

## STATUTORY INSTRUMENTS

### 2015 No. 575

## FINANCIAL SERVICES AND MARKETS

### The Solvency 2 Regulations 2015

*Made* - - - - 6th March 2015

*Laid before Parliament* 9th March 2015

*Coming into force in accordance with regulation 1*

<sup>F1F2</sup>The Treasury are a government department designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to financial services.

The Treasury, in exercise of the powers conferred upon them by section 2(2) of the European Communities Act 1972, make the following Regulations:

**F1** [S.I. 2012/1759.](#)

**F2** 1972 c.68; section 2(2) was amended by section 27 of the [Legislative and Regulatory Reform Act 2006](#) (c. 51) and by section 3 of, and the Schedule to, the [European Union \(Amendment\) Act 2008](#) (c. 7). By virtue of the amendment of section 1(2) made by section 1 of the [European Economic Act 1993](#) (c. 51) regulations may be made under section 2(2) to implement obligations of the United Kingdom created by or arising under the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 (Cm 2073, OJ No L1, 3.11.1994, p.3) and the Protocol adjusting that Agreement signed at Brussels on 17th March 1993 (Cm 2183, OJ No L1, 3.1.1994, p.572).

#### **Modifications etc. (not altering text)**

**C1** [Regulations](#): power to modify conferred (11.7.2023) by [Financial Services and Markets Act 2023](#) (c. 29), ss. 3, 86(3), [Sch. 1 Pt. 2](#); [S.I. 2023/779](#), reg. 2(d)

## PART 1

### Citation, commencement and interpretation

#### **Citation and commencement**

- 1.—(1) These Regulations may be cited as the Solvency 2 Regulations 2015.
- (2) Except where paragraph (3) applies, these Regulations come into force on 1st January 2016.
- (3) Regulations 1, 2, 38 to 58 and paragraph 15 of Schedule 1 come into force on 31st March 2015.

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**Changes to legislation:** The Solvency 2 Regulations 2015 is up to date with all changes known to be in force on or before 28 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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(4) Before 1st January 2016, references to “the Solvency 2 Directive” in any amendment of FSMA that comes into force in accordance with paragraph (3) are to be read as if the amendments made by paragraphs 16(b) and 17(3) of Schedule 1 were already in force.

## Interpretation

2.—<sup>F3</sup>(1) In these Regulations—

“capital add-on” means the amount by which the solvency capital requirement of an insurance undertaking or reinsurance undertaking, or a group, is increased by the PRA;

“college of supervisors” means a permanent but flexible structure for the co-operation, co-ordination and facilitation of decision making concerning the supervision of a group;

“common management relationship” means a relationship between two or more undertakings which satisfies the following conditions—

(a) the undertakings are not connected in the manner described in section 1162 of, and Schedule 7 to, the Companies Act 2006, and

(b) either—

(i) the undertakings are managed on a unified basis pursuant to a contract with one of them, or provisions in the undertakings' respective memoranda or articles of association, or

(ii) the administrative, management or supervisory bodies of those undertakings consist, for the major part, of the same persons in office during the financial year in respect of which it is being decided whether such a relationship exists;

“financial conglomerate” has the meaning given in regulation 1(2) of the Financial Conglomerates and Other Financial Groups Regulations 2004, as amended by the Financial Conglomerates and Other Financial Groups (Amendments etc.) (EU Exit) Regulations 2019;

“Financial Conglomerates Directive” means Directive [2002/87/EC](#) of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings, and investment firms in a financial conglomerate, as it had effect immediately before IP completion day;

“FSC” means the Financial Services Commission of Gibraltar;

“FSMA” means the Financial Services and Markets Act 2000;

“Gibraltarian insurance undertaking” means an undertaking which—

(a) has its head office in Gibraltar;

(b) is authorised by the FSC to carry on one or more classes of insurance business within the meaning of section 2(1) of the Financial Services (Insurance Companies) Act of Gibraltar; and

(c) would require authorisation in accordance with Article 14 of the Solvency 2 Directive if the United Kingdom were a member State;

“Gibraltarian reinsurance undertaking” means an undertaking which—

(a) has its head office in Gibraltar;

(b) is authorised by the FSC to carry on insurance business limited to reinsurance within the meaning of section 2(1A) of the Financial Services (Insurance Companies) Act of Gibraltar; and

(c) would require authorisation in accordance with Article 14 of the Solvency 2 Directive if the United Kingdom were a member State;

“insurance holding company” means a parent undertaking which is not a mixed financial holding company and the main business of which is to acquire and hold participations in subsidiary undertakings, where those subsidiary undertakings are exclusively or mainly insurance or reinsurance undertakings, or Gibraltarian insurance or reinsurance undertakings, or third-country insurance or reinsurance undertakings, at least one of such subsidiary undertakings being an insurance or reinsurance undertaking or a Gibraltarian insurance or reinsurance undertaking;

“method 1” and “method 2” have the meaning given in rule 1.2 of the Group Supervision part of the PRA Rulebook;

“mixed-activity insurance holding company” means a parent undertaking other than an insurance undertaking, a third-country insurance undertaking, a reinsurance undertaking or Gibraltarian insurance or reinsurance undertaking, a third-country reinsurance undertaking, an insurance holding company or a mixed financial holding company, which includes at least one insurance or reinsurance undertaking among its subsidiary undertakings or a Gibraltarian insurance or reinsurance undertaking;

“mixed financial holding company” means a parent undertaking other than a regulated entity, which, together with its subsidiaries, at least one of which is a regulated entity which has its head office in the United Kingdom or in Gibraltar, constitutes a financial conglomerate;

“non-UK solvency 2 parent” means a parent undertaking which is—

- (a) a third-country insurance undertaking, or
- (b) an insurance holding company or mixed financial holding company with its head office outside the United Kingdom and Gibraltar;

“parent undertaking” means—

- (a) a parent undertaking, within the meaning of section 420 of FSMA, or
- (b) an undertaking which, in the opinion of the PRA, effectively exercises a dominant influence over another undertaking;

“participating undertaking” means —

- (a) an undertaking which is either a parent undertaking or other undertaking which holds a participation, or an undertaking linked with another undertaking by a common management relationship, or
- (b) an undertaking which holds, directly or indirectly, voting rights or capital in another undertaking over which, in the opinion of the PRA, it effectively exercises a significant influence;

“regulated entity” has the meaning given in regulation 1(2) of the Financial Conglomerates and Other Financial Groups Regulations 2004 (as amended by the Financial Conglomerates and Other Financial Groups (Amendments etc.) (EU Exit) Regulations 2019), read as if the reference in paragraph (b) of that definition to insurance undertakings and reinsurance undertakings included a reference to Gibraltarian insurance undertakings and Gibraltarian reinsurance undertakings;

“related undertaking” means either a subsidiary undertaking or other undertaking in which a participation is held, or an undertaking linked with another undertaking by a common management relationship;

“Solvency 2 Directive” means Directive [2009/138/EC](#) of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II), as it has effect immediately before IP completion day;

“Solvency 2 Regulation” means Commission Delegated Regulation (EU) 2015/35 of 10 October 2014 supplementing Directive [2009/138/EC](#) of the European Parliament and of the

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Council on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II);

“subsidiary undertaking” means—

- (a) a subsidiary undertaking, within the meaning of section 420 of FSMA, or
- (b) an undertaking over which, in the opinion of the PRA, a parent undertaking effectively exercises a dominant influence;

“supervisory authority” means the national authority, or the national authorities, empowered to supervise third-country insurance undertakings or third-country reinsurance undertakings;

“third country” means a country other than the United Kingdom or Gibraltar;

“third-country insurance undertaking” means an undertaking which would require authorisation as an insurance undertaking in accordance with the United Kingdom law which implemented Article 14 of the Solvency 2 Directive, if its head office were situated in the United Kingdom but does not include a Gibraltar insurance undertaking;

“third-country reinsurance undertaking” means an undertaking which if its head office were situated in the United Kingdom—

- (a) would require permission under Part 4A of FSMA to carry out regulated activities relating to reinsurance, and
- (b) immediately before IP completion day, would have required authorisation as a reinsurance undertaking in accordance with Article 14 of the Solvency 2 Directive

but does not include a Gibraltar reinsurance undertaking;

“UK solvency 2 parent” means a parent undertaking with its head office in the United Kingdom or Gibraltar which is—

- (a) an insurance undertaking or reinsurance undertaking which is a participating undertaking in at least one insurance undertaking, reinsurance undertaking or third-country insurance undertaking,
- (b) an insurance holding company, or
- (c) a mixed financial holding company;

“ultimate non-UK solvency 2 parent” means a non-United Kingdom solvency 2 parent which has no parent undertaking which is a United Kingdom solvency 2 parent or non-United Kingdom solvency 2 parent;

“ultimate UK solvency 2 parent” means a United Kingdom solvency 2 parent which has no parent undertaking which is a United Kingdom solvency 2 parent.]

[<sup>F4</sup>(1A) In these Regulations, reference to a “group” is to a group of undertakings that—

- (a) does not include any undertaking not included in the scope of group supervision in accordance with a direction issued by the PRA under section 138A of FSMA; and
- (b) either—

- (i) consists of a participating undertaking, its subsidiaries and the entities in which the participating undertaking or its subsidiaries hold a participation, as well as undertakings linked to each other by a common management relationship, or

- (ii) is based on the establishment, contractually or otherwise, of strong and sustainable financial relationships among those undertakings, and that may include mutual or mutual-type associations, provided that—

- (aa) one of those undertakings effectively exercises, through centralised coordination, a dominant influence over the decisions, including financial decisions, of the other undertakings that are part of the group, and

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(bb) the establishment and dissolution of such relationships are subject to prior approval by the PRA.

(1B) For the purposes of paragraph (1A), the undertaking exercising the centralised coordination must be considered as the parent undertaking, and the other undertakings must be considered as subsidiaries.]

(2) Except as provided by paragraph (1) or regulation 38(2)—

- (a) any expression used in these Regulations which is defined in section 417 (definitions) or 424 (insurance) of, or Part 1 of Schedule 3 to, FSMA has the meaning given by that section or Part <sup>F5</sup>;
- (b) any other expression used in these Regulations which is used in the Solvency 2 Directive has the meaning which it is given in that Directive <sup>F6</sup>.

[<sup>F7</sup>(3) In these Regulations, a reference to the PRA Rulebook is to the rulebook published by the PRA containing rules made by the PRA under FSMA as the rulebook has effect on IP completion day.

(4) In these Regulations, a reference to the United Kingdom law which implemented—

- (a) the Financial Conglomerates Directive, or a provision thereof, is to the law of the United Kingdom which was relied on by the United Kingdom immediately before IP completion day to implement Directive 2002/87/EC and its implementing measures;
- (b) the capital requirements directive and the capital requirements regulation, or a provision thereof, is to the law of the United Kingdom which was relied on by the United Kingdom immediately before IP completion day to—
  - (i) implement Directive 2013/36/EU and its implementing measures, and
  - (ii) enable an EU obligation (within the meaning of Part 2 of Schedule 1 to the European Communities Act 1972, as that Act has effect immediately before IP completion day) under Regulation (EU) No 575/2013 to be implemented;
- (c) the Solvency 2 Directive, or a provision thereof, is to the law of the United Kingdom which was relied on by the United Kingdom immediately before IP completion day to implement Directive 2009/138/EU and its implementing measures.

(5) For the purposes of paragraph (4), a reference to the law of the United Kingdom is to the law—

- (a) as it has effect on IP completion day, in the case of rules made by the Financial Conduct Authority or by the PRA under FSMA, and
- (b) as amended from time to time, in all other cases.]

- F3** Reg. 2(1) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **7(2)** (as amended by [S.I. 2020/1385](#), regs. 1(2), **54(2)**, [The Gibraltar \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/680\)](#), regs. 1(3), **10(2)** and [The Financial Services and Economic and Monetary Policy \(Consequential Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1301\)](#), regs. 1, 3, **Sch. para. 27(b)(i)**)
- F4** Reg. 2(1A)(1B) inserted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **7(3)** (as amended by [S.I. 2020/1385](#), regs. 1(2), **54(2)**)
- F5** “FCA”, “insurance undertaking”, “PRA”, “reinsurance undertaking”, “rule” and “Tribunal” are defined in section 417 and “EEA State” is defined in Part 1 of Schedule 3.
- F6** “Branch”, “parent undertaking”, “reinsurance” and “supervisory authority” are defined in Article 13.
- F7** Reg. 2(3)-(5) inserted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **7(4)** (as amended by [S.I. 2020/1385](#), regs. 1(2), **54(2)** and [The Financial Services and Economic and Monetary Policy \(Consequential Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1301\)](#), regs. 1, 3, **Sch. para. 27(b)(ii)**)

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## PART 2

### Supervision

#### Exercise of PRA and FCA functions

**3.—**(1) The PRA and FCA must in the exercise of their functions as supervisory authorities under [<sup>F8</sup>the United Kingdom law which implemented the Solvency 2 Directive]—

<sup>F9</sup>(a) .....

<sup>F9</sup>(b) .....

(c) in times of exceptional movements in the financial markets take into account the potential pro-cyclical effects of their actions.

**F8** Words in [reg. 3\(1\)](#) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/407), regs. 1(2), **8(2)(a)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2))

**F9** [Reg. 3\(1\)\(a\)\(b\)](#) omitted (31.12.2020) by virtue of [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/407), regs. 1(2), **8(2)(b)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2))

#### Review of capital add-ons

**4.** Where the PRA imposes a capital add-on, it must review the capital add-on at least once a year.

#### [<sup>F10</sup>Non-compliance with solvency capital requirement and exceptional adverse situations

**4A.—**(1) The PRA may extend the period of six months in which an insurance undertaking or reinsurance undertaking must take the measures necessary to achieve the re-establishment of the level of eligible own funds covering the solvency capital requirement or the reduction of its risk profile to ensure compliance with the solvency capital requirement by up to—

(a) three months, or

(b) in the event of a declaration by the Prudential Regulation Committee of the Bank of England under paragraph (2) and considering all relevant factors including the average duration of the technical provisions, seven years.

(2) The Prudential Regulation Committee of the Bank of England must declare the existence of exceptional adverse situations in the conditions set out in paragraph (3).

(3) Exceptional adverse situations exist where the financial situation of insurance or reinsurance undertakings representing a significant share of the market or of the affected lines of business are seriously or adversely affected by one or more of the following conditions—

(a) a fall in financial markets which is unforeseen, sharp and steep;

(b) a persistent low interest rate environment;

(c) a high-impact catastrophic event.

(4) The Prudential Regulation Committee of the Bank of England must assess on a regular basis whether the conditions referred to in paragraph (3) still apply.

(5) The Prudential Regulation Committee of the Bank of England must declare when an exceptional adverse situation has ceased to exist.

(6) An extension granted under paragraph (1)(b) must be withdrawn where the insurance undertaking or reinsurance undertaking submits to the PRA a progress report that shows that there

was no significant progress in achieving the re-establishment of the level of eligible own funds covering the solvency capital requirement or the reduction of the risk profile to ensure compliance with the solvency capital requirement between the date of the observation of non-compliance of the solvency capital requirement and the date of the submission of the progress report.]

**F10** Regs. 4A-4D inserted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **8(3)** (as amended by [S.I. 2020/1385](#), regs. 1(2)(4), **54(2)(3)**, [S.I. 2019/1390](#), regs. 1(4), 11(2) and [S.I. 2019/960](#), regs. 1(3), **10(3)** (as amended by [S.I. 2020/1301](#), regs. 1, 3, **Sch. para. 40(e)(i)(f))**); 2020 c. 1, **Sch. 5 para. 1(1)**)

### [<sup>F10</sup>Duty to publish technical information

**4B.—(1)** For the relevant quarter and every quarter thereafter, by the 8th working day of the month that follows the end of the quarter, the PRA must publish on its website the following information for each relevant currency—

- (a) the relevant risk-free interest rate term structure used to calculate the best estimate, without any matching adjustment or volatility adjustment,
- (b) for each relevant duration, credit quality and asset class, a fundamental spread for the calculation of the matching adjustment to the relevant risk-free interest rate term structure used to calculate the best estimate for a portfolio of life insurance or reinsurance obligations, and
- (c) for each relevant national insurance market, a volatility adjustment to the relevant risk-free interest rate term structure used to calculate the best estimate.

(1A) For the purposes of paragraph (1), the “relevant quarter” is the first quarter which ends after this regulation comes into force.

(2) Paragraph 17(9)(b) of Schedule 6A to the Bank of England Act 1998 does not prohibit the making of a rule that imposes an obligation on PRA-authorised persons by reference to information published by the PRA under this regulation.

(3) The volatility adjustment referred to in paragraph (1) must, for each relevant currency—

- (a) be based on the spread between the interest rate that could be earned from the assets included in the reference portfolio for that currency and the rates of the relevant basic risk-free interest rate term structure for that currency, and
- (b) correspond to 65% of the risk-corrected currency spread.

(4) The reference portfolio for a currency is one that is representative of the assets which are denominated in that currency and which insurance and reinsurance undertakings are invested in to cover the best estimate for insurance and reinsurance obligations denominated in that currency.

(5) The risk-corrected currency spread must be calculated as the difference between the spread referred to in paragraph (3)(a) and the portion of the spread that is attributable to a realistic assessment of expected losses or unexpected credit or other risk of the assets.

(6) For each relevant country, the volatility adjustment to the risk-free interest rates referred to in paragraph 3(b) for the currency of that country must, before application of the 65% factor, be increased by the difference between the risk-corrected country spread and twice the risk-corrected currency spread, whenever that difference is positive and the risk-corrected country spread is higher than 85 basis points.

(7) For the purposes of paragraph (6), the risk-corrected country spread must be—

- (a) calculated in the same way as the risk-corrected currency spread for the currency of that country, but based on a reference portfolio that is representative for the assets which insurance and reinsurance undertakings are invested in, to cover the best estimate for



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insurance and reinsurance obligations of products sold in the insurance market of that country, and

(b) denominated in the currency of that country.]

**F10** Regs. 4A-4D inserted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **8(3)** (as amended by [S.I. 2020/1385](#), regs. 1(2)(4), **54(2)(3)**, [S.I. 2019/1390](#), regs. 1(4), 11(2) and [S.I. 2019/960](#), regs. 1(3), **10(3)** (as amended by [S.I. 2020/1301](#), regs. 1, 3, **Sch. para. 40(e)(i)(f))**); 2020 c. 1, **Sch. 5 para. 1(1)**)

### [<sup>F11</sup>**Powers in relation to Gibraltar undertakings**

**4C.**—(1) If this regulation applies, the PRA may impose any requirement in relation to a Gibraltarian insurance undertaking or a Gibraltarian reinsurance undertaking (the Gibraltarian undertaking) which it could impose if—

- (a) the undertaking's permission was a Part 4A permission (as defined by section 55A(5) of FSMA); and
- (b) the PRA was entitled to exercise its power under section 55M(3) of FSMA.

(2) This regulation applies if—

- (a) the Gibraltarian undertaking is contravening, or is at material risk of contravening, in respect of its activities in the United Kingdom, any requirement applying to that undertaking in or under these Regulations, the Solvency 2 Regulation, or UK law which implemented the Solvency 2 directive (“a relevant requirement”);
- (b) the undertaking has, in purported compliance with any relevant requirement imposed on it, knowingly or recklessly given the PRA information which is false or misleading in a material particular; or
- (c) subject to paragraph (3), it is desirable to impose the requirement in order to advance any of the PRA's objectives.

(3) The PRA may not impose a requirement in reliance on paragraph (2)(c) if doing so would, before IP completion day, have been considered to constitute financial supervision of the undertaking unless the conditions in paragraph (4) are satisfied.

(4) The conditions in this paragraph are satisfied if—

- (a) the requirement to be imposed is necessary and appropriate to protect against the risk of disruption to the continuity of financial services that could, in the opinion of the PRA, threaten financial stability in the United Kingdom;
- (b) the FSC has not, in the opinion of the PRA, taken measures to ensure the contravention or risk of contravention is remedied; and
- (c) no reorganisation measures have been commenced by the FSC or other authorities in Gibraltar in relation to the undertaking.

(5) For the purposes of this regulation, “reorganisation measures” means any measures by the FSC or other Gibraltarian authorities which are intended to preserve or restore the financial situation of the Gibraltar insurance or reinsurance undertaking concerned (“the relevant undertaking”) and which affect pre-existing rights of parties other than the relevant undertaking itself, including but not limited to measures involving the possibility of a suspension of payments, suspension or enforcement measures or reduction of claims.

(6) Nothing in this regulation affects the powers of the FSC or any other Gibraltarian authority.



**F11** Regs. 4A-4D inserted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **8(3)** (as amended by [S.I. 2020/1385](#), regs. 1(2)(4), **54(2)(3)**), as amended by [The Financial Services \(Miscellaneous\) \(Amendment\) \(EU Exit\) \(No. 3\) Regulations 2019 \(S.I. 2019/1390\)](#), regs. 1(4), **11(2)** and as amended by [S.I. 2019/960](#), regs. 1(3), **10(3)** (as amended by [S.I. 2020/1301](#), regs. 1, 3, **Sch. para. 40(e)(i)(f))**); 2020 c. 1, **Sch. 5 para. 1(1)**)

## Procedure on the exercise of powers under regulation 4C

### **4D.—**(1) A requirement takes effect—

- (a) immediately, if the notice given under paragraph (3) states that that is the case;
- (b) on such date as may be specified in the notice; or
- (c) if no date is specified in the notice, when the matter to which it relates is no longer open to review.

(2) A requirement may be expressed to take effect immediately (or on a specified date) only if the PRA, having regard to the ground on which it is exercising the power under regulation 4C, considers that it is necessary for the requirement to take effect immediately (or on that date).

(3) If the PRA proposes to impose a requirement under regulation 4C on a Gibraltar insurance or reinsurance undertaking, or imposes such a requirement with immediate effect, it must give the undertaking written notice.

### (4) The notice must—

- (a) give details of the requirement;
- (b) inform the undertaking of when the requirement takes effect;
- (c) state the PRA's reasons for imposing the requirement and for its determination as to when the requirement takes effect;
- (d) inform the undertaking that it may make representations to the PRA within such period as may be specified in the notice (whether or not it has referred the matter to the Upper Tribunal); and
- (e) inform it of its right to refer the matter to the Upper Tribunal.

(5) The PRA may extend the period allowed under the notice for making representations.

(6) If, having considered any representations made by the undertaking, the PRA decides—

- (a) to impose the requirement proposed, or
- (b) if it has been imposed, not to rescind the requirement,

it must give the undertaking written notice.

(7) If, having considered any representations made by the undertaking, the PRA decides—

- (a) not to impose the requirement proposed,
- (b) to impose a different requirement from that proposed, or
- (c) to rescind a requirement which has effect,

it must give it written notice.

(8) A notice given under paragraph (6) must inform the undertaking of its right to refer the matter to the Upper Tribunal.

(9) A notice under paragraph (7)(b) must comply with paragraph (4).

(10) If a notice informs a person of the person's right to refer a matter to the Upper Tribunal, it must give an indication of the procedure on such a reference.]

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## Passporting: notification of home state regulator

**F12** **5.** . . . . .

**F12** Reg. 5 omitted (31.12.2020) by virtue of The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), **8(4)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2))

## EIOPA: information

**F13** **6.** . . . . .

**F13** Reg. 6 omitted (31.12.2020) by virtue of The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), **8(4)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2))

## EIOPA and EBA: notifications

**F14** **7.** . . . . .

**F14** Reg. 7 omitted (31.12.2020) by virtue of The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), **8(4)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2))

## Other EEA States: information

**F15** **8.** . . . . .

**F15** Reg. 8 omitted (31.12.2020) by virtue of The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), **8(4)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2))

## Non-compliance with the minimum capital requirement: provision of information to other supervisory authorities

**F16** **9.** . . . . .

**F16** Reg. 9 omitted (31.12.2020) by virtue of The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), **8(4)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2))

**[F17] 9A.** This Part applies to the following types of groups—

(a) insurance or reinsurance undertakings—

(i) which are a participating undertaking in at least one insurance undertaking, reinsurance undertaking, Gibraltarian insurance undertaking, Gibraltarian

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- reinsurance undertaking, third-country insurance undertaking or third-country reinsurance undertaking; or
- (ii) the parent undertaking of which is a Gibraltarian insurance undertaking or a Gibraltarian reinsurance undertaking;
- (b) insurance or reinsurance undertakings, the parent undertaking of which is an insurance holding company or a mixed financial holding company which has its head office in the United Kingdom or Gibraltar,
- (c) insurance or reinsurance undertakings, the parent undertaking of which is an insurance holding company or a mixed financial holding company which has its head office in a third country or a third-country insurance or reinsurance undertaking, and
- (d) insurance or reinsurance undertakings, the parent undertaking of which is a mixed-activity insurance holding company.

**F17** Regs. 9A, 9B inserted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **9(2)** (as amended by S.I. 2020/1385, regs. 1(2), **54(2)** and S.I. 2019/680, regs. 1(3), **10(4)(a)(b)** (with reg. 11))

**9B.** Where the participating insurance or reinsurance undertaking, or participating Gibraltarian insurance or reinsurance undertaking or the insurance holding company or the mixed financial holding company referred to in regulation 9A(a) and (b) is a subsidiary undertaking of—

- (a) another insurance or reinsurance undertaking,
- (aa) another Gibraltar insurance or reinsurance undertaking;
- (b) another insurance holding company, or
- (c) another mixed financial holding company,

which has its head office in the United Kingdom or Gibraltar, the United Kingdom law which implemented Articles 218 to 258 of the Solvency 2 Directive apply only at the level of the ultimate UK solvency 2 parent which has its head office in the United Kingdom or in Gibraltar.]

**F17** Regs. 9A, 9B inserted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **9(2)** (as amended by S.I. 2020/1385, regs. 1(2), **54(2)** and S.I. 2019/680, regs. 1(3), **10(4)(a)(b)** (with reg. 11))

## PART 3

### Groups

#### CHAPTER 1

##### Cases of application and scope

#### Risk concentration and intra-group transactions

**10.** Where the PRA is the group supervisor [<sup>F18</sup> of a type of group referred to in regulation 9A(a) or (b)], the PRA may decide not to supervise risk concentration or intra-group transactions within the group at a level specified in the first column of Table 1 where all the conditions specified in relation to that level in the second column of Table 1 are satisfied.

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Table 1

<b><i>Levels at which supervision need not be exercised</i></b>	<b><i>Conditions to be satisfied</i></b>
The participating undertaking, insurance holding company and mixed financial holding company.	<p>The group contains an insurance undertaking or reinsurance undertaking and either—</p> <p>(a) the parent undertaking of the [F19:insurance undertaking, Gibraltar insurance undertaking, reinsurance undertaking or Gibraltar reinsurance undertaking] is an insurance holding company or a mixed financial holding company which has its head office in [F20:the United Kingdom or Gibraltar]; or</p> <p>(b) the [F19:insurance undertaking, Gibraltar insurance undertaking, reinsurance undertaking or Gibraltar reinsurance undertaking] is a participating undertaking in at least one insurance undertaking, reinsurance undertaking, [F21:Gibraltar insurance undertaking, Gibraltar reinsurance undertaking,] third-country insurance undertaking or third-country reinsurance undertaking;</p> <p>The participating undertaking, insurance holding company or mixed financial holding company referred to above is, or is a related undertaking of, a regulated entity or mixed financial holding company subject to supplementary supervision [F22:by the FCA, where the FCA is the supplementary supervisor, or the PRA] in accordance with [F23:the United Kingdom law which implemented] Article 5(2) of the Financial Conglomerates Directive.</p> <p>The PRA has consulted the [F24:FCA].</p>
The ultimate [F25:UK solvency 2 parent].	<p>The parent undertaking of an ultimate [F25:UK solvency 2 parent] is subject to supplementary supervision in accordance with [F26:the law of the United Kingdom or of Gibraltar which was relied on by the United Kingdom or Gibraltar respectively immediately before IP completion day to implement] Article 5(2) of the Financial Conglomerates Directive.</p>

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- F18** Words in reg. 10 substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/407), regs. 1(2), **9(3)(a)** (as amended by S.I. 2020/1385, regs. 1(2), **54(2)**)
- F19** Words in reg. 10 Table 1 substituted (31.12.2020) by S.I. 2019/407, **reg. 9(3)(b)(i)(aa)** (as substituted by [The Gibraltar \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/680), regs. 1(3), **10(4)(c)(i)** (with reg. 11) (as amended by S.I. 2020/1301, regs. 1, 3, **Sch. para. 40(f)**); 2020 c. 1, **Sch. 5 para. 1(1)**)
- F20** Words in reg. 10 Table 1 substituted (31.12.2020) by S.I. 2019/407, **reg. 9(3)(b)(i)(bb)** (as substituted by [The Gibraltar \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/680), regs. 1(3), **10(4)(c)(i)** (with reg. 11) (as amended by S.I. 2020/1301, regs. 1, 3, **Sch. para. 40(f)**); 2020 c. 1, **Sch. 5 para. 1(1)**)
- F21** Words in reg. 10 Table 1 inserted (31.12.2020) by S.I. 2019/407, **reg. 9(3)(b)(i)(cc)** (as substituted by [The Gibraltar \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/680), regs. 1(3), **10(4)(c)(i)** (with reg. 11) (as amended by S.I. 2020/1301, regs. 1, 3, **Sch. para. 40(f)**); 2020 c. 1, **Sch. 5 para. 1(1)**)
- F22** Words in reg. 10 Table 1 inserted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/407), regs. 1(2), **9(3)(b)(ii)(aa)** (as amended by S.I. 2020/1385, regs. 1(2), **54(2)**)
- F23** Words in reg. 10 Table 1 inserted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/407), regs. 1(2), **9(3)(b)(ii)(bb)** (as amended by S.I. 2020/1385, regs. 1(2), **54(2)**)
- F24** Word in reg. 10 Table 1 substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/407), regs. 1(2), **9(3)(b)(iii)** (as amended by S.I. 2020/1385, regs. 1(2), **54(2)**)
- F25** Words in reg. 10 Table 1 substituted (31.12.2020) by S.I. 2019/407, **reg. 9(3)(c)** (as substituted by [The Gibraltar \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/680), regs. 1(3), **10(4)(c)(ii)** (with reg. 11) (as amended by S.I. 2020/1301, regs. 1, 3, **Sch. para. 40(f)**); 2020 c. 1, **Sch. 5 para. 1(1)**)
- F26** Words in reg. 10 Table 1 inserted (31.12.2020) by S.I. 2019/407, **reg. 9(3)(c)** (as substituted by [The Gibraltar \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/680), regs. 1(3), **10(4)(c)(ii)** (with reg. 11) (as amended by S.I. 2020/1301, regs. 1, 3, **Sch. para. 40(e)(ii)(aa)(f)**); 2020 c. 1, **Sch. 5 para. 1(1)**)

## Equivalent provisions

**11.—(1)** This regulation applies where the PRA is the group supervisor of a group which includes a mixed financial holding company.

[<sup>F27</sup>(2) Where the mixed financial holding company is subject to equivalent provisions under the United Kingdom law which implemented the Solvency 2 Directive and the United Kingdom law which implemented the Financial Conglomerates Directive, the PRA may apply only the relevant provisions of the United Kingdom law which implemented the Financial Conglomerates Directive to the mixed financial holding company.]

(3) Before exercising its discretion under paragraph (2), the PRA must consult the [<sup>F28</sup>FCA, where there is a firm in the group that is authorised and regulated by the FCA].

[<sup>F29</sup>(4) Where the mixed financial holding company is subject to equivalent provisions under the United Kingdom law which implemented the following two sets of legislation—

- (a) the Solvency 2 Directive, and
- (b) the capital requirements directive and the capital requirements regulation,

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the PRA may apply only the United Kingdom law relating to the most significant sector, as determined in accordance with the United Kingdom law which implemented Article 3(2) of the Financial Conglomerates Directive.]

<sup>F30</sup>(5) .....

- F27** Reg. 11(2) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **9(4)(a)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2))
- F28** Words in reg. 11(3) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **9(4)(b)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2))
- F29** Reg. 11(4) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **9(4)(c)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2))
- F30** Reg. 11(5) omitted (1.1.2022) by virtue of [The Financial Services Act 2021 \(Prudential Regulation of Credit Institutions and Investment Firms\) \(Consequential Amendments and Miscellaneous Provisions\) Regulations 2021 \(S.I. 2021/1376\)](#), regs. 1(3), **20**

## Exclusion of undertaking from group supervision

<sup>F31</sup>12. ....

- F31** Reg. 12 omitted (31.12.2020) by virtue of [S.I. 2019/407](#), **reg. 9(5)** (as substituted by [The Gibraltar \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/680\)](#), regs. 1(3), **10(4)(d)** (with reg. 11) (as amended by [S.I. 2020/1301](#), regs. 1, 3, **Sch. para. 40(f)**); 2020 c. 1, **Sch. 5 para. 1(1)**)

## CHAPTER 2

### Levels

## Supervision of parents and subgroups at national level: substantive powers

[<sup>F32</sup>13. The PRA may supervise an ultimate UK solvency 2 parent at group level in the United Kingdom where—

- (a) the ultimate UK solvency 2 parent has its head office in Gibraltar; and
- (b) the PRA is not the group supervisor.]

- F32** Reg. 13 substituted (31.12.2020) by [S.I. 2019/407](#), **reg. 9(5A)** (as inserted by [The Gibraltar \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/680\)](#), regs. 1(3), **10(4)(e)** (with reg. 11) (as amended by [S.I. 2020/1301](#), regs. 1, 3, **Sch. para. 40(f)**); 2020 c. 1, **Sch. 5 para. 1(1)**)

## Supervision of parents and subgroups at national level: procedure

[<sup>F33</sup>14.—(1) The PRA must follow the procedure set out in this regulation when supervising an ultimate UK solvency 2 parent under regulation 13(1).

(2) Before deciding to exercise supervision, the PRA must consult the FSC and the ultimate UK solvency 2 parent.

(3) If the PRA decides to exercise supervision, the PRA must explain its decision to both the FSC and the ultimate UK solvency 2 parent.

(4) The PRA must recognise and apply any permission granted pursuant to the laws of Gibraltar which were relied on immediately before IP completion day to implement Article 231 or 233(5) of

the Solvency 2 Directive, as those laws are amended from time to time, to the ultimate UK solvency 2 parent to calculate the group solvency capital requirement for insurance undertakings, reinsurance undertakings, Gibraltarian insurance undertakings and Gibraltarian reinsurance undertakings in the group on the basis of an internal model.]

**F33** Reg. 14 substituted (31.12.2020) by S.I. 2019/407, **reg. 9(5B)** (as inserted by [The Gibraltar \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/680), regs. 1(3), **10(4)(e)** (with reg. 11) (as amended by S.I. 2020/1301, regs. 1, 3, Sch. para. 40(e)(ii)(bb), **Sch. para. 40(f)**); 2020 c. 1, **Sch. 5 para. 1(1)**)

## CHAPTER 3

### Group Solvency

#### Supervision of group solvency and frequency of calculation

[<sup>F34</sup>**15.**—(1) Subject to paragraph (2), where the PRA is the group supervisor of a type of group referred to in regulation 9A(a) or (b), the PRA must—

- (a) ensure that the calculations referred to in rules 4.1 and 4.2 of the Group Supervision part of the PRA Rulebook are carried out at least annually to ensure that the group has adequate financial resources at the level of the ultimate UK solvency 2 parent,
- (b) conduct supervisory reviews to determine whether the insurance undertakings or reinsurance undertakings in the group are complying with the requirement to ensure that the group has adequate financial resources at the level of the ultimate UK solvency 2 parent, and
- (c) where the group is not headed by an insurance undertaking or reinsurance undertaking, Gibraltarian insurance undertaking or Gibraltarian reinsurance undertaking, consult the undertakings in the group before identifying an undertaking other than an insurance holding company or a mixed financial holding company to supply relevant data for, and the results of, the calculations referred to in paragraph (1)(a).

(2) Subject to paragraph (3), where the PRA is required to rely on supervision exercised by a supervisory authority in a third country which has a prudential group supervision regime which is determined as equivalent in accordance with regulation 35, the PRA may determine that paragraph (1)—

- (a) does not apply, or
- (b) applies with only such modifications as may be specified in the determination.

(3) The PRA may not give a determination under paragraph (2) unless it is satisfied that—

- (a) compliance by insurance or reinsurance undertakings in the group with rules or requirements imposed by the PRA pursuant to paragraph (1) would be unduly burdensome; and
- (b) the determination would not adversely affect the advancement of any of the PRA's objectives.

(4) The PRA may revoke or vary a determination given under paragraph (2).]

**F34** Reg. 15 substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/407), regs. 1(2), **9(6)** (as amended by S.I. 2020/1385, regs. 1(2), **54(2)**) and S.I. 2019/680, regs. 1(3), **10(4)(f)** (with reg. 11))



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## Choice of method

**16.—**(1) Where the PRA is the group supervisor of a group, the PRA must consult the group [<sup>F35</sup>and the FSC, if the FSC is] concerned in the supervision of the group before requiring the group to use method 2, or a combination of method 1 and method 2, for the calculation of solvency at a group level.

(2) Where the PRA is not the group supervisor, the PRA must apply the method chosen by the group supervisor for the ultimate [<sup>F36</sup>UK] solvency 2 parent in relation to—

(a) group supervision at a national level in accordance with regulation 13(1); and

<sup>F37</sup>(b) .....

**F35** Words in reg. 16(1) substituted (31.12.2020) by S.I. 2019/407, **reg. 9(7)(a)** (as substituted by [The Gibraltar \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/680), regs. 1(3), **10(4)(g)** (with **reg. 11**) (as amended by S.I. 2020/1301, regs. 1, 3, **Sch. para. 40(f)**); 2020 c. 1, **Sch. 5 para. 1(1)**)

**F36** Words in reg. 16(2) substituted (31.12.2020) by S.I. 2019/407, **reg. 9(7)(b)(i)** (as substituted by [The Gibraltar \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/680), regs. 1(3), **10(4)(g)** (with **reg. 11**) (as amended by S.I. 2020/1301, regs. 1, 3, **Sch. para. 40(f)**); 2020 c. 1, **Sch. 5 para. 1(1)**)

**F37** Reg. 16(2)(b) omitted (31.12.2020) by virtue of S.I. 2019/407, **reg. 9(7)(b)(ii)** (as substituted by [The Gibraltar \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/680), regs. 1(3), **10(4)(g)** (with **reg. 11**) (as amended by S.I. 2020/1301, regs. 1, 3, **Sch. para. 40(f)**); 2020 c. 1, **Sch. 5 para. 1(1)**)

## Inclusion of proportional share

**17.—**(1) In this regulation, “proportional share” means the proportional share held by a participating undertaking in its related undertakings.

(2) The PRA must determine the proportional share which must be taken into account in the calculation of group solvency where—

(a) the PRA is the group supervisor of a group; and

(b) any of the following applies—

(i) there are no capital ties between any of the undertakings in a group;

(ii) [<sup>F38</sup>the PRA (or, if paragraph (5) applies, the FSC)] has determined that the direct or indirect holding of voting rights or capital in an undertaking qualifies as a participation because the holding means that a significant influence is effectively exercised over that undertaking;

(iii) [<sup>F39</sup>the PRA (or, if paragraph (5) applies, the FSC)] has determined that an undertaking is a parent undertaking because the undertaking effectively exercises a dominant influence over the other undertaking.

(3) Before determining the proportional share, the PRA must consult the undertakings in the group [<sup>F40</sup>and, if paragraph (5) applies, the FSC].

[<sup>F41</sup>(4) The PRA may allow for the solvency deficit of the subsidiary undertaking to be considered on a proportional basis where, in the opinion of the PRA, the responsibility of the parent undertaking owning a share of the capital is strictly limited to that share of the capital.

(5) This paragraph applies if—

(a) the FSC is concerned in the supervision of the group; or

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- (b) the group contains a Gibraltarian insurance undertaking or a Gibraltarian reinsurance undertaking.]

- F38** Words in [reg. 17\(2\)\(b\)\(ii\)](#) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), [regs. 1\(2\), 9\(8\)\(a\)](#) (as amended by [S.I. 2020/1385](#), [regs. 1\(2\), 54\(2\)](#)); as amended by [The Gibraltar \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/680\)](#), [regs. 1\(3\), 10\(4\)\(h\)\(i\)](#) (with [reg. 11](#))
- F39** Words in [reg. 17\(2\)\(b\)\(iii\)](#) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), [regs. 1\(2\), 9\(8\)\(a\)](#) (as amended by [S.I. 2020/1385](#), [regs. 1\(2\), 54\(2\)](#)); as amended by [The Gibraltar \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/680\)](#), [regs. 1\(3\), 10\(4\)\(h\)\(i\)](#) (with [reg. 11](#))
- F40** Words in [reg. 17\(3\)](#) omitted (31.12.2020) by virtue of [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), [regs. 1\(2\), 9\(8\)\(b\)](#) (as amended by [S.I. 2020/1385](#), [regs. 1\(2\), 54\(2\)](#)); as amended by [The Gibraltar \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/680\)](#), [regs. 1\(3\), 10\(4\)\(h\)\(i\)](#) (with [reg. 11](#))
- F41** [Reg. 17\(4\)\(5\)](#) inserted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), [regs. 1\(2\), 9\(8\)\(c\)](#) (as amended by [S.I. 2020/1385](#), [regs. 1\(2\), 54\(2\)](#)) and [S.I. 2019/680](#), [regs. 1\(3\), 10\(4\)\(h\)\(ii\)](#) (with [reg. 11](#)) (as amended by [S.I. 2020/1301](#), [regs. 1, 3, Sch. para. 40\(f\)](#)))

## Related undertakings: calculation of group solvency

18.—(1) This regulation applies where—

- (a) the PRA is the group supervisor of a group;
- (b) the group contains at least three insurance undertakings, reinsurance undertakings [<sup>F42</sup>Gibraltarian insurance undertakings, Gibraltarian reinsurance undertakings], insurance holding companies or mixed financial holding companies (“A”, “B” and “C”);
- (c) A and B are related undertakings;
- (d) A and C are related undertakings; and
- (e) either B or C has its head office in [<sup>F43</sup>Gibraltar].

(2) Except where paragraph (3) applies, the PRA must permit the group, in the calculation of group solvency, to take into account national laws which—

- (a) are adopted by [<sup>F44</sup>Gibraltar] to implement the solvency capital requirement and the requirements relating to the own funds eligible to satisfy the solvency capital requirement; and
- (b) apply to B or C (as the case may be).

(3) This paragraph applies where—

- (a) there is a significant change to the national laws referred to in paragraph (2); and
- (b) it is not in the interests of the group's policyholders to take into account the national laws referred to in paragraph (2).

- F42** Words in [reg. 18\(1\)\(b\)](#) inserted (31.12.2020) by [S.I. 2019/407](#), [reg. 9\(9\)\(a\)\(i\)](#) (as substituted by [The Gibraltar \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/680\)](#), [regs. 1\(3\), 10\(4\)\(i\)](#) (with [reg. 11](#)) (as amended by [S.I. 2020/1301](#), [regs. 1, 3, Sch. para. 40\(f\)](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#))
- F43** Words in [reg. 18\(1\)\(e\)](#) substituted (31.12.2020) by [S.I. 2019/407](#), [reg. 9\(9\)\(a\)\(ii\)](#) (as substituted by [The Gibraltar \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/680\)](#), [regs. 1\(3\), 10\(4\)](#)

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- (i) (with reg. 11) (as amended by S.I. 2020/1301, regs. 1, 3, **Sch. para. 40(f)**); 2020 c. 1, **Sch. 5 para. 1(1)**)
- F44** Word in reg. 18(2)(a) substituted (31.12.2020) by S.I. 2019/407, **reg. 9(9)(b)** (as substituted by **The Gibraltar (Miscellaneous Amendments) (EU Exit) Regulations 2019** (S.I. 2019/680), regs. 1(3), **10(4)**)
- (i) (with reg. 11) (as amended by S.I. 2020/1301, regs. 1, 3, **Sch. para. 40(f)**); 2020 c. 1, **Sch. 5 para. 1(1)**)

## Participating undertakings: calculation of group solvency

19.—(1) This regulation applies where—

- (a) the PRA is the group supervisor of a group;
- (b) the group contains an insurance undertaking [<sup>F45</sup>, reinsurance undertaking, Gibraltarian insurance undertaking or Gibraltarian reinsurance undertaking][<sup>F46</sup>for which the calculation of the group solvency includes] a third-country insurance undertaking or third-country reinsurance undertaking; and
- (c) the third country in which the third-country insurance undertaking or third country reinsurance undertaking has its head office makes it subject to authorisation and imposes on it a solvency regime at least equivalent to that specified in [<sup>F47</sup>the United Kingdom law which implemented] Chapter 6 of Title 1 of the Solvency 2 Directive.

(2) The PRA must permit the group to take into account national laws adopted by the third country in respect of the group's solvency capital requirement and the own funds eligible to satisfy the solvency capital requirement in the calculation of the group's solvency unless—

- (a) there has been a significant change to those national laws; and
- (b) it is not in the interests of the group's policyholders to do so.

[<sup>F48</sup>(2A) Where the Treasury have made regulations under Article 379A of the Solvency 2 Regulation, or the Commission have adopted a delegated act under Article 227 of the Solvency 2 Directive prior to IP completion day, determining that the supervisory regime of a third country is provisionally equivalent, that third country is deemed to be equivalent for the purposes of paragraph (2).]

[<sup>F49</sup>(3) Where no regulations have been made by the Treasury pursuant to Article 379A of the Solvency 2 Regulation, and the Commission has not adopted a delegated act under Article 227 of the Solvency 2 directive prior to IP completion day, the PRA—

- (a) may on its own initiative, or
- (b) must on the request of the insurance or reinsurance undertaking or Gibraltarian insurance or reinsurance undertaking for which the calculation of the group solvency includes a third-country insurance undertaking or third-country reinsurance undertaking,

verify whether a solvency regime in the third country is at least equivalent to the United Kingdom law which implemented Chapter 6 of Title 1, of the Solvency 2 Directive.]

(4) The PRA must—

<sup>F50</sup>(a) .....

- (b) take the decision in accordance with the criteria set out in [<sup>F51</sup>Article 379 of the Solvency 2 Regulation]; and
- (c) ensure that its decision does not contradict any previous decision on the equivalence of the third country, except where it is necessary to take into account significant changes to the supervisory regime laid down in [<sup>F52</sup>the United Kingdom law which implemented] Chapter 6 of Title 1 to the Solvency 2 Directive or to the solvency regime of the third country.

**Changes to legislation:** The Solvency 2 Regulations 2015 is up to date with all changes known to be in force on or before 28 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

[<sup>F53</sup>(5) The PRA must publish and keep up to date on its website a list of all third countries referred to in paragraph (3).]

- F45** Word in reg. 19(1)(b) substituted (31.12.2020) by S.I. 2019/407, **reg. 9(10)(a)(i)** (as substituted by The Gibraltar (Miscellaneous Amendments) (EU Exit) Regulations 2019 (S.I. 2019/680), regs. 1(3), **10(4)(j)(i)** (with reg. 11) (as amended by S.I. 2020/1301, regs. 1, 3, **Sch. para. 40(f)**); 2020 c. 1, **Sch. 5 para. 1(1)**)
- F46** Word in reg. 19(1)(b) substituted (31.12.2020) by S.I. 2019/407, **reg. 9(10)(a)(ii)** (as substituted by The Gibraltar (Miscellaneous Amendments) (EU Exit) Regulations 2019 (S.I. 2019/680), regs. 1(3), **10(4)(j)(i)** (with reg. 11) (as amended by S.I. 2020/1301, regs. 1, 3, **Sch. para. 40(f)**); 2020 c. 1, **Sch. 5 para. 1(1)**)
- F47** Words in reg. 19(1)(c) inserted (31.12.2020) by The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), **9(10)(b)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2))
- F48** Reg. 19(2A) inserted (31.12.2020) by The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), **9(10)(c)** (as amended by S.I. 2020/1385, regs. 1(2), **54(2)** and S.I. 2020/1301, regs. 1, 3, **Sch. para. 27(c)(i)**)
- F49** Reg. 19(3) substituted (31.12.2020) by The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), **9(10)(d)** (as amended by S.I. 2020/1385, regs. 1(2), **54(2)**; S.I. 2020/1301, regs. 1, 3, **Sch. para. 27(c)(ii)** and S.I. 2019/680, regs. 1(3), **10(4)(j)(ii)** (with reg. 11))
- F50** Reg. 19(4)(a) omitted (31.12.2020) by virtue of The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), **9(10)(e)(i)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2))
- F51** Words in reg. 19(4)(b) substituted (31.12.2020) by The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), **9(10)(e)(ii)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2))
- F52** Words in reg. 19(4)(c) inserted (31.12.2020) by The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), **9(10)(e)(iii)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2))
- F53** Reg. 19(5) inserted (31.12.2020) by The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), **9(10)(f)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2))

[<sup>F54</sup>**Gibraltar undertakings: calculation of group solvency**

**19A.—(1)** This regulation applies where—

- (a) the PRA is the group supervisor of a group;
- (b) the group contains—
  - (i) a Gibraltarian insurance undertaking,
  - (ii) a Gibraltarian reinsurance undertaking, or
  - (iii) an insurance undertaking or a reinsurance undertaking for which the calculation of the group solvency includes an undertaking in paragraph (i) or (ii).

(2) The PRA must permit the group to take into account laws adopted by Gibraltar in respect of the group's solvency capital requirement and the own funds eligible to satisfy the solvency capital requirement in the calculation of the group's solvency.]

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**F54** Reg. 19A inserted by S.I. 2019/407, **reg. 9(10A)** (as inserted) by The Gibraltar (Miscellaneous Amendments) (EU Exit) Regulations 2019 (S.I. 2019/680), regs. 1(3), **10(4)(k)** (with reg. 11) (as amended by S.I. 2020/1301, regs. 1, 3, **Sch. para. 40(f)**); 2020 c. 1, **Sch. 5 para. 1(1)**)

### Internal models and capital add-ons

**20.—**(1) Where group solvency is determined in accordance with method 1, the PRA must pay particular attention to <sup>F55</sup>... where—

- (a) a specific risk existing at group level would not be sufficiently covered by the standard formula or the internal model used because it is difficult to quantify; or
- (b) a capital add-on to the solvency capital requirement of the related insurance undertaking or reinsurance undertakings is imposed by the [<sup>F56</sup>PRA or, where there is a Gibraltarian insurance undertaking or a Gibraltarian reinsurance undertaking, the FSC]<sup>F57</sup>....

(2) Where group solvency is determined in accordance with method 2, the PRA must, when it determines whether the aggregated group solvency capital requirement appropriately reflects the risk profile of the group, pay particular attention to any specific risks existing at group level which would not be sufficiently covered because they are difficult to quantify.

(3) Where <sup>F58</sup>... the PRA considers that the risk profile of an insurance undertaking or reinsurance undertaking belonging to a group deviates significantly from the assumptions underlying the internal model approved at group level, the PRA may—

- (a) impose a capital add-on to the solvency capital requirement of the insurance undertaking or reinsurance undertaking;
- (b) in exceptional circumstances where a capital add-on would not be appropriate, require the insurance undertaking or reinsurance undertaking to calculate its solvency capital requirement on the basis of the standard formula; or
- (c) where the PRA has exercised its discretion under sub-paragraph (b) to require an insurance undertaking or reinsurance undertaking to calculate its solvency capital requirement on the basis of the standard formula, impose a capital add-on to the solvency capital requirement.

(4) Where the PRA—

- (a) imposes a capital add-on on an insurance undertaking or reinsurance undertaking; or
- (b) requires the insurance undertaking or reinsurance undertaking concerned to calculate its solvency capital requirement on the basis of the standard formula,

the PRA must explain its decision to the relevant insurance undertaking or reinsurance undertaking <sup>F59</sup>....

(5) [<sup>F60</sup>Where the FSC is the group supervisor], the PRA must adopt and apply the following decisions by the group supervisor on the basis of an internal model—

- (a) the calculation of the group solvency capital requirement;
- (b) the calculation of the solvency capital requirement of an insurance undertaking and reinsurance undertaking in the group;
- (c) the calculation of the aggregated group solvency capital requirement.

(6) Where the PRA has imposed a capital add-on, it must review the capital add-on at least once a year.

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- F55** Words in [reg. 20\(1\)](#) omitted (31.12.2020) by virtue of [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), [9\(11\)\(a\)\(i\)](#) (as amended by S.I. 2020/1385, regs. 1(2), 54(2))
- F56** Words in [reg. 20\(1\)\(b\)](#) substituted (31.12.2020) by S.I. 2019/407, [reg. 9\(11\)\(a\)\(ii\)\(aa\)](#) (as substituted by [The Gibraltar \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/680\)](#), regs. 1(3), [10\(4\)\(l\)\(i\)](#) (with [reg. 11](#)) (as amended by S.I. 2020/1301, regs. 1, 3, [Sch. para. 40\(f\)](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#))
- F57** Words in [reg. 20\(1\)\(b\)](#) omitted (31.12.2020) by virtue of [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), [9\(11\)\(a\)\(ii\)\(bb\)](#) (as amended by S.I. 2020/1385, regs. 1(2), 54(2))
- F58** Words in [reg. 20\(3\)](#) omitted (31.12.2020) by virtue of [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), [9\(11\)\(b\)](#) (as amended by S.I. 2020/1385, regs. 1(2), 54(2))
- F59** Words in [reg. 20\(4\)](#) omitted (31.12.2020) by virtue of [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), [9\(11\)\(c\)](#) (as amended by S.I. 2020/1385, regs. 1(2), 54(2))
- F60** Words in [reg. 20\(5\)](#) substituted (31.12.2020) by S.I. 2019/407, [reg. 9\(11\)\(d\)](#) (as substituted by [The Gibraltar \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/680\)](#), regs. 1(3), [10\(4\)\(l\)\(ii\)](#) (with [reg. 11](#)) (as amended by S.I. 2020/1301, regs. 1, 3, [Sch. para. 40\(f\)](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#))

## Subsidiaries: solvency capital requirement

<sup>F61</sup>**21.** . . . . .

- F61** [Reg. 21](#) omitted (31.12.2020) by virtue of [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), [9\(12\)](#) (as amended by S.I. 2020/1385, regs. 1(2), 54(2))

## Subsidiaries: non-compliance with the solvency and minimum capital requirements

<sup>F62</sup>**22.** . . . . .

- F62** [Reg. 22](#) omitted (31.12.2020) by virtue of [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), [9\(12\)](#) (as amended by S.I. 2020/1385, regs. 1(2), 54(2))

## Subsidiaries: revocation of approval for applying Articles 238 and 239 of the Solvency 2 Directive

<sup>F63</sup>**23.** . . . . .

- F63** [Reg. 23](#) omitted (31.12.2020) by virtue of [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), [9\(12\)](#) (as amended by S.I. 2020/1385, regs. 1(2), 54(2))



## CHAPTER 4

### Risk concentration and intra-group transactions

#### Supervision of risk concentration and intra-group transactions

**24.—**(1) [<sup>F64</sup>Subject to paragraph (4), where] the PRA is the group supervisor [<sup>F65</sup>of a type of group referred to in regulation 9A(a) or (b)], the PRA must—

- (a) identify the type of risks and intra-group transactions which insurance undertakings and reinsurance undertakings in the group must report to the PRA in all circumstances, taking into account the specific group and risk management structure of the group;
- (b) impose appropriate thresholds based on solvency capital requirements, or technical provisions, in order to identify which significant risk concentrations and significant intra-group transactions should be reported;
- (c) identify the insurance undertaking or reinsurance undertaking in the group responsible for submitting the information required under rules implementing Articles 244 and 245 of the Solvency 2 Directive where the group is not headed by an insurance undertaking or a reinsurance undertaking;
- (d) review the risk concentrations of the group and intra-group transactions at group level, and in particular monitor the possible risk of contagion within the group, the risk of a conflict of interests and the level or volume of risks.

[<sup>F66</sup>(1A) For the purposes of paragraph (1), references to insurance undertakings and reinsurance undertakings include a reference to Gibraltar insurance undertakings and Gibraltar reinsurance undertakings.]

(2) The PRA must consult the group [<sup>F67</sup>and, where the FSC is concerned in the supervision of the group, the FSC] whilst carrying out the activities referred to in sub-paragraphs (a) to (c) of paragraph 24.

(3) Where the [<sup>F68</sup>FSC is ] the group supervisor and the [<sup>F69</sup>the FSC consults the PRA] in relation to the supervision of risk concentration at group level or the reporting of intra-group transactions, the PRA must take into account the specific group and risk management structure of the group when giving its opinion about the type of risks to be reported.

[<sup>F70</sup>(4) Where the PRA is required to rely on supervision exercised by a supervisory authority in a third country which has a prudential group supervision regime determined as equivalent in accordance with regulation 35, the PRA may determine that paragraph (1)—

- (a) does not apply; or
  - (b) applies with only such modifications as may be specified in the determination.
- (5) The PRA may not give a determination under paragraph (4) unless it is satisfied that—
- (a) compliance by insurance or reinsurance undertakings in the group with rules or requirements imposed by the PRA pursuant to paragraph (1) would be unduly burdensome; and
  - (b) the determination would not adversely affect the advancement of any of the PRA's objectives.
- (6) The PRA may revoke or vary a determination given under paragraph (4).]

**F64** Words in [reg. 24\(1\)](#) substituted (24.1.2022) by [The Solvency 2 \(Group Supervision\) \(Amendment\) Regulations 2021 \(S.I. 2021/1408\)](#), [regs. 1, 2\(2\)\(a\)](#)



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- F65** Words in [reg. 24\(1\)](#) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **9(13)(a)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2))
- F66** [Reg. 24\(1A\)](#) inserted by [S.I. 2019/407](#), **reg. 9(13)(aa)** (as inserted) by [The Gibraltar \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/680\)](#), regs. 1(3), **10(4)(m)(i)** (with [reg. 11](#)) (as amended by [S.I. 2020/1301](#), regs. 1, 3, **Sch. para. 40(f)**); 2020 c. 1, **Sch. 5 para. 1(1)**)
- F67** Words in [reg. 24\(2\)](#) substituted (31.12.2020) by [S.I. 2019/407](#), **reg. 9(13)(b)** (as substituted by [The Gibraltar \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/680\)](#), regs. 1(3), **10(4)(m)(ii)** (with [reg. 11](#)) (as amended by [S.I. 2020/1301](#), regs. 1, 3, **Sch. para. 40(f)**); 2020 c. 1, **Sch. 5 para. 1(1)**)
- F68** Words in [reg. 24\(3\)](#) substituted (31.12.2020) by [S.I. 2019/407](#), **reg. 9(13)(c)(i)** (as substituted by [The Gibraltar \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/680\)](#), regs. 1(3), **10(4)(m)(iii)** (with [reg. 11](#)) (as amended by [S.I. 2020/1301](#), regs. 1, 3, **Sch. para. 40(f)**); 2020 c. 1, **Sch. 5 para. 1(1)**)
- F69** Words in [reg. 24\(3\)](#) substituted (31.12.2020) by [S.I. 2019/407](#), **reg. 9(13)(c)(ii)** (as substituted by [The Gibraltar \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/680\)](#), regs. 1(3), **10(4)(m)(iii)** (with [reg. 11](#)) (as amended by [S.I. 2020/1301](#), regs. 1, 3, **Sch. para. 40(f)**); 2020 c. 1, **Sch. 5 para. 1(1)**)
- F70** [Reg. 24\(4\)-\(6\)](#) inserted (24.1.2022) by [The Solvency 2 \(Group Supervision\) \(Amendment\) Regulations 2021 \(S.I. 2021/1408\)](#), regs. 1, **2(2)(b)**

#### Modifications etc. (not altering text)

- C2** [Reg. 24\(1\)\(2\)](#) restricted (27.11.2020) by [S.I. 2019/407](#), **reg. 13(2)** (as inserted by [The Securities Financing Transactions, Securitisation and Miscellaneous Amendments \(EU Exit\) Regulations 2020 \(S.I. 2020/1385\)](#), regs. 1(2), **54(5)**)

## CHAPTER 5

### Risk management and internal control

#### Supervision of system of governance

[<sup>F71</sup>**25.**—(1) Subject to paragraph (2), where the PRA is the group supervisor of a type of group referred to in regulation 9A(a) or (b) the PRA must—

- (a) review the systems and reporting procedures implemented by the group in accordance with rules implementing paragraphs 1 and 2 of Article 246 of the Solvency 2 Directive;
- (b) review the own-risk and solvency assessment conducted at group level by the group in accordance with rules implementing paragraph 4 of Article 246 of the Solvency 2 Directive.

(2) Where the PRA is required to rely on supervision exercised by a supervisory authority in a third country which has a prudential group supervision regime determined as equivalent in accordance with regulation 35, the PRA may determine that paragraph (1)—

- (a) does not apply; or
- (b) applies with only such modifications as may be specified in the determination.

(3) The PRA may not give a determination under paragraph (2) unless it is satisfied that—

- (a) compliance by insurance or reinsurance undertakings in the group with rules or requirements imposed by the PRA pursuant to paragraph (1) would be unduly burdensome; and
- (b) the determination would not adversely affect the advancement of any of the PRA's objectives.

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(4) The PRA may revoke or vary a determination given under paragraph (2).]

**F71** Reg. 25 substituted (24.1.2022) by [The Solvency 2 \(Group Supervision\) \(Amendment\) Regulations 2021 \(S.I. 2021/1408\)](#), regs. 1, **2(3)**

**Modifications etc. (not altering text)**

**C3** Reg. 25 restricted (27.11.2020) by [S.I. 2019/407](#), **reg. 13(2)** (as inserted by [The Securities Financing Transactions, Securitisation and Miscellaneous Amendments \(EU Exit\) Regulations 2020 \(S.I. 2020/1385\)](#), regs. 1(2), **54(5)**)

## CHAPTER 6

### Measures to facilitate group supervision

#### Rule for deciding the group supervisor

[<sup>F72</sup>26.—(1) [<sup>F73</sup>Subject to paragraphs (2) and (3)], where an insurance undertaking or reinsurance undertaking that is authorised by the PRA under Part 4A of FSMA is part of a group, the PRA is the group supervisor and must supervise that group.

(2) The FSC is the group supervisor and must supervise that group where the group includes a Gibraltar insurance undertaking or a Gibraltar reinsurance undertaking and—

- (a) the FSC was designated as the group supervisor under Article 247 of the Solvency 2 Directive before IP completion day; or
- (b) the PRA and the FSC have agreed that the FSC is to be the group supervisor.]

[<sup>F74</sup>(3) Nothing in this regulation requires the PRA to conduct group supervision in respect of requirements which do not apply, as may be determined by the PRA under regulation 15, 24, 25 or 28.]

**F72** Reg. 26 substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **9(15)** (as amended by [S.I. 2020/1385](#), regs. 1(2), **54(2)** and [S.I. 2019/680](#), **regs. 1(3)**, 10(4)(n) (with reg. 11) (as amended by [S.I. 2020/1301](#), regs. 1, 3, **Sch. para. 40(f)**); 2020 c. 1, **Sch. 5 para. 1(1)**;

**F73** Words in [reg. 26\(1\)](#) substituted (24.1.2022) by [The Solvency 2 \(Group Supervision\) \(Amendment\) Regulations 2021 \(S.I. 2021/1408\)](#), regs. 1, **2(4)(a)**

**F74** [Reg. 26\(3\)](#) inserted (24.1.2022) by [The Solvency 2 \(Group Supervision\) \(Amendment\) Regulations 2021 \(S.I. 2021/1408\)](#), regs. 1, **2(4)(b)**

#### Exceptions to the rule for deciding the group supervisor

<sup>F75</sup>27. ....

**F75** [Reg. 27](#) omitted (31.12.2020) by virtue of [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **9(16)** (as amended by [S.I. 2020/1385](#), regs. 1(2), **54(2)**)

#### Duties of group supervisor <sup>F76</sup>...

28.—(1) [<sup>F77</sup>Subject to paragraph (3), paragraph (2) applies] where the PRA is the group supervisor [<sup>F78</sup>of a type of group referred to in regulation 9A(a) or (b)] , <sup>F79</sup>....

(2) The PRA must—

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- <sup>F80</sup>(a) . . . . .
- (b) conduct supervisory reviews and assessments of the financial situation of the group;
- (c) assess the group's compliance with the rules on solvency, risk concentration and intra-group transactions <sup>F81</sup>...;
- (d) assess the group's system of governance in accordance with regulation 25;
- (e) assess whether the members of the administrative, management or supervisory body of the participating undertakings in the group [<sup>F82</sup>are fit and proper to carry out their functions];
- <sup>F83</sup>(f) . . . . .
- (g) [<sup>F84</sup>determine applications for] an internal model at group level as set out in regulation 49;
- <sup>F85</sup>(h) . . . . .
- (i) carry out the other tasks, measures and decisions assigned to the group supervisor by the [<sup>F86</sup>United Kingdom law which implemented the] Solvency 2 Directive.

[<sup>F87</sup>(3) Where the PRA is required to rely on supervision exercised by a supervisory authority in a third country which has a prudential group supervision regime determined as equivalent in accordance with regulation 35, the PRA may determine that paragraph (2)—

- (a) does not apply; or
- (b) applies with only such modifications as may be specified in the determination.
- (4) The PRA may not give a determination under paragraph (3) unless it is satisfied that —
- (a) compliance by insurance or reinsurance undertakings in the group with rules or requirements imposed by the PRA pursuant to paragraph (2) would be unduly burdensome; and
- (b) the determination would not adversely affect the advancement of any of the PRA's objectives.

(5) The PRA may revoke or vary a determination given under paragraph (3).]

<sup>F88</sup>(3) . . . . .

<sup>F88</sup>(4) . . . . .

<sup>F88</sup>(5) . . . . .

<sup>F88</sup>(6) . . . . .

<sup>F88</sup>(7) . . . . .

<sup>F88</sup>(8) . . . . .

**F76** Words in [reg. 28](#) title omitted (31.12.2020) by virtue of [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/407), regs. 1(2), **9(17)(a)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2))

**F77** Words in [reg. 28\(1\)](#) substituted (24.1.2022) by [The Solvency 2 \(Group Supervision\) \(Amendment\) Regulations 2021](#) (S.I. 2021/1408), regs. 1, **2(5)(a)**

**F78** Words in [reg. 28\(1\)](#) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/407), regs. 1(2), **9(17)(b)(ii)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2))

**F79** Words in [reg. 28\(1\)](#) omitted (31.12.2020) by virtue of [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/407), regs. 1(2), **9(17)(b)(iii)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2))

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- F80** Reg. 28(2)(a) omitted (31.12.2020) by virtue of [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **9(17)(c)(i)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2))
- F81** Words in reg. 28(2)(c) omitted (31.12.2020) by virtue of [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **9(17)(c)(ii)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2))
- F82** Words in reg. 28(2)(e) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **9(17)(c)(iii)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2))
- F83** Reg. 28(2)(f) omitted (31.12.2020) by virtue of [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **9(17)(c)(iv)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2))
- F84** Words in reg. 28(2)(g) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **9(17)(c)(v)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2))
- F85** Reg. 28(2)(h) omitted (31.12.2020) by virtue of [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **9(17)(c)(vi)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2))
- F86** Words in reg. 28(2)(i) inserted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **9(17)(c)(vii)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2))
- F87** Reg. 28(3)-(5) inserted (24.1.2022) by [The Solvency 2 \(Group Supervision\) \(Amendment\) Regulations 2021 \(S.I. 2021/1408\)](#), regs. 1, **2(5)(b)**
- F88** Reg. 28(3)-(8) omitted (31.12.2020) by virtue of [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **9(17)(d)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2))

#### Modifications etc. (not altering text)

- C4** Reg. 28(2) restricted (27.11.2020) by [S.I. 2019/407](#), **reg. 13(2)** (as inserted by [The Securities Financing Transactions, Securitisation and Miscellaneous Amendments \(EU Exit\) Regulations 2020 \(S.I. 2020/1385\)](#), regs. 1(2), **54(5)**)

### Cooperation and exchange of information between supervisory authorities

**F89** **29.** . . . . .

- F89** Reg. 29 omitted (31.12.2020) by virtue of [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **9(18)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2))

### Consultation between supervisory authorities

**F90** **30.** . . . . .

- F90** Reg. 30 omitted (31.12.2020) by virtue of [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **9(18)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2))

### Access to information

**F91** **31.** . . . . .

**F91** Reg. 31 omitted (31.12.2020) by virtue of [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **9(18)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2))

## Verification of information

**F92** **32.** .....

**F92** Reg. 32 omitted (31.12.2020) by virtue of [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **9(18)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2))

## Group solvency and financial condition report

**F93** **33.** .....

**F93** Reg. 33 omitted (31.12.2020) by virtue of [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **9(18)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2))

## Enforcement measures

**F94** **34.** .....

**F94** Reg. 34 omitted (31.12.2020) by virtue of [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **9(18)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2))

## CHAPTER 7

### Third countries

## Non-EEA solvency 2 parent undertakings: equivalence

**[F95** **35.**—(1) The PRA must rely on the equivalent group supervision exercised by third country supervisory authorities, where the condition in paragraph (2) is met, or the alternative condition in paragraph (3) is met.

(2) The condition is that—

(a) either of the following determinations have been made—

(i) the Treasury have made regulations under regulation 380A(1) of the Solvency 2 Regulation, or the Commission has adopted a delegated act under Article 260(3) of the Solvency 2 Directive prior to IP completion day, determining that the prudential regime of the third country is equivalent, or

(ii) the Treasury have made regulations under regulation 380A(4) of the Solvency 2 Regulation, or the Commission has adopted a delegated act under Article 260(5) of the Solvency 2 Directive prior to IP completion day, determining that the prudential regime of the third country is temporarily equivalent,

(b) that determination still applies,

(c) there is no insurance undertaking or reinsurance undertaking situated in the United Kingdom with a balance sheet total that exceeds the balance sheet total of the parent undertaking situated in the third country, and

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- (d) the PRA has verified that the that the group is subject to supervision by a third-country supervisory authority in accordance with that equivalent or temporarily equivalent regime.
- (3) The alternative condition is that the PRA has verified that the group is subject to supervision by a third country supervisory authority which is equivalent in accordance with paragraph (4).
- (4) Where the conditions referred to in paragraph (2) do not apply, the PRA—
  - (a) must take a decision on equivalence at the request of the parent undertaking or the insurance undertaking or reinsurance undertaking; or
  - (b) may take a decision on equivalence on its own initiative,
 in accordance with paragraph (5).
- (5) Where the PRA takes a decision on equivalence, the PRA must—
  - (a) verify equivalence at the level of the ultimate non-UK solvency 2 parent,
  - (b) ensure that its decision on equivalence does not contradict any previous decision taken in relation to the third country, except where it is necessary to do so in order to take into account significant changes to the supervisory regime laid down in Part 3 of these Regulations and the PRA Rulebook on Group Supervision or to the supervisory regime in the third country, and
  - (c) take its decision on equivalence in accordance with the criteria set out in Regulation 380 of the Solvency 2 Regulation.
- (6) Paragraph (7) applies where the PRA is required to rely on supervision exercised by a supervisory authority in a third country which, in accordance with paragraph (2) or (3), has a prudential group supervision regime which is determined as equivalent to Part 3 of these Regulations and the PRA Rulebook on Group Supervision (but see paragraph (8)).
- (7) The PRA must consult the other members of the college of supervisors before taking a decision which is of importance to the supervisory tasks of another supervisory authority with regard to—
  - (a) changes in the shareholder, organisational or management structure of insurance undertakings or reinsurance undertakings in the group, which require the approval or authorisation of the other supervisory authority,
  - (b) a decision on the extension of the recovery period under rule 3.1(3) of the Undertakings in Difficulty part, and rule 4.4 of the Group Supervision part, of the PRA Rulebook, or
  - (c) the imposition of a capital add-on, a limitation on the use of an internal model for calculating the solvency capital requirement, or any other major sanctions or exceptional measures taken by the other supervisory authority.
- (8) Paragraph (7) does not apply—
  - (a) in cases of urgency, or
  - (b) where consultation may jeopardise the effectiveness of a decision of the PRA,
 provided the PRA informs the other supervisory authorities concerned without delay.
- (9) The PRA must also consult a supervisory authority before taking a decision based on information received from that supervisory authority.]

**F95** Reg. 35 substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **9(19)** (as amended by [S.I. 2020/1385](#), regs. 1(2), **54(2)** and [S.I. 2020/1301](#), regs. 1, 3, [Sch. para. 27\(c\)\(iii\)](#))

## Parent undertaking outside the United Kingdom: absence of equivalence

**[<sup>F96</sup>36.—(1)** This regulation applies where—



- (a) a parent undertaking of an insurance undertaking or reinsurance undertaking established in the United Kingdom has its head office in a third country,
  - (b) one of the conditions in paragraph (2) is satisfied, and
  - (c) one of the conditions in paragraph (3) is satisfied.
- (2) The conditions are—
- (a) the prudential group supervision regime of the third country has not been determined to be equivalent by the Treasury or the PRA, and the Commission has not adopted a delegated act under Article 260(3) of the Solvency 2 Directive prior to IP completion day, determining that the prudential regime of the third country is equivalent to Title 3 of the Solvency 2 Directive;
  - (b) the prudential group supervision regime has been determined to be equivalent by the Treasury, the PRA or the Commission, but the PRA has not verified that the group is subject to supervision by a third-country supervisory authority in accordance with that equivalent regime.
- (3) The conditions are—
- (a) the prudential group supervision regime of the third country has not been determined to be temporarily equivalent;
  - (b) if the prudential group supervision regime of the third country has been determined to be temporarily equivalent, the group is not subject to that regime or the group contains an insurance undertaking or reinsurance undertaking in the United Kingdom with a balance sheet total that exceeds the balance sheet total of the parent undertaking situated in the third country.
- (4) The PRA must, at the level of the ultimate non-UK solvency 2 parent—
- (a) ensure appropriate supervision of the insurance undertakings and reinsurance undertakings that are authorised by the PRA in the group, and
  - (b) ensure the objectives of group supervision are achieved.
- (5) The PRA may require the group to establish an insurance holding company or mixed financial holding company with its head office in the United Kingdom.]

**F96** Reg. 36 substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **9(21)** (as amended by [S.I. 2020/1385](#), regs. 1(2), **54(2)** and [S.I. 2020/1301](#), regs. 1, 3, [Sch. para. 27\(c\)\(iv\)](#))

### **[<sup>F97</sup>Parent undertakings outside the United Kingdom: levels**

**36A.**—(1) Where the parent undertaking of an insurance undertaking or reinsurance undertaking with its head office outside the United Kingdom is itself a subsidiary of—

- (a) an insurance holding company or a mixed financial holding company which has its head office in a third country, or
- (b) a third-country insurance or reinsurance undertaking,

regulation 35 only applies at the level of the ultimate parent undertaking which is a third-country insurance holding company, a third-country mixed financial holding company, a third-country insurance undertaking or a third-country reinsurance undertaking.

(2) The PRA may, in the absence of equivalent supervision referred to in regulation 35, carry out a new verification of equivalence at a lower level where a parent undertaking of insurance or reinsurance undertakings exists, whether at the level of a third-country insurance holding company,



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a third country mixed financial holding company, a third-country insurance undertaking or a third-country reinsurance undertaking.

(3) Where paragraph (2) applies, regulation 35 applies with any necessary changes at that lower level.

(4) Where paragraph (2) applies, the PRA must explain its decision to the group to which the insurance undertaking or reinsurance undertaking belongs.]

**F97** Reg. 36A inserted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **9(22)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2))

## CHAPTER 8

### Mixed-activity insurance holding companies

#### Intra-group transactions

**37.**—(1) This regulation applies where—

- (a) the parent undertaking of one or more insurance undertakings or reinsurance undertakings in the group is a mixed-activity insurance holding company; and
- (b) the PRA supervises one or more of the insurance undertakings or reinsurance undertakings in the group.

(2) The PRA must exercise general supervision over transactions between—

- (a) the mixed-activity holding company and its related undertakings; and
- (b) the insurance undertakings or reinsurance undertakings supervised by the PRA.

[<sup>F98</sup>(3) The requirements in regulation 24 apply to the transactions specified in paragraph (2).]

**F98** Reg. 37(3) inserted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **9(23)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2))

## PART 4

### Approvals

#### Modifications etc. (not altering text)

- C5** Pt. 4 modified by [S.I. 2018/1149](#), **reg. 72** (as inserted (1.3.2019) by [The Financial Services Contracts \(Transitional and Saving Provision\) \(EU Exit\) Regulations 2019 \(S.I. 2019/405\)](#), regs. 1(2), **6**)
- C6** Pt. 4 modified (7.11.2018) by [The EEA Passport Rights \(Amendment, etc., and Transitional Provisions\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1149\)](#), regs. 1(2), **25** (with regs. 4, 22, 26(3)) (as amended (31.1.2020 immediately before exit day) by [The Financial Services \(Consequential Amendments\) Regulations 2020 \(S.I. 2020/56\)](#), regs. 1, **6(2)**)
- C7** Pt. 4 modified (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **12** (as amended by [S.I. 2020/1385](#), regs. 1(2), **54(2)** and [S.I. 2020/1301](#), regs. 1, 3, **Sch. para. 27(e)**)

## CHAPTER 1

### Procedure: applications

#### Meaning of “approval”, “group application” [F<sup>99</sup>] and “protected item”]

**38.—(1)** In this Part <sup>F100</sup>...—

“approval” means an approval granted by the PRA under this Part;

“group application” means an application for permission to calculate any of the following matters in accordance with an internal model—

- (i) the consolidated group solvency capital requirement for a group and the solvency capital requirements for the insurance undertakings [<sup>F101</sup>, reinsurance undertakings, Gibraltarian insurance undertakings and Gibraltarian reinsurance undertakings ] in the group in accordance with method 1 <sup>F102</sup>;
- (ii) the aggregated group solvency capital requirement in relation to group solvency determined in accordance with method 2 <sup>F103</sup>; and

“protected item” has the same meaning as in section 413 of FSMA.

<sup>F104</sup>(2) .....

**F99** Words in [reg. 38](#) heading substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/407), regs. 1(2), **10(2)(a)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2))

**F100** Words in [reg. 38\(1\)](#) omitted (31.12.2020) by virtue of [S.I. 2019/407](#), **reg. 10(2)(b)(i)** (as substituted by [The Gibraltar \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/680), regs. 1(3), **10(5)** (with [reg. 11](#)) (as amended by S.I. 2020/1301, regs. 1, 3, **Sch. para. 40(f)**); 2020 c. 1, **Sch. 5 para. 1(1)**)

**F101** Words in [reg. 38\(1\)](#) substituted (31.12.2020) by [S.I. 2019/407](#), **reg. 10(2)(b)(ii)** (as substituted by [The Gibraltar \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/680), regs. 1(3), **10(5)** (with [reg. 11](#)) (as amended by S.I. 2020/1301, regs. 1, 3, **Sch. para. 40(f)**); 2020 c. 1, **Sch. 5 para. 1(1)**)

**F102** See Article 231 of the Solvency 2 Directive.

**F103** See Article 233(5) of the Solvency 2 Directive.

**F104** [Reg. 38\(2\)](#) omitted (31.12.2020) by virtue of [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/407), regs. 1(2), **10(2)(c)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2))

#### Applications: eligibility, process, information and documents

**39.—(1)** This regulation applies to an application to the PRA for—

- (a) the grant of an approval; or
- (b) a variation of an existing approval.

(2) An insurance undertaking, reinsurance undertaking or third-country insurance undertaking may apply for an approval under regulations 41 to 48, 53 and 54 only if it is authorised under Part 4A of FSMA.

(3) [<sup>F105</sup>An] application must—

- (a) be made in such manner as the PRA may direct; and
- (b) contain, or be accompanied by, such other information or documents as the PRA may reasonably require.

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(4) At any time after receiving the application and before determining it, the PRA may require the undertaking to provide it with such further information or documents as it may reasonably require.

(5) The PRA may require any information provided under this regulation to be provided in such form and verified in such manner as it may reasonably require.

(6) The PRA may require any documents provided under this regulation to be produced at such place and authenticated in such manner as it may reasonably require.

(7) Different directions may be given, and different requirements imposed, in relation to different applications or categories of application.

(8) The powers conferred on the PRA by this regulation—

(a) must be exercised in accordance with any directly applicable regulation [<sup>F106</sup>that forms part of retained EU law] made under the Solvency 2 Directive; and

(b) may not be used to require the production of a protected item.

<sup>F107</sup>(9) .....

(10) Where an application has been made to the PRA under regulation 43 (volatility adjustment), paragraphs (3)(b) and (4) may only be used to require—

(a) a liquidity plan projecting the incoming and outgoing cash flows in relation to the assets and liabilities subject to the volatility adjustment;

(b) where the disapplication of the volatility adjustment would result in the undertaking failing to meet the solvency capital requirement, an analysis of the measures the undertaking could apply to re-establish the level of own funds covering the solvency capital requirement or reduce its risk profile to restore compliance with the solvency capital requirement;

(c) the undertaking's written policy on risk management;

(d) an assessment of the undertaking's compliance with the [<sup>F108</sup>solvency capital requirement and minimum capital requirement]—

(i) when the volatility adjustment is applied; and

(ii) when the volatility adjustment is not applied.

**F105** Word in reg. 39(3) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/407), regs. 1(2), **10(3)(a)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2))

**F106** Words in reg. 39(8)(a) inserted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/407), regs. 1(2), **10(3)(b)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2))

**F107** Reg. 39(9) omitted (31.12.2020) by virtue of [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/407), regs. 1(2), **10(3)(c)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2))

**F108** Words in reg. 39(10)(d) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/407), regs. 1(2), **10(3)(d)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2))

## Additional process: applications from groups and applications to more than one supervisory authority

<sup>F109</sup>40. ....

**F109** Reg. 40 omitted (31.12.2020) by virtue of [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **10(4)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2))

## CHAPTER 2

### Specific Approvals

#### Verification that the Solvency 2 Directive does not apply

**41.**—(1) An insurance undertaking may apply to the PRA for verification that the conditions specified in [<sup>F110</sup>the United Kingdom law which implemented Article 4(4) of the Solvency 2 Directive] are satisfied.

(2) Where the PRA receives an application under paragraph (1), the PRA may approve the application.

(3) The PRA may revoke an approval granted under paragraph (2) where the conditions specified in [<sup>F110</sup>the United Kingdom law which implemented Article 4(4) of the Solvency 2 Directive] cease to be satisfied.

**F110** Words in [reg. 41](#) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **10(5)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2))

#### Matching adjustment

**42.**—(1) An insurance undertaking, reinsurance undertaking or third-country insurance undertaking may apply to the PRA for permission to apply a matching adjustment to a risk-free interest rate term structure in order to calculate the best estimate of a portfolio of life insurance or reinsurance obligations.

(2) The PRA must approve an application made under paragraph (1) if the conditions specified in paragraph (4) would be satisfied if approval were granted.

(3) The PRA must revoke an approval granted under paragraph (2) if an undertaking fails to comply with a condition specified in sub-paragraphs (a) to (k) of paragraph (4) in relation to that approval for a period of two months or more.

(4) The conditions referred to in paragraphs (2) and (3) are—

- (a) the undertaking assigns a portfolio of assets, consisting of bonds or other assets with similar cash flow characteristics, to cover the best estimate of the portfolio of insurance or reinsurance obligations;
- (b) the undertaking maintains the assignment referred to in sub-paragraph (a) over the lifetime of the obligations, except for the purpose of maintaining the replication of expected cash flows between assets and liabilities where the cash flows have materially changed;
- (c) the portfolio of insurance or reinsurance obligations to which the matching adjustment is applied and the assigned portfolio of assets are—
  - (i) identified; and
  - (ii) organised and managed separately from the other activities of the undertaking;
- (d) the assigned portfolio of assets referred to in sub-paragraph (c) cannot be used to cover losses arising from the other activities of the undertaking;
- (e) the expected cash flows of the assigned portfolio of assets replicate each of the expected cash flows of the portfolio of insurance or reinsurance obligations in the same currency;

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- (f) any mismatch between the expected cash flows referred to in sub-paragraph (e) does not give rise to risks which are material in relation to the risks inherent in the insurance business to which the matching adjustment is applied;
- (g) the contracts underlying the portfolio of insurance or reinsurance obligations do not give rise to future premium payments;
- (h) the only underwriting risks connected to the portfolio of insurance or reinsurance obligations are longevity risk, expense risk, revision risk or mortality risk;
- (i) where the underwriting risk connected to the portfolio of insurance or reinsurance obligations includes mortality risk, the best estimate of the portfolio of insurance or reinsurance obligations does not increase by more than 5% under a mortality risk stress that is calibrated in accordance with rules implementing paragraphs (2) to (5) of Article 101 of the Solvency 2 Directive;
- (j) the contracts underlying the insurance or reinsurance obligations include—
  - (i) no options for the policyholder; or
  - (ii) only a surrender option with a surrender value not exceeding the value of the assets, valued in accordance with <sup>F111</sup>rules 2.1 and 2.2 of the Valuation part of the PRA Rulebook], covering the insurance or reinsurance obligations at the time the surrender option is exercised;
- (k) the cash flows of the assigned portfolio of assets are—
  - (i) fixed and cannot be changed by the issuers of the assets or any third parties; or
  - (ii) fixed except for a dependence on inflation, and the assets replicate the cash flows of the portfolio of insurance or reinsurance obligations that depend on inflation;
- (l) the undertaking does not apply a volatility adjustment to the risk free interest rate term structure in accordance with an approval granted under regulation 43;
- (m) the undertaking does not apply a transitional measure to the risk free interest rates in accordance with an approval granted under regulation 53;
- (n) the undertaking has not ceased to apply a matching adjustment to the risk-free interest rate term structure in the 24 months prior to the application.

(5) For the purposes of paragraph (4), the insurance or reinsurance obligations of an insurance or reinsurance contract must not be split into different parts when composing the portfolio of insurance or reinsurance obligations.

(6) For the purposes of sub-paragraph (4)(k)(i), where issuers or third parties have the right to change the cash flows of an asset, that right does not disqualify the asset from admissibility to the assigned portfolio, provided the investor receives sufficient compensation to allow it to obtain the same cash flow by re-investing the compensation in assets of an equivalent or better quality.

(7) In this regulation, “life insurance and reinsurance obligations”—

- (a) includes annuities stemming from non-life insurance or reinsurance contracts; <sup>F112</sup>and]
- (b) in the case of a third-country insurance undertaking <sup>F113</sup>..., refers only to insurance and reinsurance obligations assumed in the United Kingdom; <sup>F114</sup>...

<sup>F115</sup>(c) .....

**F111** Words in [reg. 42\(4\)\(j\)\(ii\)](#) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **10(6)(a)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2))

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- F112** Word in reg. 42(7)(a) inserted (31.12.2020) by The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), **10(6)(b)(i)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2))
- F113** Words in reg. 42(7)(b) omitted (31.12.2020) by virtue of The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), **10(6)(b)(ii)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2))
- F114** Word in reg. 42(7)(b) omitted (31.12.2020) by virtue of The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), **10(6)(b)(iii)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2))
- F115** Reg. 42(7)(c) omitted (31.12.2020) by virtue of The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), **10(6)(b)(iv)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2))

## Volatility adjustment

**43.—(1)** An insurance undertaking, reinsurance undertaking or third-country insurance undertaking may apply to the PRA for permission to apply a volatility adjustment to the relevant risk-free interest rate term structure in order to calculate the best estimate referred to in Article 77(2) of the Solvency 2 Directive.

(2) The PRA must approve an application made under paragraph (1) if the proposed application of the volatility adjustment would satisfy all the conditions specified in paragraph (4).

(3) The PRA must revoke an approval granted under paragraph (2) where the application of the volatility adjustment does not satisfy a condition specified in paragraph (4).

(4) The conditions referred to in paragraphs (2) and (3) are—

- (a) the volatility adjustment is applied correctly to the relevant risk-free interest rate term structure in order to calculate the best estimate;
- (b) the undertaking does not breach a relevant requirement as a result or consequence of applying the volatility adjustment;
- (c) the application of the volatility adjustment does not create an incentive for the undertaking to engage in pro-cyclical investment behaviour.

(5) In paragraph (4)(b), a “relevant requirement” is—

- (a) a requirement imposed by or under FSMA in pursuance of [<sup>F116</sup>the United Kingdom law which implemented] the Solvency 2 Directive; or
- (b) a requirement of a directly applicable regulation made under the Solvency 2 Directive [<sup>F117</sup>which forms part of retained EU law].

- F116** Words in reg. 43(5)(a) inserted (31.12.2020) by The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), **10(7)(a)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2))
- F117** Words in reg. 43(5)(b) inserted (31.12.2020) by The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), **10(7)(b)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2))

## Supervisory approval of ancillary own-funds

**44.—(1)** An insurance undertaking, reinsurance undertaking or third-country insurance undertaking may apply to the PRA for permission to take the amount of an ancillary own-fund item into account when determining its own funds in accordance with rules implementing Article 90 of the Solvency 2 Directive and any directly applicable regulations made under Article 92.

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- (2) Where the PRA receives an application under paragraph (1), the PRA must approve—
  - (a) a monetary amount for each ancillary own-fund item; or
  - (b) a method by which each ancillary own-fund item may be determined for a specified period of time.
- (3) Where the PRA grants approval under paragraph (2)—
  - (a) the undertaking may apply to vary that approval; and
  - (b) the PRA may vary that approval.
- (4) The PRA must base its approval or variation of approval on an assessment of—
  - (a) the status of the counterparties concerned, in relation to their ability and willingness to pay;
  - (b) the recoverability of the funds, taking account of the legal form of the ancillary own-fund item and any conditions which would prevent the item from being successfully paid in or called up; and
  - (c) any information on the outcome of past calls which insurance undertakings, reinsurance undertakings and third-country insurance undertakings have made for ancillary own fund items they have paid in or called up, to the extent that such information can be reliably used to assess the expected outcome of future calls.

#### **Eligible own funds for an intermediate insurance holding company**

**45.—**(1) This regulation applies where the PRA is the group supervisor of a group which includes an intermediate insurance holding company or an intermediate mixed financial holding company.

(2) The intermediate insurance holding company or an intermediate mixed financial holding company may apply to the PRA for permission to include eligible own funds in the calculation of group solvency.

- (3) Where the PRA receives an application under paragraph (2) , the PRA must approve—
  - (a) a monetary amount for each ancillary own-fund item; or
  - (b) a method by which each ancillary own-fund item may be determined for a specified period of time.
- (4) Where the PRA grants approval under paragraph (3)—
  - (a) the undertaking may apply to vary that approval; and
  - (b) the PRA may vary that approval.
- (5) The PRA must base its approval or variation of approval on an assessment of—
  - (a) the status of the counterparties concerned, in relation to their ability and willingness to pay;
  - (b) the recoverability of the funds, taking account of the legal form of the ancillary own-fund item and any conditions which would prevent the item from being successfully paid in or called up; and
  - (c) any information on the outcome of past calls which intermediate insurance holding companies and intermediate mixed financial holding companies have made for each ancillary own-fund item, to the extent that information can be reliably used to assess the expected outcome of future calls.

#### **Classification of funds**

**46.—**(1) This regulation applies to an own-fund item which is not included in the list of own-fund items referred to in Article 97(1) of the Solvency 2 Directive.



(2) An insurance undertaking, reinsurance undertaking or third-country insurance undertaking may apply to the PRA for approval of its assessment and classification of an own-fund item referred to in paragraph (1).

(3) The PRA may approve an application made under paragraph (2).

(4) Where the PRA grants approval under paragraph (3)—

(a) the undertaking may apply to vary the approval;

(b) the PRA may vary the approval; or

(c) the PRA may revoke the approval.

(5) The PRA must base its decision to grant, vary or revoke approval on the criteria referred to in Article 94 of the Solvency 2 Directive.

### Basic Solvency Capital Requirement

**47.—**(1) This regulation applies where an insurance undertaking, reinsurance undertaking or third-country insurance undertaking uses the standard formula to calculate its basic solvency capital requirement.

(2) In order to calculate its life, non-life and health underwriting risk modules, the undertaking may apply to the PRA for approval to use a subset of parameters specific to the undertaking instead of a subset of parameters of the standard formula.

(3) The PRA may only approve an application made under paragraph (2) when—

(a) the parameters the undertaking has applied to use are calibrated on the basis of the internal data of the undertaking concerned, or on the basis of data which are directly relevant to the operations of that undertaking using standardised methods; and

(b) the PRA has verified the completeness, accuracy and appropriateness of the data used.

(4) Where the PRA grants approval under paragraph (3)—

(a) the undertaking may apply to vary the approval;

(b) the PRA may vary the approval provided sub-paragraphs (a) and (b) of paragraph (3) continue to be satisfied; or

(c) the PRA may revoke the approval.

### Models

**48.—**(1) An insurance undertaking, reinsurance undertaking or third-country insurance undertaking may apply to the PRA for approval of—

(a) a full or partial internal model;

(b) major changes to an approved internal model; or

(c) the policy for changing an approved internal model.

(2) The PRA may require an undertaking to run its internal model—

(a) on relevant benchmark portfolios; or

(b) using assumptions based on external rather than internal data,

in order to verify the calibration of the internal model and to check that its specification is in line with generally accepted market practice.

(3) The PRA must approve an application made under paragraph (1) if—

(a) the internal model complies with the requirements of rules implementing Article 112 of the Solvency 2 Directive;

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- (b) the internal model complies with the requirements of any directly applicable regulations made under Article 127 of the Solvency 2 Directive;
  - (c) the systems of the undertaking for identifying, measuring, monitoring, managing and reporting risk are adequate; and
  - (d) in the case of a partial internal model, the model fulfils the requirements of rules implementing Article 113 of the Solvency 2 Directive and any directly applicable regulation made under Article 114 of the Solvency 2 Directive.
- (4) The PRA must give a decision on an application made under paragraph (1) within six months of its receipt of the completed application.
- (5) Where the PRA grants approval under paragraph (3), the PRA may—
- (a) vary the approval;
  - (b) revoke the approval.
- (6) In this regulation “internal model” includes a partial internal model.

### Group applications

**49.**—(1) An insurance undertaking or reinsurance undertaking may make a group application to the PRA where the PRA is the group supervisor for the group to which the undertaking belongs.

[<sup>F118</sup>(2) The PRA may approve an application made under paragraph (1).]

(3) Where the PRA grants an approval under paragraph (2), the approval may include conditions to which the approval is subject.

(4) The PRA may revoke an approval granted under paragraph (2).

**F118** Reg. 49(2) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **10(8)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2))

### Third-country insurance undertakings: approval of supervision in more than one EEA State

<sup>F119</sup>**50.** . . . . .

**F119** Reg. 50 omitted (31.12.2020) by virtue of [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **10(9)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2))

### Withdrawal of authorisation for third-country insurance undertakings authorised in more than one EEA State

<sup>F120</sup>**51.** . . . . .

**F120** Reg. 51 omitted (31.12.2020) by virtue of [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **10(9)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2))

### Subsidiaries: application of Articles 238 and 239 of the Solvency 2 Directive

<sup>F121</sup>**52.** . . . . .

**F121** Reg. 52 omitted (31.12.2020) by virtue of [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **10(9)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2))

### Transitional measures on risk-free interest rates

**53.—**(1) An insurance undertaking, reinsurance undertaking or third-country insurance undertaking may apply to the PRA for permission to apply a transitional adjustment to a risk-free interest rate term structure with respect to admissible insurance or reinsurance obligations.

(2) Admissible insurance or reinsurance obligations are insurance or reinsurance obligations that meet all of the following requirements—

- (a) the contracts that give rise to the insurance or reinsurance obligations are concluded before 1st January 2016;
- (b) the technical provisions for the insurance and reinsurance obligations are determined in accordance with rules implementing Article 20 of Directive [2002/83/EC](#) of the European Parliament and of the Council of 5th November 2002 concerning life assurance<sup>F122</sup> until 1st January 2016;
- (c) the insurance or reinsurance obligations are not subject to a matching adjustment in accordance with an approval granted under regulation 42.

(3) For the purposes of paragraph (2)(a), the renewal of a contract does not give rise to a new contract.

(4) The PRA must approve an application made under paragraph (1) if the condition specified in paragraph (6) would be satisfied if the approval is granted.

(5) Where the PRA grants approval under paragraph (4)—

- (a) the undertaking may apply to vary the approval;
- (b) the PRA must vary the approval on an application made under sub-paragraph (a) if the condition specified in paragraph (6) would be satisfied in relation to the approval as varied;
- (c) the PRA must revoke the approval if the condition specified in paragraph (6) ceases to be satisfied;
- (d) the PRA must revoke the approval if the condition specified in paragraph (7) is satisfied.

(6) The condition referred to in paragraphs (4), (5)(b) and (5)(c) is that the transitional adjustment is calculated in accordance with rules implementing Article 308c of the Solvency 2 Directive.

(7) The condition referred to in paragraph (5)(d) is that a progress report submitted to the PRA under rules implementing Article 308e of the Solvency 2 Directive shows that it is unrealistic to expect compliance with the solvency capital requirement by 2032.

**F122** OJ No L345, 19.12.02, p 1.

### Transitional measures on technical provisions

**54.—**(1) An insurance undertaking, reinsurance undertaking or third-country insurance undertaking may apply to the PRA for permission to—

- (a) apply a transitional deduction to its technical provisions or to such of its technical provisions as are contained within an homogenous risk group; or
- (b) recalculate the amount of those technical provisions (and any matching adjustment or volatility adjustment to those technical provisions) at periods of 24 months or less.

(2) The PRA must approve an application made under paragraph (1)(a) if—

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- (a) conditions 1 and 2 are satisfied; and
- (b) condition 3 is satisfied or would be satisfied if the amount of the approved deduction were limited.
- (3) The PRA must approve an application made under paragraph (1)(b) if condition 4 is satisfied.
- (4) The PRA may also grant the approval referred to in paragraph (1)(b) other than on an application under that paragraph if condition 4 is satisfied.
- (5) Where the PRA approves an application under paragraph (2), the PRA may—
  - (a) make the approval subject to a condition limiting the amount of the approved deduction; or
  - (b) at any time after granting approval, vary the approval so that—
    - (i) the approval is subject to a condition limiting the amount of the approved deduction; or
    - (ii) if the approval is already subject to a condition imposed under sub-paragraph (a) or (b)(i), amend the condition to change the limit.
- (6) A limit specified in a condition imposed under paragraph (5) must be no larger than is necessary to ensure that condition 3 is satisfied.
- (7) Where the PRA grants approval under paragraph (2), (3) or (4) the undertaking may apply to vary the approval.
- (8) Paragraphs (2) to (6) apply to an application to vary an approval under paragraph (7) as they would apply to an application for the approval as varied.
- (9) The PRA must revoke an approval granted under paragraph (2) if—
  - (a) condition 1 or 2 is not satisfied;
  - (b) condition 3 cannot be satisfied by imposing a condition limiting the amount of the approved deduction; or
  - (c) condition 5 is satisfied.
- (10) In this regulation—
  - (a) “GENPRU 1.2.26R” means the rule known as GENPRU 1.2.26R (requirement to have adequate financial resources) in the PRA's General Prudential Sourcebook as at 31st December 2015, treated as having been made by the PRA on 7th March 2013 under the Financial Services Act 2012 (Transitional Provisions) (Rules and Miscellaneous Provisions) Order 2013<sup>F123</sup>;
  - (b) “INSPRU 7” means the rules and guidance known as INSPRU 7 (individual capital assessment) in the PRA's Prudential Sourcebook for Insurers as at 31st December 2015, made or treated as having been made by the PRA on 7th March 2013 under FSMA and the Financial Services Act 2012 (Transitional Provisions) (Rules and Miscellaneous Provisions) Order 2013; and
  - (c) conditions specified in the first column of Table 3 have the meaning given in the second column of Table 3.

**Table 3**

Condition	Meaning
1	<p>The transitional deduction satisfies the following condition for all <math>T_N</math>—</p> $0 \leq T_N \leq (X_N - Y_N) \left(1 - \frac{N}{16}\right) \quad (N = 0, 1, 2 \dots 16)$

where—

$T_N$  is the amount of the transitional deduction in the year  $N$ , so that  $T_0$  is the transitional deduction in 2016,  $T_1$  is the transitional deduction in 2017,  $T_2$  is the transitional deduction in 2018 and continuing until  $T_{16}$  which is the transitional deduction in 2032.

$X_N$  is the amount of the technical provisions to which the approval or application for approval relates, calculated for the year  $N$ , less the amount recoverable (if any) from reinsurance contracts and special purpose vehicles. The technical provisions for the year  $N$  must be calculated in accordance with rules implementing Article 76 of the Solvency 2 Directive, applied as at the last date (“the relevant date”) before the year  $N$  at which technical provisions may be recalculated in accordance with an approval granted under paragraph (1)(b) or, if no such approval has been granted, as at 1st January 2016. Where a matching adjustment or volatility adjustment was applied to those technical provisions on 1<sup>st</sup> January 2016 in accordance with an approval granted under regulation 42 or 43 (as the case may be), the calculation must take into account the matching adjustment or volatility adjustment, recalculated for the relevant date in accordance with an approval granted under paragraph (1)(b) (if any).

$Y_N$  is the amount of the technical provisions to which the approval or application for approval relates, calculated for the year  $N$ , less the amount recoverable (if any) from reinsurance contracts. The technical provisions for the year  $N$  must be calculated in accordance with INSPRU 7, applied as at the last date before the year  $N$  at which technical provisions may be recalculated in accordance with an approval granted under paragraph (1)(b) or, if no such approval has been granted, as at 31st December 2015.

$N$  represents the years from 2016 to 2032.  $N$  takes integer values from 0 to 16, so that 2016 is year 0, 2017 is year 1, 2018 is year 2, and continuing until 2032 which is year 16.

- 2 A transitional deduction is not applied in any year after 2032.
- 3 The transitional deduction does not result in the financial resources which the undertaking is required to maintain in accordance with requirements imposed by or under FSMA in pursuance of the Solvency 2 Directive being less than the financial resources which the undertaking would be required to maintain in accordance with GENPRU 1.2.26R if GENPRU 1.2.26R still applied to the undertaking.
- 4 The risk profile of the undertaking has changed materially.
- 5 A progress report submitted to the PRA under rules implementing Article 308e of the Solvency 2 Directive shows that it is unrealistic to expect compliance with the solvency capital requirement by 2032.

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**F123** [S.I. 2013/161](#).

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## CHAPTER 3

### Procedure: decisions, appeals and notices

#### Decisions: written notices

**55.—(1)** On determining an application for the grant of an approval, the PRA must give the undertaking a written notice stating—

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- (a) its decision;
  - (b) the conditions (if any) to which the approval is subject;
  - (c) the reasons on which the decision is based; and
  - (d) if the approval is granted, the date on which the approval takes effect.
- (2) Where the PRA varies or revokes an approval, it must give the undertaking concerned a written notice stating—
- (a) that the approval is varied or revoked;
  - (b) the reasons on which the decision to vary or revoke the approval is based;
  - (c) if the approval is varied, the conditions (if any) to which the approval is subject; and
  - (d) the date on which the variation or revocation takes effect.
- (3) Where the PRA gives a direction under regulation 58(2), it must give the undertaking concerned a written notice stating—
- (a) the direction;
  - (b) the reasons on which the decision to give the direction is based; and
  - (c) the date on which the direction takes effect.
- (4) Where the PRA varies or revokes a direction under regulation 58(3), it must give the undertaking concerned a written notice stating—
- (a) that the direction is varied or revoked;
  - (b) the reasons on which the decision to vary or revoke the direction is based; and
  - (c) the date on which the variation or revocation takes effect.
- (5) The date on which an approval takes effect under paragraph (1)(d) must not be before 1st January 2016.

## Appeals

- 56.**—(1) An undertaking may refer the matter to the Tribunal where it is aggrieved at—
- (a) the determination by the PRA of an application for the—
    - (i) grant of an approval to an undertaking; or
    - (ii) variation of an approval granted to an undertaking;
  - (b) in respect of an approval that was granted to that undertaking, the exercise by the PRA of a power to—
    - (i) vary the approval; or
    - (ii) revoke the approval.
- (2) Part 9 of FSMA (hearings and appeals) applies to a reference to the Tribunal under this regulation as it applies to a reference to the Tribunal under FSMA.

## Publication of written notices

- 57.**—(1) Subject to paragraph (2), the PRA must publish a relevant notice in the way appearing to the PRA to be best calculated for bringing it to the attention of—
- (a) persons likely to be affected by it; and
  - (b) persons who are, in the opinion of the PRA, likely to make an application for a similar approval.
- (2) Paragraph (1) does not apply—

- (a) if the relevant notice relates to an application for an approval which has been refused;
  - (b) if the PRA is satisfied that it is inappropriate or unnecessary to publish the relevant notice;  
or
  - (c) to the extent that such publication would be incompatible with an obligation imposed on the PRA by a directly applicable regulation made under the Solvency 2 Directive.
- (3) In deciding whether it is satisfied of the matters mentioned in paragraph (2)(b), the PRA must consider whether publication of the relevant notice—
- (a) would prejudice, to an unreasonable degree, the commercial interests of the undertaking concerned or any other member of the undertaking's immediate group;
  - (b) without mentioning the identity of the undertaking concerned might avoid any adverse consequence of publication.
- (4) In this regulation, “relevant notice” means a written notice—
- (a) given under regulation 55 in relation to a decision or direction of the PRA; or
  - (b) stating that an event referred to in paragraph (5) has occurred in relation to such a decision.
- (5) The events mentioned in paragraph (4)(b) are—
- (a) the decision has been referred to the Tribunal;
  - (b) the decision has been suspended by the Tribunal;
  - (c) any suspension of the decision has been revoked by the Tribunal;
  - (d) the reference has been dismissed by the Tribunal.

## CHAPTER 4

### Rule waivers

#### Modification or waiver of rules

**58.**—(1) In this regulation, “rule” means a rule made by the PRA under Part 9A of FSMA.

(2) Where the PRA approves an application from an insurance undertaking, reinsurance undertaking or third-country insurance undertaking under regulation 42, 43, 53 or 54, the PRA must direct that any rule to which the undertaking is subject—

- (a) is not to apply to that undertaking; or
- (b) is to apply to that undertaking with modifications,

to the extent necessary to give effect to that approval.

(3) Where the approval referred to in paragraph (2) is varied or revoked, the PRA must vary or revoke the direction referred to in paragraph (2) to the extent necessary to give effect to the variation or revocation of the approval.

(4) This regulation is without prejudice to the generality of section 138A of FSMA.

## PART 5

### Amendments

#### Amendments

**59.** Schedule 1, which contains amendments to primary legislation, has effect.



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60. Schedule 2, which contains amendments to secondary legislation, has effect.

*David Evennett*  
*John Penrose*  
Two of the Lords Commissioners of Her  
Majesty's Treasury

## SCHEDULE 1

Regulation 59

### Amendments to primary legislation

## PART 1

### Amendments to FSMA

1. FSMA is amended as follows.

2.—(1) Section 55J (variation or cancellation on initiative of regulator) is amended as follows.

(2) After subsection (7), insert—

“(7A) Without prejudice to the generality of subsections (1) and (3), if it appears to the PRA that there has been a serious failure by a PRA-authorised person who is an insurance undertaking or reinsurance undertaking to comply with requirements imposed by or under this Act in pursuance of the Solvency 2 Directive, the PRA may exercise its powers under this section to cancel the undertaking's Part 4A permission.

(7B) If it appears to the PRA that the conditions in section 55KA are met in relation to a PRA-authorised person who is an insurance undertaking, reinsurance undertaking or third-country insurance undertaking, the PRA must—

- (a) in relation to the undertaking's Part 4A permission so far as the permission relates to the regulated activity of effecting contracts of insurance as principal (“activity A”), exercise the PRA's powers under this section by varying the permission—
  - (i) where the permission relates to activity A in relation to both contracts of long-term insurance and contracts of general insurance and the conditions in section 55KA are met only in relation to the business of the undertaking so far as relating to contracts of one of those kinds, so as to remove activity A so far as relating to contracts of that kind from the regulated activities to which the permission relates, and
  - (ii) in any other case, so as to remove activity A from the regulated activities to which the permission relates;
- (b) in relation to the undertaking's Part 4A permission so far as the permission relates to the regulated activity of carrying out contracts of insurance as principal (“activity B”), exercise the PRA's powers under this section, if it appears to the PRA to be necessary to do so to protect the interests of the undertaking's policyholders, by varying the Part 4A permission—
  - (i) where the permission relates to activity B in relation to both contracts of long-term insurance and contracts of general insurance and the conditions in section 55KA are met only in relation to the business of the undertaking so far as relating to contracts of one of the those kinds, so as to remove activity B so far as relating to contracts of that kind from the regulated activities to which the permission relates, and
  - (ii) in any other case, so as to remove activity B from the regulated activities to which the permission relates.

(7C) If the effect of a variation required by subsection (7B) is to remove all the regulated activities to which the Part 4A permission relates, the PRA must instead cancel the permission.”.

3. After section 55K (investment firms: particular conditions that enable cancellation), insert—

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**“55KA Insurance undertakings, reinsurance undertakings and third-country insurance undertakings: particular conditions that enable cancellation**

- (1) The conditions referred to in section 55J(7B) are—
  - (a) that the insurance undertaking, reinsurance undertaking or third-country insurance undertaking has failed to comply with the appropriate capital requirement; and
  - (b) that any of the following applies—
    - (i) the insurance undertaking, reinsurance undertaking or third-country insurance undertaking has failed to submit a finance scheme in accordance with requirements imposed by or under this Act in pursuance of Article 139(2) of the Solvency 2 Directive, or of that provision with Article 74(7) of that directive;
    - (ii) the insurance undertaking, reinsurance undertaking or third-country insurance undertaking has submitted to the PRA a finance scheme that is manifestly inadequate; or
    - (iii) after the PRA has approved a finance scheme submitted to it, the undertaking has failed to comply with the finance scheme within a period of three months beginning with the date when the undertaking first became aware that it had failed to comply with the appropriate capital requirement to which the scheme relates.
- (2) In subsection (1) “the appropriate capital requirement” means—
  - (a) except in a case within paragraph (b) or (c), the minimum capital requirement;
  - (b) in the case of an insurance undertaking or reinsurance undertaking whose Part 4A permission relates to both contracts of long-term insurance and to contracts of general insurance, requirements imposed by or under this Act in pursuance of Article 74(2) of the Solvency 2 Directive;
  - (c) in the case of a third-country insurance undertaking whose Part 4A permission relates both to contracts of long-term insurance and to contracts of general insurance, requirements imposed by or under this Act in pursuance of Articles 74(2) and 166 of the Solvency 2 Directive.”.

**4. After section 55P (prohibitions and restrictions), insert—**

**“55PA Assets requirements imposed on insurance undertakings or reinsurance undertakings**

- (1) If either of the following cases arises in relation to an insurance undertaking, reinsurance undertaking or third-country insurance undertaking, the PRA must inform the supervisory authority of each host EEA State of that undertaking.
- (2) The first case is where the PRA intends to impose an assets requirement on the undertaking because the undertaking has not complied with rules implementing Section 2 of Chapter 6 of Title 1 of the Solvency 2 Directive.
- (3) The second case is where—
  - (a) the undertaking has notified the PRA that—
    - (i) the undertaking does not comply with the solvency capital requirement, or
    - (ii) there is a risk that at some time within the next 3 months the undertaking may not comply with the solvency capital requirement, and

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- (b) because the PRA is of the opinion that the financial situation of the undertaking will deteriorate after the PRA has received the notification, the PRA imposes an assets requirement on the undertaking.
- (4) In this section—
  - (a) “assets requirement” has the same meaning as in section 55P(4); and
  - (b) “host EEA State” means—
    - (i) in relation to an insurance undertaking or reinsurance undertaking, an EEA State which is a “host Member State” for the purposes of the Solvency 2 Directive (which is to be determined in accordance with Article 13(9) of that directive);
    - (ii) in relation to a third-country insurance undertaking, an EEA State other than the United Kingdom from which the undertaking has received authorisation in accordance with Article 162 of the Solvency 2 Directive.”.

5. In section 105 (insurance business transfer schemes), in subsection (3), in paragraph (aa) of Case 2 <sup>F124</sup>, omit “(within the meaning of Article 2.1(c) of the reinsurance directive)”.

**F124** Section 105(3)(Case 2)(aa) was inserted by S.I. 2007/3253.

6.—(1) Section 116 (effect of insurance business transfers authorised in other EEA States) is amended as follows.

- (2) In subsection (2) <sup>F125</sup>—
  - (a) for paragraphs (a) and (b) substitute—
    - “(a) an undertaking authorised in an EEA State other than the United Kingdom under Article 162 of the Solvency 2 Directive;
    - (b) an undertaking whose head office is not in an EEA State and which is authorised under the law of an EEA State other than the United Kingdom to carry out reinsurance activities in its territory (as mentioned in Article 174 of the Solvency 2 Directive).”; and
  - (b) omit paragraph (c).
- (3) For subsections (5) <sup>F126</sup> and (6) <sup>F127</sup> substitute—
  - “(5) “Authorised transfer” means—
    - (a) in subsection (1), a transfer authorised by the supervisory authorities of the home State of the EEA firm in accordance with Article 39 of the Solvency 2 Directive;
    - (b) in subsection (2), a transfer authorised in an EEA State other than the United Kingdom in accordance with—
      - (i) Article 164 of the Solvency 2 Directive; or
      - (ii) the provisions in the law of that EEA State which provide for the authorisation of transfers of all or part of a portfolio of contracts of an undertaking authorised to carry out reinsurance activities in its territory (as mentioned in Article 174 of the Solvency 2 Directive).
  - (6) “UK policy”, in relation to an authorised transfer, means a policy evidencing a contract of insurance or reinsurance to which the applicable law is the law of a part of the United Kingdom.”.
- (4) After subsection (7) insert—

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“(7A) In this section the “home State” is the EEA State which is the “home Member State” for the purposes of the Solvency 2 Directive (which is to be determined in accordance with Article 13(8) of that directive).”.

**F125** Section 116(2) was substituted by S.I. 2007/3253.

**F126** Section 116(5) was amended by S.I. 2004/3379 and S.I. 2007/3253.

**F127** Section 166(6) was amended by S.I. 2007/3253.

7. In section 165(7) (regulators' power to require information: authorised persons etc), after paragraph (d), insert—

“(e) by either regulator, to impose requirements on a person who provides any service to an insurance undertaking, reinsurance undertaking or third-country insurance undertaking.”.

8.—(1) Section 167 (appointment of persons to carry out general investigations) is amended as follows.

(2) In subsection (2)—

- (a) at the end of paragraph (a) omit “or”;
- (b) at the end of paragraph (b) insert “; or; ” and
- (c) after paragraph (b) insert—

“(c) where A is an insurance undertaking, reinsurance undertaking or third-country insurance undertaking, a person who provides services to A.”.

(3) After subsection (3), insert—

“(3A) If a person appointed under subsection (1) decides under subsection (2)(c) to investigate a person located in an EEA State other than the United Kingdom the person appointed must inform the supervisory authority of that EEA State prior to conducting an on-site inspection.”.

9. In section 190(4) (requests for further information), for paragraph (b) <sup>F128</sup> substitute—

- “(b) is not subject to supervision under—
- (i) the UCITS directive;
  - (ii) the Solvency 2 Directive;
  - (iii) the markets in financial instruments directive; or
  - (iv) the capital requirements directive.”.

**F128** Section 190(4)(b) was amended by S.I. 2013/3115.

10. In section 194 (general grounds on which power of intervention is exercisable), after subsection (1A) <sup>F129</sup>, insert—

“(1AA) Where an incoming firm is an EEA firm falling within paragraph 5(d) or (da) of Schedule 3, the appropriate regulator must not exercise its power of intervention under subsection (1)(c) in respect of that firm if doing so would, for the purposes of the Solvency 2 Directive, constitute financial supervision of that firm.”.

**F129** Subsection (1A) was inserted by sections 3(1) and 5(a) of the Financial Services Act 2012 (c. 21).

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**11.—**(1) Section 198 (power to apply to court for injunction in respect of certain overseas insurance companies) is amended as follows.

(2) For subsection (1) substitute—

“(1) This section applies if the appropriate regulator has received a request made in respect of an incoming EEA firm in accordance with Article 140 of the Solvency 2 Directive.”.

(3) In subsection (3A), for “competent authority for the purposes of the provision referred to in subsection (1)(a), (b) or (c)” substitute “supervisory authority for the purposes of Article 140 of the Solvency 2 Directive”.

**12.** In section 316 (direction by a regulator), in subsection (4)(b)(i), for “any of the insurance directives” substitute “the Solvency 2 Directive”.

**13.** In section 367(3) (winding up petitions), before paragraph (a), insert—

“(za) in the case of an insurance undertaking or reinsurance undertaking, the PRA has cancelled the body's Part 4A permission pursuant to section 55J(7C);”.

**14.** In section 405(5) (directions), omit paragraphs (c) and (d).

**15.** In section 417 (definitions), in subsection (1), insert at the appropriate place in each case—

““insurance undertaking” has the meaning given in Article 13(1) of the Solvency 2 Directive;”

““minimum capital requirement” means—

(a) in relation to an insurance undertaking or reinsurance undertaking, requirements imposed by or under this Act in pursuance of Section 5 of Chapter 6 of Title 1 of the Solvency 2 Directive;

(b) in relation to a third-country insurance undertaking, requirements imposed by or under this Act in pursuance of those provisions and Article 166 of the Solvency 2 Directive.”

““reinsurance undertaking” has the meaning given in Article 13(4) of the Solvency 2 Directive;”

““solvency capital requirement” means—

(a) in relation to an insurance undertaking or reinsurance undertaking, requirements imposed by or under this Act in pursuance of Section 4 of Chapter 6 of Title 1 of the Solvency 2 Directive;

(b) in relation to a third-country insurance undertaking, requirements imposed by or under this Act in pursuance of those provisions and Article 166 of the Solvency 2 Directive.”

““third-country insurance undertaking” means an undertaking that has received authorisation under Article 162 of the Solvency 2 Directive from the PRA or the FCA;”.

**16.** In section 425(1)(a) (expressions relating to authorisation elsewhere in the single market)—

(a) omit ““life assurance consolidation directive””, ““first non-life insurance directive””, “insurance directives” and “reinsurance directive”, and

(b) after ““single market directives”” insert ““, Solvency 2 Directive””.

**17.—**(1) Schedule 3 (EEA passport rights) is amended as follows.

(2) In paragraph 1—

(a) for paragraph (c) substitute—

“(c) the Solvency 2 Directive;”;

(b) omit paragraph (ca).

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(3) For paragraph 3 substitute—  
“The Solvency 2 Directive

3. “The Solvency 2 Directive” means Directive [2009/138/EC](#) of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II).”.

(4) Omit paragraph 3A.

(5) In paragraph 5, for paragraphs (d) and (da) substitute—

“(d) an undertaking pursuing the activity of direct insurance (within the meaning of Article 2 of the Solvency 2 Directive) which has received authorisation under Article 14 of that directive from its home state regulator;

(da) an undertaking pursuing the activity of reinsurance (within the meaning of Article 2 of the Solvency 2 Directive) as a reinsurance undertaking which has received authorisation under Article 14 of that directive from its home state regulator;”.

(6) In paragraph 15, for sub-paragraph (6) substitute—

“(6) The permission is to be treated as being on terms equivalent to those appearing in the authorisation granted to the firm under Article 14 of the Solvency 2 Directive by its home state regulator (“its home authorisation”).”.

(7) In paragraph 19—

(a) in sub-paragraphs (5)(b)(i), (7) and (9), for “any of the insurance directives” substitute “the Solvency 2 Directive”;

(b) in sub-paragraph (5ZA), for “a UK firm having an EEA right which is subject to the conditions of the reinsurance directive” substitute “a UK firm which falls within the second sub-paragraph of Article 2(1) of the Solvency 2 Directive”;

(c) in sub-paragraph (7)(b) for “those directives” substitute “that directive”.

(8) In paragraph 20—

(a) in sub-paragraph (1) for “(4F)”, substitute “(4I)”;

(b) in sub-paragraphs (3A) and (4B) for “any of the insurance directives” substitute “the Solvency 2 Directive”;

(c) in sub-paragraph (4D), for “a UK firm having an EEA right which is subject to the conditions of the reinsurance directive” substitute “a UK firm which falls within the second sub-paragraph of Article 2(1) of the Solvency 2 Directive”;

(d) after sub-paragraph (4F) insert—

“(4G) This paragraph does not apply to a UK firm exercising an EEA right to enter into a Community co-insurance contract if it is not the leading insurance undertaking.

(4H) In this paragraph “Community co-insurance contract” means a contract of insurance which—

(a) covers one or more risks that are within any of classes 3 to 16 of Annex I of the Solvency 2 Directive;

(b) covers a large risk situated within the EEA which is not covered in whole or in part by another contract of insurance;

(c) provides that the risk to which it relates is covered by an overall premium and for the same period by two or more insurance undertakings each for its own part as a co-insurer, at least one of which enters into the contract from a head office or branch established in an EEA State other than that of the leading insurance undertaking; and



(d) provides that one of the co-insurers is the leading insurance undertaking.

(4I) In this paragraph—

(a) “leading insurance undertaking” means the insurance undertaking which under the Community co-insurance contract is specified as such and assumes fully the leader's role including in particular—

(i) being treated as covering the whole risk; and

(ii) determining the terms and conditions of insurance and rating;

(b) “large risk” has the meaning given in Article 13(27) of the Solvency 2 Directive but as if the risks referred to in point (c) of the first sub-paragraph of Article 13(27) included risks insured by professional associations, joint ventures, or temporary groupings.”.

**18.**—(1) Schedule 12 (transfer schemes: certificates) is amended as follows.

(2) In paragraph 1—

(a) after sub-paragraph (1)(b) insert—

“(ba) if sub-paragraph (2A) applies, a certificate under paragraph 3A.”;

(b) in sub-paragraph (2) for “Article 4 of the life assurance consolidation directive or Article 6 of the first non-life insurance directive” substitute “Article 14 of the Solvency 2 Directive”;

(c) after sub-paragraph (2) insert—

“(2A) This sub-paragraph applies if—

(a) the transferor concerned is a UK authorised person which has received authorisation under Article 14 of the Solvency 2 Directive from the appropriate regulator; and

(b) as regards any policy which is included in the proposed transfer and which evidences a contract of insurance (other than reinsurance), the contract was concluded in an EEA State other than the United Kingdom.”;

(d) in sub-paragraph (3)(a) for “Article 4 or Article 51 of the life assurance consolidation directive” substitute “Article 162 of the Solvency 2 Directive”;

(e) in sub-paragraph (4)(a) for “Article 6 or Article 23 of the first non-life insurance directive” substitute “Article 162 of the Solvency 2 Directive”;

(f) in sub-paragraph (5), for paragraphs (a) and (b) substitute—

“(a) the transferor concerned has received authorisation under Article 162 of the Solvency 2 Directive from the appropriate regulator; and

(b) the proposed transfer is to a branch or agency, in an EEA State other than the United Kingdom, authorised under that Article.”.

(3) In paragraph 2—

(a) for sub-paragraph (6)(aa) substitute—

“(aa) if the transferee is a non-EEA branch, the supervisory authority of the EEA State in which the transferee is situated or, where appropriate, the supervisory authority of an EEA State which supervises the state of solvency of the entire business of the transferee's agencies and branches within the EEA in accordance with Article 167 of the Solvency 2 Directive;”;

(b) for sub-paragraph (7A), substitute—

“(7A) “Supervisory authority” has the same meaning as in the Solvency 2 Directive.”;

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- (c) for sub-paragraph (9), substitute—  
 “(9) “Non-EEA branch” means a branch or agency which has received authorisation under Article 162 of the Solvency 2 Directive.”.
- (4) In the heading to paragraph 3, for “consent” substitute “consultation”.
- (5) After paragraph 3 insert—

*“Certificates as to consent*

- 3A.** A certificate under this paragraph is one given by the appropriate regulator and certifying that in respect of each contract concluded in an EEA State other than the United Kingdom the authority responsible for supervising persons who effect or carry out contracts of insurance in the EEA State in which that contract was concluded has been notified of the proposed scheme and that—
- (a) the authority has consented to the proposed scheme; or
  - (b) the authority has not responded but the period of three months beginning with the notification has elapsed.”.
- (6) For paragraph 5A(4) substitute—  
 “(4) “Relevant authority” means the supervisory authority (within the meaning of the Solvency 2 Directive) of the EEA State in which the transferee is set up.”.
  - (7) In paragraph 10—  
 (a) for sub-paragraph (3) substitute—  
 “(3) The transferor is a company authorised in an EEA State other than the United Kingdom under Article 162 of the Solvency 2 Directive and the transferee is a UK authorised person which has received authorisation under Article 14 of the Solvency 2 Directive.”;
  - (b) for sub-paragraph (4) substitute—  
 “(4) The transferor is a Swiss general insurer and the transferee is a UK authorised person which has received authorisation under Article 14 of the Solvency 2 Directive.”.

## PART 2

### Amendments to other primary legislation

#### Friendly Societies Act 1992

- 19.**—(1) The Friendly Societies Act 1992 <sup>F130</sup> is amended as follows.
- (2) In section 52(2)(c)(i) (applications to court) for “the general insurance or the life assurance consolidation Directive” substitute “the Solvency 2 Directive”.
  - (3) In subsection (1) of section 119 (general interpretation)—  
 (a) omit the following definitions—  
 (i) “the life assurance consolidation Directive”;
  - (ii) “the first general insurance Directive”;
  - (iii) “the general insurance Directives”;
  - (iv) “the second general insurance Directive”;
  - (v) “the third general insurance Directive”;

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- (b) insert at the appropriate place—  
““the Solvency 2 Directive” means Directive [2009/138/EC](#) of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II);”.
- (4) Omit subsections (1A), (1D) and (3) of section 119.
- (5) In Schedule 15 (amalgamations, transfers of engagements and conversion: supplementary)—
  - (a) in paragraph 15(1)(c)(vi) for “Article 25 or 26 of the first general insurance Directive” substitute “ Article 166 or 167 of the Solvency 2 Directive ”;
  - (b) in paragraph 15A(1)(c)(v) for “Article 55 or 56 of the life assurance consolidation Directive” substitute “ Article 166 or 167 of the Solvency 2 Directive ”.

**F130** [1992 c. 40](#).

## Finance Act 1997

**20.**—(1) Section 96 (demutualisation of insurance companies) of the Finance Act 1997 <sup>F131</sup> is amended as follows.

(2) In subsection (7)(b) for the words from “for the purposes of—” to the end of the paragraph substitute “ for the purposes of Article 39 of the Solvency 2 Directive. ”.

(3) In subsection (8)—

- (a) omit the following definitions—
  - (i) “the life assurance consolidation directive”;
  - (ii) “the third non-life insurance directive”;

(b) insert at the appropriate place—

““the Solvency 2 Directive” means Directive [2009/138/EC](#) of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II);”.

**F131** [1997 c. 16](#).

## Terrorism Act 2000

**21.**—(1) The Terrorism Act 2000 <sup>F132</sup> is amended as follows.

(2) In Schedule 3A (regulated sector and supervisory authorities)—

(a) in paragraph 1(1)(c) for “the Life Assurance Consolidation Directive” substitute “ the Solvency 2 Directive ”;

(b) in paragraph 3(1)—

- (i) omit the following definition—  
“the Life Assurance Consolidation Directive”;

(ii) insert at the appropriate place—

““the Solvency 2 Directive” means Directive [2009/138/EC](#) of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II);”.

(3) In paragraph 6(1)(i) of Schedule 6 (financial information) for “Article 4 or 51 of Directive [2002/83/EC](#) of the European Parliament and of the Council of 5th November 2002 concerning life

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assurance” substitute “ Article 14 or 162 of Directive [2009/138/EC](#) of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) ”.

**F132** [2000 c. 11.](#)

### Capital Allowances Act 2001

**22.** In section 560(5)(e) (transfer of insurance company business) of the Capital Allowances Act 2001 <sup>F133</sup>, for “Article 14 of the Council Directive of 5 November 2002 concerning life assurance ([2002/83/EC](#))” substitute “ Article 39 of Directive [2009/138/EC](#) of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) ”.

**F133** [2001 c. 2.](#)

### Proceeds of Crime Act 2002

- 23.**—(1) Schedule 9 to the Proceeds of Crime Act 2002 <sup>F134</sup> is amended as follows.
- (2) In paragraph 1(1)(c) for “the Life Assurance Directive” substitute “ the Solvency 2 Directive ”.
- (3) In paragraph 3(1)—
- (a) omit the definition of “the Life Assurance Consolidation Directive”;
  - (b) insert at the appropriate place—
 

““the Solvency 2 Directive” means Directive [2009/138/EC](#) of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II);”.

**F134** [2002 c. 29.](#)

### Finance Act 2003

**24.**—(1) Section 63 (demutualisation of insurance company) of the Finance Act 2003 <sup>F135</sup> is amended as follows.

- (2) For paragraph (b) of subsection (2) substitute—
- “(b) it is a transfer of business of a general insurance company carried on through a permanent establishment in the United Kingdom and takes place in accordance with authorisation granted outside the United Kingdom for the purposes of the Solvency 2 Directive, and the requirements of subsection (3) and (4) are met in relation to the shares of a company (“the issuing company”) which is either the acquiring company or a company of which the acquiring company is a wholly-owned subsidiary.”.
- (3) In subsection (7) omit the following definitions—
- (a) “the life assurance Directive”;
  - (b) “the 3rd non-life insurance Directive”.
- (4) In subsection (7) insert at the end—

““the Solvency 2 Directive” means Directive [2009/138/EC](#) of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II).”.

**F135** [2003 c. 14](#).

### **Companies Act 2006**

**25.** In section 843(8) (realised profits and losses of long-term insurance business) of the Companies Act 2006 <sup>F136</sup>, for “Article 2.1(p) of Directive [2005/68/EC](#) of the European Parliament and of the Council of 16 November 2005 on reinsurance and amending Council Directives [73/239/EEC](#), [92/49/EEC](#) as well as Directives [98/78/EC](#) and [2002/83/EC](#)” substitute “ Article 13(26) of Directive [2009/138/EC](#) of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) ”.

**F136** [2006 c. 46](#).

### **Corporation Tax Act 2009**

**26.—(1)** The Corporation Tax Act 2009 <sup>F137</sup> is amended as follows.

(2) In section 337(3A) (transfers of loans on insurance business transfers), for “Article 14 of the Council Directive of 5 November 2002 concerning life assurance ([2002/83/EC](#))” substitute “ Article 39 of Directive [2009/138/EC](#) of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) ”.

(3) In section 636(3) (modifications of Chapter 5), for “Article 14 of the Council Directive of 5 November 2002 concerning life assurance ([2002/83/EC](#))” substitute “ Article 39 of Directive [2009/138/EC](#) of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) ”.

**F137** [2009 c. 4](#).

## **SCHEDULE 2**

Regulation 60

### **Amendments to secondary legislation**

#### **Insolvency (Scotland) Rules 1986**

**1.** In rule 4.84(8) (application for confirmation) of the Insolvency (Scotland) Rules 1986 <sup>F138</sup> for “Articles 9 and 27 of Directive [2001/17/EC](#) of the European Parliament and of the Council of 19th March 2001 on the reorganisation and winding up of insurance undertakings” substitute “ Articles 274 and 293 of Directive [2009/138/EC](#) of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) ”.

**F138** [S.I. 1986/1915](#), amended by [S.I. 2003/2109](#); there are other amending instruments but none is relevant.

#### **Companies (1986 Order) (Insurance Companies Accounts) Regulations (Northern Ireland) 1994**

**2.—(1)** The Companies (1986 Order) (Insurance Companies Accounts) Regulations (Northern Ireland) 1994 <sup>F139</sup> are amended as follows.

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(2) In paragraph (2)(a) of regulation 6 (exempted companies) for “Council Directive [73/239/EEC](#) by Article 3 of that Directive” substitute “ Article 7 of Directive [2009/138/EC](#) of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) ”.

**F139** [S.I. 1994/428](#).

### **Mineworkers' Pension Scheme (Modification) Regulations 1994**

**3.—**(1) The Mineworkers' Pension Scheme (Modification) Regulations 1994 <sup>F140</sup> are amended as follows.

(2) In clause 41(2) (the scheme: interpretation) of the part headed “The Scheme” of the Mineworkers' Pension Scheme in the Schedule, in the definition of “Recognised Insurance Company” for “Article 4 or Article 51 of Directive [2002/83/EC](#) of the European Parliament and of the Council of 5th November 2002 concerning life assurance” substitute “ Article 14 or 162 of Directive [2009/138/EC](#) of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) ”.

**F140** [S.I. 1994/2577](#); relevant amending instruments are [S.I. 2004/3379](#) and 2011/1043.

### **Industry-Wide Mineworkers' Pension Scheme Regulations 1994**

**4.—**(1) The Industry-Wide Mineworkers' Pension Scheme Regulations 1994 <sup>F141</sup> are amended as follows.

(2) In clause 41 ( trust deed: interpretation) of the part headed “The Trust Deed” of the Industry-Wide Mineworkers' Pension Scheme in the Schedule, in the definition of “Recognised Insurance Company” for “Article 4 or Article 51 of Directive [2002/83/EC](#) of the European Parliament and of the Council of 5th November 2002 concerning life assurance” substitute “ Article 14 or 162 of Directive [2009/138/EC](#) of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) ”.

**F141** [S.I. 1994/2974](#); relevant amending instruments are [S.I. 2011/1043](#) and 2004/3379.

### **Insurance Companies (Overseas Life Assurance Business) (Compliance) Regulations 1995**

**5.—**(1) The Insurance Companies (Overseas Life Assurance Business) (Compliance) Regulations 2004 <sup>F142</sup> are amended as follows.

(2) In regulation 2 (interpretation), in paragraph (1)—

- (a) omit the definition of “the Consolidated Life Assurance Directive”;
- (b) insert at the appropriate place—

““the Solvency 2 Directive” means Directive [2009/138/EC](#) of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II);”.

(3) In the following regulations for “Article 14 or 53(2) of the Consolidated Life Assurance Directive” substitute “ Article 39 or 167 of the Solvency 2 Directive ”

- (a) 5(1B)(a) (business other than reinsurance business effected by a company resident in the United Kingdom outside the United Kingdom);

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- (b) 7(1B)(a) (business other than reinsurance business effected either by a company resident in the United Kingdom otherwise than outside the United Kingdom or by an overseas life insurance company—policies or contracts made on or after 1st January 1996);
- (c) 7A(2A)(a) (business other than reinsurance business effected either by a company resident in the United Kingdom otherwise than outside the United Kingdom or by an overseas life insurance company—policy holder not within regulation 7);
- (d) 8(1B)(a) (certain business other than reinsurance business where the company comes into possession of additional information);
- (e) 13(1B)(a) (business other than reinsurance business effected by a company resident in the United Kingdom outside the United Kingdom);
- (f) 14(1B)(a) (business other than reinsurance business effected either by a company resident in the United Kingdom otherwise than outside the United Kingdom or by an overseas life insurance company);
- (g) 14A(2A)(a) (business other than reinsurance business effected either by a company resident in the United Kingdom otherwise than outside the United Kingdom or by an overseas life insurance company—policy holder not within regulation 7).

**F142** [S.I. 1995/3237](#), amended by [S.I. 2004/3273](#); there are other amending instruments but none is relevant.

### **Occupational Pension Schemes (Scheme Administration) Regulations 1996**

6.—(1) The Occupational Pension Schemes (Scheme Administration) Regulations 1996 <sup>F143</sup> are amended as follows.

- (2) In regulation 1(2) (interpretation)—
  - (a) omit the definition of “the Life Directive”;
  - (b) insert at the appropriate place—

““the Solvency 2 Directive” means Directive [2009/138/EC](#) of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II);”;
  - (c) in the definition of “insurance policy” for “Article 2 of the Life Directive, but excluding a contract of a kind referred to in Article 2(2)(c) or (d) of that Directive” substitute “ Article 2(3) of the Solvency 2 Directive, but excluding a contract of a kind referred to in Article 2(3)(b)(iii) or (iv) of that Directive ”;
  - (d) in the definition of “qualifying insurance policy” for “Annex I to the Life Directive” substitute “ Annex II of the Solvency 2 Directive ”.

**F143** [S.I. 1996/1715](#), amended by [S.I. 2006/778](#); there are other amending instruments but none is relevant.

### **Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997**

7.—(1) The Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997 <sup>F144</sup> are amended as follows.

- (2) In regulation 1 (interpretation), in paragraph (2)—
  - (a) omit the definition of “the Life Directive”;
  - (b) insert at the appropriate place—



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“the Solvency 2 Directive” means Directive [2009/138/EC](#) of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II);”;

- (c) in the definition of “insurance policy” for “Article 2 of the Life Directive, but excluding a contract of a kind referred to in Article 2(2)(c) or (d) of that Directive” substitute “ Article 2(3) of the Solvency 2 Directive, but excluding a contract of a kind referred to in Article 2(3)(b)(iii) or (iv) of that Directive ”;
- (d) in the definition of “qualifying insurance policy” for “Annex I to the Life Directive” substitute “ Annex II to the Solvency 2 Directive ”.

**F144** [S.I. 1997/94](#); relevant amending instruments are [S.I. 2005/421](#) and 2006/141.

### Individual Savings Account Regulations 1998

8.—(1) The Individual Savings Account Regulations 1998 <sup>F145</sup> are amended as follows.

(2) In paragraph (1) of regulation 2 (interpretation) in the definition of “assurance undertaking” for “an assurance undertaking within the meaning of Article 2 of the Council Directive of 5th November 2002 concerning life assurance (No 2002/83)” substitute “ a direct life insurance undertaking within the meaning of Article 2 of Directive [2009/138/EC](#) of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) ”.

**F145** [S.I. 1998/1870](#), amended by [S.I. 2004/2996](#); there are other amending instruments but none is relevant.

### Competition Act 1998 (Small Agreements and Conduct of Minor Significance) Regulations 2000

9. In paragraph 1 (interpretation) of the Schedule to the Competition Act 1998 (Small Agreements and Conduct of Minor Significance) Regulations 2000 <sup>F146</sup> in the definition of “insurance undertaking” for the words from “the Annex to Council Directive ([EEC](#)) [73/239](#)” to the end of the definition substitute “ Article 2 of or Annex 1 to, or a reinsurance undertaking carrying on the business of reinsurance under Directive [2009/138/EC](#) of the European Parliament and Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II); ”.

**F146** [S.I. 2000/262](#); relevant amending instruments are [S.I. 2004/3379](#) and 2007/3253.

### Competition Act 1998 (Determination of Turnover for Penalties) Order 2000

10. In paragraph 1 (interpretation) of Schedule 1 (applicable turnover) to the Competition Act 1998 (Determination of Turnover for Penalties) Order 2000 <sup>F147</sup> in the definition of “insurance undertaking” for the words from “the Annex to Council Directive ([EEC](#)) [73/239](#)” to the end of the definition substitute “ Article 2 of or Annex 1 to, or a reinsurance undertaking carrying on the business of reinsurance under Directive [2009/138/EC](#) of the European Parliament and Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II); ”.

**F147** [S.I. 2000/309](#); relevant amending instruments are [S.I. 2004/3379](#) and 2007/3253.

## Financial Services and Markets Act 2000 (Regulated Activities) Order 2001

**11.**—(1) The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 <sup>F148</sup> is amended as follows.

- (2) In article 3(1) (interpretation), in the definition of “contract of insurance”—
  - (a) in paragraph (e) for “article 1(2)(e) of the first life insurance directive (collective insurance etc.)” substitute “ Article 2(3)(b)(v) of the Solvency 2 Directive ”;
  - (b) in paragraph (f) for “article 1(3) of the first life insurance directive (social insurance)” substitute “ Article 2(3)(c) of the Solvency 2 Directive ”.
- (3) In article 11(2) (community co-insurers) for “the Council Directive of 30 May 1978 on the co-ordination of laws, regulations and administrative provisions relating to Community co-insurance (No [78/473/EEC](#))” substitute “ Article 190 of the Solvency 2 Directive ”.
- (4) In paragraph (2) of article 72A (information society services)—
  - (a) omit sub-paragraphs (a) and (b);
  - (b) insert at the end of paragraph (2) “ the insurance falls within the scope of the Solvency 2 Directive. ”.
- (5) In Schedule 1 (contracts of insurance)—
  - (a) in paragraph VIII (collective insurance etc) for “article 1(2)(e) of the first life insurance directive” substitute “ Article 2(3)(b)(v) of the Solvency 2 Directive ”;
  - (b) in paragraph IX (social insurance) for “article 1(3) of the first life insurance directive” substitute “ Article 2(3)(c) of the Solvency 2 Directive ”.

**F148** [S.I. 2001/544](#); relevant amending instruments are [S.I. 2002/1776](#) and [2004/3379](#)

## The Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001

**12.**—(1) The Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001 <sup>F149</sup> are amended as follows.

- (2) In regulation 2 (interpretation)—
  - (a) at the appropriate place insert—

““competent authority” includes a supervisory authority within the meaning of Article 13(10) of the Solvency 2 Directive;”;
  - (b) for sub-paragraphs (c), (d) and (e) of the definition of “single market restrictions” substitute—

“(c) articles 64, 65, 66, 67, 68, 69, and 70 of the Solvency 2 Directive;”.
- (3) In regulation 9(2) (disclosure by regulators or regulator workers to certain other persons)—
  - (a) for sub-paragraph (c) substitute—

“(c) article 66 of the Solvency 2 Directive;”;
  - (b) omit sub-paragraphs (d) and (f).

**F149** [S.I. 2001/2188](#); relevant amending instruments are [S.I. 2013/1773](#), [2013/3115](#) and [2014/3348](#).

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## **Financial Services and Markets Act 2000 (EEA Passport Rights) Regulations 2001**

**13.**—(1) The Financial Services and Markets Act 2000 (EEA Passport Rights) Regulations 2001<sup>F150</sup> are amended as follows.

(2) In regulation 1(2) (interpretation) in sub-paragraph (b) of the definition of “health insurance risks” for “the first sub-paragraph of Article 54(2) of the third non-life insurance directive” substitute “Article 206(2) of the Solvency 2 Directive”.

(3) In paragraph (e) of regulation 2(5) (establishment of a branch: contents of consent notice)—

(a) omit from “has” to the end;

(b) after “firm” insert “ covers the Solvency Capital Requirement calculated in accordance with Article 100 of the Solvency 2 Directive and the minimum capital requirement calculated in accordance with Article 129 of that directive. ”.

(4) In paragraph (3) of regulation 3 (provision of services: contents of a regulator’s notice)—

(i) in sub-paragraph (a) for “Article 6 of the first non-life insurance directive or Article 6 of the first life insurance directive” substitute “Article 14 of the Solvency 2 Directive”;

(ii) in sub-paragraph (e)—

(aa) omit from “has” to the end;

(bb) after “firm” insert “ covers the Solvency Capital Requirement calculated in accordance with Article 100 of the Solvency 2 Directive and the minimum capital requirement calculated in accordance with Article 129 of that directive. ”.

(5) In regulations 13(1), 15(1) and 16(1) for “any of the insurance directives” substitute “the Solvency 2 Directive”.

(6) In regulation 19(2)(a) for “Article 2.1a of the reinsurance directive” substitute “Article 13(7) of the Solvency 2 Directive”.

**F150** [S.I. 2001/2511](#); relevant amending instruments are [S.I. 2004/1862](#), 2007/3253 and 2013/642

## **Financial Services and Markets Act 2000 (Law Applicable to Contracts of Insurance) Regulations 2001**

**14.** In regulation 6 of the Financial Services and Markets Act 2000 (Law Applicable to Contracts of Insurance) Regulations 2001<sup>F151</sup> (choice of law) for “Council Directive [78/473/EEC](#) on the coordination of laws, regulations and administrative provisions relating to Community co-insurance” substitute “the Solvency 2 Directive”.

**F151** [S.I. 2001/2635](#), to which there are amendments not relevant to these Regulations.

## **The Financial Services and Markets Act 2000 (Control of Business Transfers) (Requirements on Applicants) Regulations 2001 (Article 39)**

**15.** In regulation 2 of the Financial Services and Markets Act 2000 (Control of Business Transfers) (Requirements on Applicants) Regulations 2001<sup>F152</sup> (meaning of the commitment) for “Article 2 of the life assurance consolidation directive” substitute “Article 2(3) of the Solvency 2 Directive”.

**F152** [S.I. 2001/3625](#), amended by [S.I. 2004/3379](#); there are other amending instruments but none is relevant.

## **Enterprise Act 2002 (Merger Fees and Determination of Turnover) Order 2003**

**16.**—(1) The Enterprise Act 2002 (Merger Fees and Determination of Turnover) Order 2003 <sup>F153</sup> is amended as follows.

(2) In paragraph 1 (interpretation) of Schedule 1 (applicable turnover) in the definition of “insurance undertaking” for the words from “the Annex to Council Directive (EEC) 73/239” to the end of the definition substitute “ Article 2(3) or Annex I of Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II); ”.

**F153** [S.I. 2003/1370](#), to which there are amendments not relevant to these Regulations.

## **Insurers (Reorganisation and Winding Up) Regulations 2004**

**17.**—(1) The Insurers (Reorganisation and Winding Up) Regulations 2004 <sup>F154</sup> are amended as follows.

(2) In regulation 2(1) (interpretation)—

(a) omit the following definitions—

- (i) “the first non-life insurance directive”;
- (ii) “life insurance directive”;
- (iii) “the reorganisation and winding-up directive”;
- (iv) “the third non-life insurance directive”;

(b) insert at the appropriate place—

““the Solvency 2 Directive” means Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II);”;

(c) in the definition of “branch” for “Article 1(b) of the life insurance directive or the third non-life insurance directive” substitute “ Article 268(1)(b) of the Solvency 2 Directive ”;

(d) in the definition of “directive reorganisation measure” for “Article 2(c) of the reorganisation and winding-up directive” substitute “ Article 268(1)(c) of the Solvency 2 Directive ”;

(e) in the definition of “directive winding up proceedings” for “Article 2(d) of the reorganisation and winding-up directive” substitute “ Article 268(1)(d) of the Solvency 2 Directive ”;

(f) for the definition of “EEA insurer” substitute—

““EEA insurer” means an insurance undertaking, other than a UK insurer, pursuing the activity of direct insurance (within the meaning of the Solvency 2 Directive) which has received authorisation under Article 14 or Article 162 of the Solvency 2 Directive from its home state regulator;”;

(g) for the definition of “EEA regulator” substitute—

““EEA regulator” means a supervisory authority (within the meaning of Article 13(10) of the Solvency 2 Directive) of an EEA State;”;

(h) for the definition of “home state regulator” substitute—

““home state regulator”, in relation to an EEA insurer, means the EEA regulator—

- (a) in the EEA State in which its head office is located; or

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- (b) if it is a branch of a third-country insurance undertaking (within the meaning of Article 13(3) of the Solvency 2 Directive), the EEA State in which the branch was granted authorisation in accordance with Articles 145 to 149 of the Solvency 2 Directive;”.
- (3) In regulation 5(6) (schemes of arrangement: EEA insurers)—
  - (a) in paragraph (a) for “Article 2(i) of the reorganisation and winding up directive” substitute “ Article 268(1)(e) of the Solvency 2 Directive ”;
  - (b) in paragraph (b) for “Article 2(j) of the reorganisation and winding up directive” substitute “ Article 268(1)(f) of the Solvency 2 Directive ”;
  - (c) in paragraph (c) for “Article 2(g) of the reorganisation and winding up directive” substitute “ Article 268(1)(a) of the Solvency 2 Directive ”.
- (4) In regulation 6(6) (reorganisation measures and winding up proceedings in respect of EEA insurers effective in the United Kingdom) in the definition of “relevant EEA State” for “Article 4 of the life insurance directive or Article 6 of the first non-life insurance directive” substitute “ Article 14 or Article 162 of the Solvency 2 Directive ”.
- (5) In regulation 17 (interpretation of Part 4)—
  - (a) in the definition of “composite insurer” for “article 18(2) of the life insurance directive” substitute “ Article 73(2) of the Solvency 2 Directive ”;
  - (b) in the definition of “general business assets” for “Article 18(3) of the life insurance directive” substitute “ Article 73(5) of the Solvency 2 Directive ”;
  - (c) in the definition of “long term business assets” for “Article 18(3) of the first life insurance directive” substitute “ Article 73(5) of the Solvency 2 Directive ”.
- (6) In regulation 50 (disclosure of confidential information: third country insurers)—
  - (a) in paragraph (2) for “Article 30 of the reorganisation and winding up directive” substitute “ Article 296 of the Solvency 2 Directive ”;
  - (b) in paragraph (7) in the definition of “EEA administrator” and “EEA liquidator” for “the reorganisation and winding up directive” substitute “ Title IV of the Solvency 2 Directive ”.

**F154** [S.I. 2004/353](#), to which there are amendments not relevant to these Regulations.

## Child Trust Funds Regulations 2004

**18.**—(1) The Child Trust Funds Regulations 2004 <sup>F155</sup> are amended as follows.

(2) In paragraph (1)(b) of regulation 2 (interpretation) in the definition of “assurance undertaking” for “has the meaning in Article 2 of the Council Directive of 5th November 2002 concerning life assurance ([2002/83/EC](#))” substitute “ means a direct life insurance undertaking within the meaning of Article 2 of Directive [2009/138/EC](#) of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) ”.

**F155** [S.I. 2004/1450](#).

## Financial Conglomerates and Other Financial Groups Regulations 2004

**19.**—(1) The Financial Conglomerates and Other Financial Groups Regulations 2004 <sup>F156</sup> are amended as follows.

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(2) In paragraph (2) of regulation 1 (interpretation) in sub-paragraph (b) of the definition of “regulated entity” for the words from “Article 4 of Directive [2002/83/EC](#)” to the end of the sub-paragraph substitute “ Article 13(1) of Directive [2009/138/EC](#) of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) or a third-country insurance undertaking (within the meaning of Article 13(3) of that Directive); ”.

(3) In paragraph (1)(c) of regulation 15 (extension of power to vary Part 4A permissions) for the words from “Article 8(2) or Annex I.1.B. of Directive [98/78/EC](#) to the end of the sub-paragraph substitute “Articles 221, 245, 246 or 258(1) of Directive [2009/138/EC](#) of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II).”.

**F156** [S.I. 2004/1862](#); relevant amending instruments are [S.I. 2006/3221](#), 2007/126, 2010/2628, 2011/1613, 2013/3115, 2013/472 and 2013/3115.

### **Pension Protection Fund (Entry Rules) Regulations (Northern Ireland) 2005**

**20.**—(1) The Pension Protection Fund (Entry Rules) Regulations (Northern Ireland) 2005 <sup>F157</sup> are amended as follows.

(2) In regulation 1(2) (interpretation)—

(a) omit the following definitions—

(i) “the first non-life insurance directive”;

(ii) “the life insurance directive”;

(iii) “the third non-life insurance directive”;

(b) insert at the appropriate place—

““the Solvency 2 Directive” means Directive [2009/138/EC](#) of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II);”;

(c) in the definition of “EEA insurer” for the words from “(within the meaning of Article 2 of the life insurance directive” to the end of the definition substitute “ (as referred to in Article 2 of the Solvency 2 Directive) which has received authorisation under Article 14 of the Solvency 2 Directive from its home state regulator; ”;

(d) in the definition of “EEA regulator” for the words from “means a competent authority” to the end of the definition substitute “ means a supervisory authority (within the meaning of Article 13(10) of the Solvency 2 directive) of an EEA State; ”.

**F157** S.R. (NI) 2005 No 126, amended by S.R. (NI) 2009 No 126; there are other amending instruments but none is relevant.

### **Occupational Pension Schemes (Investment) Regulations (Northern Ireland) 2005**

**21.**—(1) The Occupational Pension Schemes (Investment) Regulations (Northern Ireland) 2005 <sup>F158</sup> are amended as follows.

(2) In regulation 1(2) (interpretation)—

(a) omit the definition of “the Life Directive”;

(b) insert at the appropriate place—



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““the Solvency 2 Directive” means Directive [2009/138/EC](#) of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II);”;

- (c) in the definition of “insurance policy” for “Article 2 of the Life Directive, but excluding a contract of a kind referred to in Article 2(2)(c) or (d) of that Directive” substitute “ Article 2(3) of the Solvency 2 Directive, but excluding a contract of a kind referred to in Article 2(3)(b)(iii) or (iv) of that Directive ”;
- (d) in paragraph (b) of the definition of “qualifying insurance policy”—
  - (i) for “competent authorities” substitute “ supervisory authorities ”;
  - (ii) for “assurance” substitute “ life insurance ”;
  - (iii) for “Annex I to the Life Directive” substitute “ Annex II to the Solvency 2 Directive ”.

**F158** S.R. (NI) 2005 No 569, to which there are amendments not relevant to these Regulations.

### **Pension Protection Fund (Entry Rules) Regulations 2005**

**22.**—(1) The Pension Protection Fund (Entry Rules) Regulations 2005 <sup>F159</sup> are amended as follows.

- (2) In regulation 1(3) (interpretation)—
  - (a) omit the following definitions—
    - (i) “the first non-life insurance directive”;
    - (ii) “the life insurance directive”;
    - (iii) “the third non-life insurance directive”;
  - (b) insert at the appropriate place—
 

““the Solvency 2 Directive” means Directive [2009/138/EC](#) of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II);”;
  - (c) in the definition of “EEA insurer” for the words from “(within the meaning of Article 2” to the end of the definition substitute “ (within the meaning of Article 2 of the Solvency 2 Directive) which has received authorisation under Article 14 of the Solvency 2 Directive from its home state regulator; ”;
  - (d) in the definition of “EEA regulator” for the words from “means a competent authority” to the end of the definition substitute “ means a supervisory authority (within the meaning of Article 13(10) of the Solvency 2 Directive) of an EEA state ”.

**F159** [S.I. 2005/590](#) amended by [S.I. 2009/451](#); there are other amending instruments but none is relevant.

### **Insurers (Reorganisation and Winding Up) (Lloyd's) Regulations 2005**

**23.**—(1) The Insurers (Reorganisation and Winding Up) (Lloyd's) Regulations 2005 <sup>F160</sup> are amended as follows.

- (2) In regulation 2 (interpretation) in the definition of “the association of underwriters known as Lloyd's” for the words from “the First Council Directive of 24 July 1973” to the end of the definition substitute “ Directive [2009/138/EC](#) of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II); ”.



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**F160** [S.I. 2005/1998](#), to which there are amendments not relevant to these Regulations.

### Occupational Pension Schemes (Investment) Regulations 2005

**24.**—(1) The Occupational Pension Schemes (Investment) Regulations 2005 <sup>F161</sup> are amended as follows.

(2) In regulation 1(2) (interpretation)—

(a) omit the definition of the “the Life Directive”;

(b) insert at the appropriate place—

““the Solvency 2 Directive” means Directive [2009/138/EC](#) of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II);”;

(c) in the definition of “insurance policy” for “article 2 of the Life Directive, but excluding a contract of a kind referred to in article 2(2)(c) and (d) of that Directive” substitute “ Article 2(3) of the Solvency 2 Directive, but excluding a contract of a kind referred to in Article 2(3)(b)(iii) or (iv) of that Directive ”;

(d) in paragraph (b) of the definition of “qualifying insurance policy”—

(i) for “competent authorities” substitute “ supervisory authorities ”;

(ii) for “assurance” substitute “ life insurance ”;

(iii) for “Annex I to the Life Directive” substitute “ Annex II to the Solvency 2 Directive ”.

**F161** [S.I. 2005/3378](#); relevant amending instruments are [S.I. 2006/778](#) and 2013/472.

### Money Laundering Regulations 2007

**25.**—(1) The Money Laundering Regulations 2007 <sup>F162</sup> are amended as follows.

(2) In regulation 2 (interpretation)—

(a) omit the definition of “the life assurance consolidation directive”;

(b) insert at the appropriate place—

““the Solvency 2 Directive” means Directive [2009/138/EC](#) of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II);”;

(c) in regulation 3(3)(b) (application of the Regulations)—

(i) for “the life assurance consolidation directive” substitute “ the Solvency 2 Directive ”.

(ii) for “activities covered by that directive” insert “ any activities or operations referred to in Article 2(3) of that Directive ”.

**F162** [S.I. 2007/2157](#), to which there are amendments not relevant to these Regulations.

### Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008

**26.**—(1) The Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008 <sup>F163</sup> are amended as follows.

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(2) In paragraph 52(3) (long term provision) of Schedule 3 (insurance companies: companies act individual accounts) for “Directive [2002/83/EC](#) of the European Parliament and of the Council of 5th November 2002 concerning life assurance” substitute “ Directive [2009/138/EC](#) of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) ”.

**F163** [S.I. 2008/410](#), to which there are amendments not relevant to these Regulations.

### **Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008**

**27.**—(1) The Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008 <sup>F164</sup> are amended as follows.

(2) In regulation 2(4) (interpretation)—

- (a) in paragraph (a) for “Council Directive [73/239/EEC](#) by Article 3 of that Directive” substitute “ Directive [2009/138/EC](#) of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) by Article 7, 9(1), 9(2) or 10(1) of that Directive, or ”;
- (b) omit paragraph (b).

**F164** [S.I. 2008/565](#), to which there are amendments not relevant to these Regulations.

### **Payment Services Regulations 2009**

**28.**—(1) The Payment Services Regulations 2009 <sup>F165</sup> are amended as follows.

(2) In regulation 19(15) (safeguarding requirements) in the definition of “authorised insurer” for “Article 6 of the First Council Directive [73/239/EEC](#) of 24th July 1973 on the business of direct insurance other than life insurance” substitute “ Article 14 of Directive [2009/138/EC](#) of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) to carry out non-life insurance activities as referred to in Article 2(2) of that Directive ”.

**F165** [S.I. 2009/209](#), to which there are amendments not relevant to these Regulations.

### **Mutual Societies (Transfers) Order 2009**

**29.**—(1) The Mutual Societies (Transfers) Order 2009 <sup>F166</sup> is amended as follows.

(2) In article 19 (EEA mutual society)—

(a) in paragraph (3)—

(i) for sub-paragraph (a) substitute—

“(a) a direct life or non-life undertaking as referred to in Article 2 of Directive [2009/138/EC](#) of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) which is authorised under Article 14 of that Directive; or”;

(ii) in sub-paragraph (b)(ii) for “under either of the directives mentioned in sub-paragraph (a)” substitute “ under the Directive mentioned in sub-paragraph (a) as a direct life or non-life undertaking within the meaning of Article 2 of that Directive ”;

- (b) omit paragraph (4).

**F166** [S.I. 2009/509](#), to which there are amendments not relevant to these Regulations.

### **Financial Services and Markets Act 2000 (Controllers) (Exemption) Order 2009**

**30.** In article 2 of the Financial Services and Markets Act 2000 (Controllers) (Exemption) Order 2009 (interpretation) <sup>F167</sup>—

- (a) for sub-paragraphs (d) and (e) of the definition of “relevant UK authorised person” substitute—

“(d) an insurance undertaking which includes for the purposes of this Order a managing agent; or

(e) a reinsurance undertaking.”;

- (b) at the appropriate place insert—

““managing agent” has the meaning given in article 3 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;”.

**F167** [S.I. 2009/774](#), to which there are amendments not relevant to these Regulations.

### **Financial Services and Markets Act 2000 (Law Applicable to Contracts of Insurance) Regulations 2009**

**31.—**(1) The Financial Services and Markets Act 2000 (Law Applicable to Contracts of Insurance) Regulations 2009 <sup>F168</sup> are amended as follows.

- (2) In regulation 5 (community co-insurers)—

- (a) for “Council Directive [78/473/EEC](#) on the coordination of laws, regulations and administrative provisions relating to Community insurance” substitute “Article 190 of the Solvency 2 Directive”;

- (b) for “that Directive” substitute “that Article”.

**F168** [S.I. 2009/3075](#).

### **Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations (Northern Ireland) 2010**

**32.—**(1) The Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations (Northern Ireland) 2010 <sup>F169</sup> are amended as follows.

- (2) For regulation 35(2)(d) (further conditions applicable to automatic enrolment schemes) substitute—

“(d) Article 13(10) of Directive [2009/138/EC](#) of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II);”.

**F169** S.R. (NI) 2010 No 122, to which there are amendments not relevant to these Regulations.

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## Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010

**33.**—(1) The Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010 <sup>F170</sup> are amended as follows.

(2) For regulation 35(2)(d) (further conditions applicable to automatic enrolment schemes) substitute—

“(d) Article 13(10) of Directive [2009/138/EC](#) of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II);”.

**F170** [S.I. 2010/772](#), to which there are amendments not relevant to these Regulations.

## Electronic Money Regulations 2011

**34.**—(1) The Electronic Money Regulations 2011 <sup>F171</sup> are amended as follows.

(2) In regulation 22(3) (safeguarding option 2) in the definition of “authorised insurer” for “Article 6 of the First Council Directive [73/239/EEC](#) of 24th July 1973 on the business of direct insurance other than life insurance” substitute “Article 14 of Directive [2009/138/EC](#) of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) to carry out non-life insurance activities within the meaning of Article 2(2) of that Directive”.

**F171** [S.I. 2011/99](#), to which there are amendments not relevant to these Regulations.

## Bank of England Act 1998 (Macro-prudential Measures) Order 2013

**35.**—(1) The Bank of England Act 1998 (Macro-prudential Measures) Order 2013 <sup>F172</sup> is amended as follows.

(2) In article 1(2) (interpretation)—

(a) omit the following definitions—

- (i) “first non-life directive”;
- (ii) “life assurance consolidation directive”;
- (iii) “reinsurance directive”;

(b) insert at the appropriate place—

““solvency 2 directive” means Directive [2009/138/EC](#) of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II);”;

(c) in the definition of “insurance undertaking” for “the first non-life directive or the life assurance consolidation directive” substitute “the solvency 2 directive”;

(d) in the definition of “reinsurance undertaking” for “Article 3 of the reinsurance directive” substitute “Article 14 of the solvency 2 directive to pursue reinsurance activities within the meaning of Article 13(7) of that directive”;

(e) in the definition of “third country insurance undertaking” for “in accordance with the first non-life directive or the life assurance consolidation directive” substitute “as an insurance undertaking in accordance with Article 14 of the solvency 2 directive”;

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- (f) in the definition of “third country reinsurance undertaking” for “in accordance with the reinsurance directive” substitute “as a reinsurance undertaking in accordance with Article 14 of the solvency 2 directive”.

**F172** [S.I. 2013/644](#), to which there are amendments not relevant to these Regulations.

#### **Enterprise Act 2002 (Mergers) (Interim Measures: Financial Penalties) (Determination of Control and Turnover) Order 2014**

**36.**—(1) The Enterprise Act 2002 (Mergers) (Interim Measures: Financial Penalties) (Determination of Control and Turnover) Order 2014 <sup>F173</sup> is amended as follows.

(2) In paragraph 1 of the Schedule (turnover of an enterprise: interpretation) in the definition of “insurance undertaking”—

- (a) in paragraph (a) for “the Annex to Council Directive ([EEC](#)) [73/239](#) of 24th July 1973 on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance” substitute “Annex I to Directive [2009/138/EC](#) of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) ”;
- (b) in paragraph (b)—
- (i) omit “direct”;
- (ii) for “Article 2 of Directive [2002/83/EC](#) of the European Parliament and of the Council of 5th November 2002 concerning life assurance” substitute “Article 2(3) of Directive [2009/138/EC](#) of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) ”;
- (c) in paragraph (c) for “Directive [2005/68/EC](#) of the European Parliament and of the Council of 16th November 2005 on reinsurance” substitute “Directive [2009/138/EC](#) of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) ”.

**F173** [S.I. 2014/533](#).

#### <sup>F174</sup>SCHEDULE 3

Regulation 35

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**F174** [Sch. 3](#) omitted (31.12.2020) by virtue of [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), [regs. 1\(2\), 9\(20\)](#) (as amended by [S.I. 2020/1385](#), [regs. 1\(2\), 54\(2\)](#))

#### <sup>F175</sup>SCHEDULE 4

Regulation 40

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**F175** Sch. 4 omitted (31.12.2020) by virtue of [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **10(10)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2))

## **F176** SCHEDULE 5

Regulation 40

**F176** Sch. 5 omitted (31.12.2020) by virtue of [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **10(10)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2))

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

The Regulations implement in part Directive [2009/138/EC](#) of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of insurance and reinsurance (Solvency II) (OJ L335, 17.12.2009, p.1) (the “Solvency 2 Directive”). The remainder of the Solvency 2 Directive is implemented by the Financial Services and Markets Act 2000 (c. 8) (“FSMA”), rules and individually binding requirement imposed by the Prudential Regulation Authority (“PRA”) and the Financial Conduct Authority (“FCA”) under FSMA and a directly applicable regulation made by the European Commission.

The Solvency 2 Directive establishes the prudential regime for insurers and reinsurers operating in the European Union. These Regulations and FSMA establish the regulatory system and the rules and binding requirements imposed by the PRA and FCA directly regulate insurers and reinsurers. As a result, these Regulations are intended to be read with FSMA, the rules and individual requirements imposed by the PRA and FCA and the directly applicable regulation made by the European Commission. A detailed breakdown of how each provision of the Solvency 2 Directive is transposed into UK law is set out in the transposition note referred to below.

Part 1 makes provision for citation, commencement and interpretation. The definitions set out in sections 417 (definitions) and 424 (insurance) of, and Part 1 of Schedule 3 to, FSMA apply for the purposes of these Regulations. Subject to that, expressions used in these Regulations bear the same meaning as they do in the Solvency 2 Directive.

Part 2 makes provision for the manner in which the PRA must carry out supervision of insurance undertakings and reinsurance undertakings.

Part 3 and Schedule 3 make provision for the regulation of groups of insurance undertakings or reinsurance undertakings, which frequently involves cooperation and coordination with regulators outside the United Kingdom. The provisions are arranged in the same order as the provisions they implement in Title 3 of the Solvency 2 Directive (supervision of insurance and reinsurance undertakings in a group) and the headings of the chapters are the same as the corresponding sections and chapters in Title 3. However, introductory provision about group supervision can be found in chapter 6 (measures to facilitate group supervision), in particular at regulations 26 to 28. Part 4 and Schedules 4 and 5 confer powers on the PRA to grant insurers and reinsurers approval for particular matters, such as the application of a matching adjustment or a volatility adjustment to a risk-free interest rate term structure. Chapter 1 makes provision for the application procedure,

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Chapter 2 sets out all the specific approvals, Chapter 3 makes provision for decision making and appeals and Chapter 4 imposes a duty on the PRA to modify its rules on the grant of certain approvals.

Part 5 and Schedules 1 and 2 contain amendments to primary and secondary legislation (including FSMA).

A transposition note setting out how the Solvency 2 Directive is transposed into UK law is available from <http://www.legislation.gov.uk> and from Her Majesty's Treasury, 1 Horse Guards Road, London SW1A 2HQ.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from Her Majesty's Treasury, 1 Horse Guards Road, London SW1A 2HQ and is annexed to the Explanatory Memorandum which is available alongside the instrument at <http://www.legislation.gov.uk>.



### Changes to legislation:

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### Changes and effects yet to be applied to :

- Regulations revoked by [2023 c. 29 Sch. 1 Pt. 2](#)
- reg. 10 words omitted by [S.I. 2019/407 reg. 9\(3\)\(c\)](#) (This amendment not applied to legislation.gov.uk. Reg. 9(3)(c) substituted immediately before IP completion day by S.I. 2019/680, reg. 10(4)(c)(ii))
- reg. 10 words substituted by [S.I. 2019/407 reg. 9\(3\)\(b\)\(i\)](#) (This amendment not applied to legislation.gov.uk. Reg. 9(3)(b)(i) substituted immediately before IP completion day by S.I. 2019/680, reg. 10(4)(c)(i))
- reg. 12 omitted by [S.I. 2019/407 reg. 9\(5\)](#) (This amendment not applied to legislation.gov.uk. Reg. 9(5) substituted immediately before IP completion day by S.I. 2019/680, reg. 10(4)(d))
- reg. 13 omitted by [S.I. 2019/407 reg. 9\(5\)](#) (This amendment not applied to legislation.gov.uk. Reg. 9(5) substituted immediately before IP completion day by S.I. 2019/680, reg. 10(4)(d))
- reg. 14 omitted by [S.I. 2019/407 reg. 9\(5\)](#) (This amendment not applied to legislation.gov.uk. Reg. 9(5) substituted immediately before IP completion day by S.I. 2019/680, reg. 10(4)(d))
- reg. 15(1) excluded (temp.) by S.I. 2019/407, reg. 13 (as inserted) by [S.I. 2019/710 reg. 41](#) (This amendment not applied to legislation.gov.uk. Reg. 41 omitted immediately before IP completion day by virtue of S.I. 2020/1385, regs. 1(4), 64(5))
- reg. 16(1) words omitted by [S.I. 2019/407 reg. 9\(7\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Reg. 9(7) substituted immediately before IP completion day by S.I. 2019/680, reg. 10(4)(g))
- reg. 16(2) omitted by [S.I. 2019/407 reg. 9\(7\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Reg. 9(7) substituted immediately before IP completion day by S.I. 2019/680, reg. 10(4)(g))
- reg. 18 omitted by [S.I. 2019/407 reg. 9\(9\)](#) (This amendment not applied to legislation.gov.uk. Reg. 9(9) substituted immediately before IP completion day by S.I. 2019/680, reg. 10(4)(i))
- reg. 19(1)(b) words substituted by [S.I. 2019/407 reg. 9\(10\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Reg. 9(10)(a) substituted immediately before IP completion day by S.I. 2019/680, reg. 10(4)(j)(i))
- reg. 20(1)(b) word substituted by [S.I. 2019/407 reg. 9\(11\)\(a\)\(ii\)\(aa\)](#) (This amendment not applied to legislation.gov.uk. Reg. 9(11)(a)(ii)(aa) substituted immediately before IP completion day by S.I. 2019/680, reg. 10(4)(l)(i))
- reg. 20(5) omitted by [S.I. 2019/407 reg. 9\(11\)\(d\)](#) (This amendment not applied to legislation.gov.uk. Reg. 9(11)(d) substituted immediately before IP completion day by S.I. 2019/680, reg. 10(4)(l)(ii))
- reg. 24(1)(2) excluded (temp.) by S.I. 2019/407, reg. 13 (as inserted) by [S.I. 2019/710 reg. 41](#) (This amendment not applied to legislation.gov.uk. Reg. 41 omitted immediately before IP completion day by virtue of S.I. 2020/1385, regs. 1(4), 64(5))
- reg. 24(2) words omitted by [S.I. 2019/407 reg. 9\(13\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Reg. 9(13)(b) substituted immediately before IP completion day by S.I. 2019/680, reg. 10(4)(m)(ii))
- reg. 24(3) omitted by [S.I. 2019/407 reg. 9\(13\)\(c\)](#) (This amendment not applied to legislation.gov.uk. Reg. 9(13)(c) substituted immediately before IP completion day by S.I. 2019/680, reg. 10(4)(m)(iii))
- reg. 25 excluded (temp.) by S.I. 2019/407, reg. 13 (as inserted) by [S.I. 2019/710 reg. 41](#) (This amendment not applied to legislation.gov.uk. Reg. 41 omitted immediately before IP completion day by virtue of S.I. 2020/1385, regs. 1(4), 64(5))

- reg. 28(2) excluded (temp.) by S.I. 2019/407, reg. 13 (as inserted) by [S.I. 2019/710 reg. 41](#) (This amendment not applied to legislation.gov.uk. Reg. 41 omitted immediately before IP completion day by virtue of S.I. 2020/1385, regs. 1(4), 64(5))
- reg. 36(4) excluded (temp.) by S.I. 2019/407, reg. 13 (as inserted) by [S.I. 2019/710 reg. 41](#) (This amendment not applied to legislation.gov.uk. Reg. 41 omitted immediately before IP completion day by virtue of S.I. 2020/1385, regs. 1(4), 64(5))
- reg. 38(1) words omitted by [S.I. 2019/407 reg. 10\(2\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Reg. 10(2)(b) substituted immediately before IP completion day by S.I. 2019/680, reg. 10(5))