that they acknowledge work undertaken by IMF, FSB, ESRB, etc. and refer to the globally accepted terminology "non-bank financial intermediation". Especially with regard to the clear shift of IMF, FSB and ESRB years ago and also the communication carried out by the ECB and the EU Commission, EBA should be able to demonstrate their objective and unbiased approach in this matter. Regulated European funds do not operate in the shadow!

b) dissimilar business models of banks and investment funds with separate regulatory regimes

We have to reiterate that the **funds/asset management industry** does **neither carry out banking activities nor outside a regulated framework.** As an association representing more than 250 international/European asset managers we would like to emphasize again that there is on the one hand a fundamental dissimilarity of banking and asset management business and on the other hand European based funds/asset managers

carry out activities within a highly regulated prudential framework consisting of UCITSD, AIFMD, ELTIFR, EuVECAR, EuSEFR.

Therefore, EBA should

- on the one hand highlight this dissimilarity of the business models more clearly in the RTS and the explanatory notes, and
- on the other hand, consider in more depths existing and currently implemented prudential regulation of investment funds/collective investment schemes, especially the directive and regulations mentioned above including national – implementing - regulation.

Our observation of the early public and political debate on so-called shadow banking – i.a. here in Germany – was that many institutions and politicians draw false conclusions from this undifferentiated debate and therefore initially advocated for an application of banking regulation on any type of entity that is referred to in the context of the shadow banking debate, even these entities – or more precise their activities - are only peripherally in the scope of core banking business.

BAI believes that it is one of the most important tasks for EBA to safeguard that such false conclusions are avoided. It would be detrimental not just for the asset management industry, but also for investors and eventually for the entire economy if mandatory differentiation of dissimilar business models would be blurred.

Nowadays it is broadly accepted that the European economy needs – more than ever – market-based financing – including private debt - complementary to traditional bank financing. One pillar of the Capital Markets Union of the EU is indeed the strengthening of funding by institutions outside the banking sector. To become more precise, we would mention in this context the upcoming ELTIF review, in which the EU Commission underpins that AIFs, especially those structured as an ELTIF, shall take over a crucial role in financing European SMEs, by both: on the one hand (equity) investing into SMEs, but on the other hand also by providing loans to these portfolio companies. It is thereby understood that these entities neither carry out banking activities, nor that they operate in an unregulated framework, quite the contrary.

- Distinct business models of investment funds and banks

Investment funds and banks are highly regulated players in the financial markets, which differ fundamentally in terms of their business activities. Banks and investment funds regularly interact with each other in very different ways, and in some areas, they compete with each other. This is one of the reasons why investment funds - among other players - have become to some extent part of the shadow banking discussion. However, quite early the International Monetary Fund or the FSB have recognized how much this comparison is misleading.

Traditional banking activities are deposit-taking (i.e. the acceptance of third-party funds as deposits), lending (i.e. the granting of money loans), the provision of guarantees and issuing.

The activity of an investment fund, on the other hand, consists of collecting capital from a number of investors in order to invest it in accordance with a defined investment strategy for the benefit of these investors. In return, the investors receive shares in the fund which, depending on the fund's structure (open or closed), they may or may not be able to return before the liquidation or phase-out phase -

subject to restrictions, if applicable. As a rule, investment funds are not allowed to engage in other activities. Even if funds grant loans to portfolio companies this is part of their dedicated investment strategy and not comparable with a typical bank loan.

When comparing the two business models, it is noticeable that the provision of capital in the case of investment funds is always subject to an - in some cases very detailed - earmarking, namely in accordance with the fund's defined investment strategy. The acquisition of fund units is therefore usually made with a medium- or long-term investment horizon, especially if institutional investors as insurance companies, pensions funds, etc. are involved, but this typically applies as well for retail investors. The selection of the assets to be invested in is made accordingly. Therefore, there is generally no so-called maturity transformation.

On the other hand, an investment fund represents a separated asset pool, which is distinct from the asset-managing unit, but also protected against the access of creditors - even in the case of insolvency of the management company.

Unlike conventional bank deposits, there are no - capped - guarantees for the capital contributions of fund investors, such as those provided by the statutory or voluntary deposit guarantee schemes of the banking industry. But these are not necessary either, precisely because investment funds - in the vast majority of cases - invest their money on a broadly diversified basis, i.e. they are risk-diversified. The value of the share in a fund can therefore fluctuate due to fluctuations in the value of the invested assets, but a total loss is virtually unlikely. This is because it could only occur if the value of all investment items fell to zero. Even in this scenario, however, no contagion effects on other market participants are to be expected, unless the fund has financed the assets to a considerable extent through very high leverage, which is only possible for certain types of funds and only under strict regulatory requirements (e.g. internal leverage limit, disclosure of the largest lenders, etc.).

The aforementioned structural differences between funds and banks (limited scope of activity, separation of assets and liabilities, medium- or long-term investment horizon of investors, no or only moderate leverage) therefore should be better acknowledged in the final RTS.

- prudent regulation of funds in the EU

The above-mentioned pillar of the CMU would be spoiled severely if the EBA now further stigmatizes AIFs, their activities and their regulatory framework here in the EU. A first positive step is the fact that EBA stipulates in recital 81 that ELTIFs, EuSEFs and EuVECAs shall not be identified as shadow banking entities, however, as they are of course AIFs in the meaning of AIFMD, it would be counterproductive only to exempt them, if they for example grant a loan, but exclude other types of AIF pursuing the same strategy/activity with equivalent features. EBA also has to acknowledge that there are specific national regimes for example in the EU regarding e.g. loan origination. All types of AIFs, including ELTIFs, EuSEFs and EuVECAs, are therefore comprehensively and prudentially regulated within the EU.

Thus, it is absolutely crucial that the EBA emphasizes that there is comprehensive and appropriate regulation of collective investment schemes – especially here in Europe (UCITS, AIFMD, etc.) – in place which allows not just appropriate authorisation and ongoing supervision of these entities (including capital/own funds requirements, risk and liquidity management requirements, organisational requirements, transparency

requirements, but which also grants in addition comprehensive rights toward competent authorities, including for example

- collection of all type of information regarding alternative investment funds, their managers and also counterparties,
- the setting of leverage limits for alternative investment funds under AIFMD.

BAI is very much concerned that these facts are not always adequately reflected by the EBA so far and therefore we request the EBA to reconsider not only terminology but also some material aspects of the draft RTS.

II. Responses on the questions for consultation:

QUESTION 1: DO YOU AGREE WITH THE CONDITIONS OF ARTICLE 1 PARAGRAPH 2 FOR IDENTIFYING AN ENTITY AS A NON-SHADOW BANKING ENTITY? PLEASE PROVIDE REASONS IF YOU DO NOT AGREE WITH ANY OF THE CONDITIONS OR HAVE COMMENTS WITH REGARD TO ANY OF THEM.

BAI in principle agrees with the conditions for identifying an entity as a non-shadow banking entity, however, we disagree with the counter-exception in paragraph 5.

QUESTION 2: HAVE YOU GOT ANY COMMENTS REGARDING THE LIST OF ENTITIES THAT, BEING EXEMPTED OR OPTIONALLY EXCLUDED FROM THOSE FOUR LEGAL ACTS IN ANNEX I, SHOULD NOT BE CONSIDERED AS SHADOW BANKING ENTITIES?

n.a.

QUESTION 3: CONVERSELY, WHAT ARE YOUR VIEWS CONCERNING OTHER ENTITIES EXEMPTED OR OPTIONALLY EXCLUDED FROM THE OTHER LEGAL ACTS IN ANNEX I AND THAT WOULD BE IDENTIFIED AS SHADOW BANKING ENTITIES? PLEASE PROVIDE REASONS IN CASE YOU VIEW THAT ANY OF THOSE ENTITIES SHOULD FALL UNDER THE EXEMPTION IN ARTICLE 1 PARAGRAPH 3 AND THEREFORE NOT BE TREATED AS SHADOW BANKING ENTITIES.

n.a.

QUESTION 4: HAVE YOU GOT ANY OTHER COMMENTS WITH REGARD TO THE CONTENT OF ARTICLE 1 OF THE DRAFT RTS? IN YOUR VIEW, IS IT CLEAR AND EASY TO IMPLEMENT FOR THE PURPOSES OF THE REPORTING OBLIGATION OF ARTICLE 394(2) OF REGULATION (EU) NO 575/2013?

n.a.

QUESTION 5: IN GENERAL, WHAT ARE YOUR VIEWS ON THE TREATMENT OF FUNDS IN THESE DRAFT RTS? DO YOU AGREE WITH THE APPROACH ADOPTED IN THESE DRAFT RTS, THAT FOLLOWS THE APPROACH IN THE EBA GUIDELINES ON LIMITS ON EXPOSURES TO SHADOW

BANKING ENTITIES, OR ALTERNATIVELY SHOULD IT BE EXTENDED TO CAPTURE THOSE FUNDS AS SHADOW BANKING ENTITIES?

Here, we have to emphasize again, that the approach pursued by EBA, which also follows the approach in the EBA guidelines on limits on exposures to shadow banking entities, does not really acknowledge the scope and quality of fund regulation especially in the EU. We are well aware of shortcomings on the side of EBA when adopting EBA/GL/2015/20, especially the lack of alignment with ESMA on the scope and quality of e.g. AIFMD. Inacceptable assumptions, as for example that AIFMD is not a prudential regulation, and the fact that ESMA had not been adequately involved in the process show, that a.m. guidelines cannot be set as a benchmark for further regulation or further standards and guidelines, especially as in the meantime several research has been undertaken by European and international bodies, especially the IMF, the FSB and the ESRB, which should be taken into consideration right now, rather than the reference to antiquated guidelines dated 2015, which from our point of view have to be reviewed and amended in any case.

We also strongly disagree with the following paragraph on page 32 of the CP, which we believe is related to question 5.

„Recent market events have shown weaknesses with certain investment funds. The draft RTS, following the assessment of UCITS and AIFs as carried out for the EBA Guidelines on limits on exposures to shadow banking entities (EBA/GL/2015/20), consider that indeed the rules applicable to these funds as reflected in Article 1 paragraphs 4 and 5 limit the risks that an institution would run into when it is exposed to them. But those recent cases show that funds could still carry significant risks to the financial system. The fact that they are subject to certain requirements that aim to limit their leverage (in general, these funds are subject to market or investment regulations and not to solvency or liquidity requirements comparable to those of credit institutions) may not be sufficient in all cases to prevent risks to an institution's solvency or liquidity. "

We ask EBA to stipulate when and in which area "*recent market events have shown weaknesses with certain investments funds*". These types of generalizations are not just not acceptable in a serious consultation paper, they are also not justified. The funds industry, especially the European funds industry, has proven to be more than robust both in the financial crises and the covid crises. Therefore, we request the EBA to lay down what they mean in particular or to delete such allegations.

On MMF we would like to briefly indicate, that the regulation of money-market funds in the EU has been substantially amended, if EBA refers to US fund regulation this should be clearly specified.

Regarding AIFs, we would like to point out again, that AIFMD provides for a strict leverage regime, they have to set leverage limits themselves and moreover the NCAs or ESMA can further restrict the use of leverage. In addition, AIMFs are subject to solvency/capital requirements depending on AuM/exposure and AIFs are subject to liquidity requirements.

It is also striking that EBA does not differentiate between open-ended and closed-ended AIFs. Especially private market funds including infrastructure, private equity, private debt are structured as closed-ended vehicles, so there is not just no maturity transformation, there is also no risk for a run, as EBA alleges. Those are long-term investments by institutional investors without redemption rights. So EBA should not generalise e.g. liquidity risks if they do not apply for a large majority of funds. EBA does also not reflect that even open-ended funds typically have redemption restrictions as notice periods, redemption gates, suspensions of

redemptions etc. so that this aspect also should be considered, which, however, is not the case so far. Finally, EBA still does not acknowledge that the business model of banks is entirely different to that of funds (see also the introductory remarks). Funds do not take short-term deposits by customers for a variety of purposes, funds take moneys form investors for a dedicated investment case. And finally, AIFs under AIFMD have an institutional/professional investor base, which always have a dedicated long-term investment horizon.

QUESTION 6: WHAT WOULD BE THE ADVANTAGES AND DISADVANTAGES OF TAKING A BROADER APPROACH WITH RESPECT TO THE SCOPE OF FUNDS INCLUDED AS SHADOW BANKING ENTITIES?

From our point of view and on the basis of discussions on IMF, FSB or ESRB level there are no arguments or reasons to broaden the approach right now with respect to the scope of funds included as shadow banking entities. As commonly agreed upon the business models of banks and funds are totally different and qualifying them per se as shadow banks is wrong and misleading. Even from a regulatory and/or supervisory point of view there is no need to apply such a broad approach. Only a very narrow and limited approach is right now justifiable.

QUESTION 7: WHAT ARE YOUR VIEWS WITH REGARD TO THE CONSIDERATION OF MONEY MARKET FUNDS AS SHADOW BANKING ENTITIES?

EBA should take into account the amendments related to MMF in the EU recently which appear to be reasonable means to address potential risks related to MMF.

QUESTION 8: DO YOU FACE ANY DIFFICULTIES IDENTIFYING WHETHER AN ALTERNATIVE INVESTMENT FUND (AIF) SHOULD BE CONSIDERED AS A SHADOW BANKING ENTITY?

Following the statement in recital 75 that ELTIFs, EuSEFs and EuVECAs shall not be identified as shadow banking entities, we would suggest a clear exemption in the RTS itself. These funds are special types of AIF so there might be uncertainty whether there are within the scope of Art. 1 para. 5.

QUESTION 9: HAVE YOU GOT ANY SPECIFIC COMMENTS WITH REGARD TO AIFS AND IN PARTICULAR, WITH POINTS (B) AND (C) OF ARTICLE 1 PARAGRAPH 5?

As already laid down in the introductory comments we miss a more differentiated approach within the RTS with regard to the following topics:

- differentiation of business models of banks and investment funds

EBA has to acknowledge that banks and investment funds pursue different business models. First of all, BAI would like to emphasize that the term maturity transformation is typically referred to in a banking context and cannot and should not be transferred inconsiderately to asset management business. Banks usually borrow money on shorter time frames (e.g. via customer deposits) than they lend money out (bank loans to customers). It appears in the CP that EBA considers maturity transformation from the banking business equally to asset/fund management business, which might lead to a distorted perspective on actual maturity transformation, especially as these aspects appear to have relevance only to a limited range of funds, e.g. loan or microcredit funds, as far as they provide loans directly. Even in these cases it appears that these loans are unlikely to be traded, and therefore held to maturity. Furthermore it has to be considered that loan funds raise their moneys amongst institutional investors with a dedicated long-term investment focus which

is aligned with the investment strategy of the fund and loan funds furthermore take over an active role within the portfolio company so there is an intense cooperation between borrower and lender aiming to promote the activities of the portfolio company. This dedicated investment approach is again quite different from a typical bank loan without a dedicated investment strategy.

- the use of leverage on a substantial basis should not per se qualify an AIF as a shadow bank.

To clarify our concerns, we briefly refer to the relevant provisions of AIFMD, which in general does not provide for fixed leverage ratios etc. for AIFs. Instead – and from our point of view even more efficient and pragmatic – Art. 15 (4) AIMFD requires AIFMs managing leveraged AIFs to set themselves a (internal) leverage limit upon establishment of the AIF. To safeguard that an AIFM does not choose an arbitrary leverage limit Art. 25 (3) AIFMD provides that the AIFM has to demonstrate that the leverage limits set by it for each AIF it manages are reasonable and that it complies with those limits at all times. In consequence the responsibility to set and comply with a leverage limit in principle remains with the manager.

On the other hand, the Competent Authorities have to assess the risks that the use of leverage by an AIFM with respect to the AIFs it manages could entail and if deemed necessary they can impose limits to the level of leverage or other restrictions on the management of the AIF. However, these sanctions can only be imposed by the Competent Authority of the home Member State of the AIFM if deemed necessary in order to ensure the stability and integrity of the financial system. The Competent Authorities of the home Member State of the AIFM have to notify beforehand ESMA, the ESRB and the Competent Authorities of the relevant AIF and the objective of these sanctions must be to limit the extent to which the use of leverage contributes to the build-up of systemic risk in the financial system or risks of disorderly markets. The notification shall include details of the proposed measure, the reasons for the measure and when the measure is intended to take effect.

The empowerment to impose leverage limits or other restrictions on the management of the AIF is a severe mean for the Competent Authorities, especially as these measures themselves are likely to being able building up a systemic risk or causing disorderly markets. And in addition, it has to be borne in mind that the delegated power for Competent Authorities is and will remain quite vague so there will be legal and practical uncertainty on this aspect. From a constitutional perspective even concerns on the basis of the German constitution may be raised whether sufficient legal certainty is given for such measures.

As already laid down with regard to the examination of the internal leverage limit set by the AIFM within the authorization process, there are severe concerns about potential limits and restrictions set by the Competent Authority. On the one hand an internal leverage limit as provided for i.a. in the offering memorandum is part of the contractual basis between investor and the AIF and/or the AIFM. By setting retroactively a leverage limit the Competent Authority does not only intervene in the terms between those parties by restricting the strategy of the AIF, it also interferes in the markets as setting retroactively a leverage limit means as consequence the obligation for the AIFM to replace debt by equity, i.e. to sell assets. This might have manifold detrimental effects. On the one hand, if such limits are set for a number of AIFs there might occur a crowded or overhasty sales process (‘fire sales’). On the other hand, other market participants becoming aware of a leverage limit imposed by the Competent Authority on a specific AIF can speculate against this AIF; counter parties may decide to terminate business with this AIF/AIFM. Finally, investors being invested in the AIF on the basis of the internal leverage limit stipulated in the offering memorandum may claim for damages as the

AIFM may no longer be able to pursue its' strategy. It becomes clear that there are enormous liability risks as well for the Competent Authority imposing such limits.

Corresponding to this aspect the question has to be raised how an AIFM can react with regard to a leverage limit set by the Competent Authority as it might be quite difficult, even impossible to switch – in the short term – from debt capital to equity upon an order by the Competent Authority. Borrowing agreements have to be terminated, equity has to be raised, and investors have to be convinced. These practical questions are not trivial and they have to be considered by Competent Authorities when imposing such limits or restrictions. From a practical viewpoint an AIFM might upon imposition of a leverage limit suspend the redemption of units/shares, in case of open-ended AIFs. The Competent Authority could allow an appropriate period of time for any such measure as the selling of assets, termination of borrowing agreements so that these measures at the end do neither harm the investors – negative effects on the NAV – nor distort the markets – fire sales.

To avoid such possible detrimental effects Art. 25 (5) to (7) AIFMD provide for a specific cooperation and alignment procedure between the Competent Authorities, ESMA and ESRB. First of all, ESMA shall perform a facilitation and coordination role, and, in particular, shall try to ensure that a consistent approach is taken by Competent Authorities, in relation to measures proposed by Competent Authorities. Furthermore, ESMA shall issue advice to the Competent Authorities of the home Member State of the AIFM about the measure that is proposed or taken. The advice may, in particular, address whether the conditions for taking action appear to be met, whether the measures are appropriate and the duration of the measures. On the basis of the information received, and after taking into account any advice of the ESRB, ESMA may determine that the leverage employed by an AIFM, or by a group of AIFMs, poses a substantial risk to the stability and integrity of the financial system. Upon this finding, ESMA may issue advice to Competent Authorities specifying the remedial measures to be taken, including limits to the level of leverage for this AIFM, or the group of AIFMs, respectively. ESMA shall immediately inform the Competent Authorities concerned, the ESRB and the European Commission of any such determination.

It becomes obvious that there might be disagreement between the authorities involved. Such a disagreement is likely given that the AIFM's home Competent Authority may feel that the risk on counterparties in other Member State is reasonable, while the Competent Authorities where the counterparties are domiciled feel different about that, for the very reason that these entities feel (primarily) responsible for their own financial institutions. For this reason, Art. 25 (8) AIFMD provides, that, if a Competent Authority proposes to take action contrary to ESMA/2011/379, it shall inform ESMA, stating its reasons. Subsequently ESMA may publish the fact that a Competent Authority does not comply or intend to comply with its advice. ESMA may also decide, on a case-by-case basis, to publish the reasons provided by the Competent Authority for not complying with its advice. The Competent Authorities concerned shall receive advance notice about such a publication.

- The European regulation of funds including AIFMD is a prudential regulation

We disagree with assumptions / conclusions of EBA with regard to AIFs in the context of the statement in recital 32 "only those entities that carry out banking activities outside an adequate prudential framework should be treated as shadow banking entities" as it appears that EBA does question whether AIFMD is a prudential regulation. Once again, AIFMD is an adequate prudential framework for funds managers. The presumption of EBA that this is not the case, is not acceptable neither for the European legislator, nor for the European funds industry regulated and supervised by highly qualified and specialised NCAs and ESMA!

We therefore also disagree with the assumption in recital 74 that “some risks arising directly from the funds themselves are not mitigated satisfactorily from a prudential point of view”. Furthermore, we disagree with the conclusion in recital 75 that “only AIFs, which are not entitled to grant loans or purchase third parties’ lending exposures onto their balance sheet should not be identified as shadow banking entities” as the aforementioned credit intermediation risks (runs and/or liquidity risk, etc.) are not relevant for closed-ended funds. It is also not correct that AIFs entitled to grant loans are not subject to rules on concentration risk, credit assessment, etc.

EBA has to acknowledge that AIFMD differentiates between open-ended and closed-ended funds and that especially private markets funds (i.e. infrastructure, private equity, private debt, etc.) are structured as closed-ended vehicles. For those AIFs potential bank-like financial stability risks mentioned in recital 24 typically do not apply. Especially there is no maturity/liquidity transformation, they are not susceptible to runs and even lending or market intermediation does not depend on short-term funding. Institutional investors pursue with their AIFs long-term investment strategies, not just via closed-ended AIFs but even via open-ended AIFs. Thus, not just the strategy itself argues against the alleged issues short-term funding, bank-run, etc., even more relevant is the structure as a closed-ended AIF which does not permit these scenarios.

QUESTION 10: DO YOU AGREE WITH THE DESCRIPTION OF BANKING SERVICES AND ACTIVITIES AS INCLUDED IN ARTICLE 2 OF THE DRAFT RTS? HAVE YOU GOT ANY SPECIFIC COMMENTS REGARDING ANY OF THE POINTS INCLUDED?

No, we strongly disagree with the description in Art. 2 (b) that “any service or activity involving maturity transformation, liquidity transformation, leverage or credit transfer” shall be regarded as well as banking services and activities under this regulation.

Banking services and activities are explicitly defined in European directives and regulations like CRD and CRR. Therefore, it is not acceptable at all setting the scope of this regulation at one’s own discretion by simply adding this excessively wide definition, which has – to be very clear – no reference to any sort of European legislation and therefore has no basis in a legislative act, which has been adopted by the European legislator. This would be a severe violation of the overarching principle of separation of powers. Especially as the European parliament has several times addressed to the ESAs that they try to overrule European legislative acts by implementing act, guidelines, etc. we are very concerned about this overly wide and unspecified definition, which is far out of scope of typical banking services and activities.

QUESTION 11: DO YOU AGREE WITH THE POSSIBILITY GRANTED UNDER PARAGRAPH 1 OF ARTICLE 3 TO PREVENT THE IDENTIFICATION OF A BANK IN A THIRD COUNTRY AS A SHADOW BANKING ENTITY IN THE ABSENCE OF AN EQUIVALENCE DECISION UNDER ARTICLE 391 OF THE CRR?

n.a.

QUESTION 12: HAVE YOU GOT ANY COMMENTS REGARDING THE APPROACH SET OUT IN PARAGRAPH 2 OF ARTICLE 3 FOR OTHER ENTITIES ESTABLISHED IN THIRD COUNTRIES TO PREVENT THEIR IDENTIFICATION AS SHADOW BANKING ENTITIES?

n.a.

QUESTION 13: DO YOU AGREE WITH THE LIST OF LEGAL ACTS INCLUDED IN ANNEX I?

n.a.

QUESTION 14: IS THERE ANY OTHER LEGAL ACT THAT SHOULD BE INCLUDED IN ANNEX I? IF YES, PLEASE MENTION THE ACT AND LEGAL REFERENCE, AND PROVIDE REASONS TO SUPPORT IT BASED ON THE CRITERIA INCLUDED IN ARTICLE 394(4) OF REGULATION (EU) NO 575/2013.

n.a.

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This feedback statement was issued on October 26, 2021. Fur any further information on this feedback paper please contact:

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About BAI:

Bundesverband Alternative Investments e.V. (BAI) is the cross-asset and cross-product lobby association for the alternative investment industry in Germany. BAI perceives itself as a catalyser between professional German investors from all sectors and suppliers of Alternative Investment products (private equity, infrastructure, private debt, liquid alternatives, etc.), and lobbies that German institutional and professional investors are able to diversify their investment with regard to Alternatives better and more easily. 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 example for the construction, maintenance, and development of public infrastructure and renewable energies.

BAI-members are recruited from all areas of the Alternative Investments' industry, e.g. asset managers, alternative investment funds, banks as well as service providers. At present, BAI counts about 250 national and international member companies and is growing continuously.