
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend Article 45 of the Commission Delegated Regulation (EU) No. 2015/35 of 10 October 2014 supplementing [Directive 2009/138/EC](#) of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency 2) (“the Commission Delegated Regulation”).

The Commission Delegated Regulation, which provides a prudential framework for insurance and reinsurance undertakings, forms part of EU retained law for the purposes of the European Union (Withdrawal) Act 2018 (c.16) (see section 6 of that Act) following the UK’s withdrawal from the EU. The Commission Delegated Regulation requires undertakings to calculate (among other things) certain technical provisions to ensure adequate capital is held. One of the contributing calculations is the rate of the basic risk-free interest rate term structure which must be adjusted to take account of credit risk (see Article 44 of the Commission Delegated Regulation). Article 45 sets out how the adjustment for credit risk is to be determined.

These Regulations delete the provision in Article 45 of the Commission Delegated Regulation which specifies an adjustment based on the difference between the credit risk reflected in the floating rate of interest rate swaps and overnight indexed swap rates. Such provision was based on the continued use of benchmarks which reflect the interest rate at which banks could borrow money on unsecured terms in wholesale markets, such as the London Inter-bank Offered Rate (known as LIBOR). Following the discontinuation of LIBOR it is necessary to substitute new provision in Article 45 to reflect the appropriate adjustment for the credit risk of other benchmarks, in particular the Sterling Overnight Index Average (SONIA).

These Regulations therefore substitute in Article 45 a new methodology for the credit risk adjustment which reflects the transition from LIBOR to SONIA or other benchmarks.

No impact assessment has been produced for this instrument as we do not foresee any, or any significant impact, on the private, voluntary or public sector.