

Commission Delegated Regulation (EU) 2015/35 of 10 October 2014  
supplementing Directive 2009/138/EC of the European Parliament  
and of the Council on the taking-up and pursuit of the business of  
Insurance and Reinsurance (Solvency II) (Text with EEA relevance)

TITLE I

[<sup>X1</sup>VALUATION AND RISK-BASED CAPITAL REQUIREMENTS  
(PILLAR I), ENHANCED GOVERNANCE (PILLAR II)  
AND INCREASED TRANSPARENCY (PILLAR III)]

CHAPTER V

SOLVENCY CAPITAL REQUIREMENT STANDARD FORMULA

SECTION 4

*Health underwriting risk module*

*Article 149*

**Health risk equalisation systems**

1 For the purposes of [<sup>F1</sup>Article 3(5) of this Regulation], health insurance obligations subject to the health risk equalisation systems ('HRES') shall be identified, managed and organised separately from the other activities of the insurance undertakings, without any possibility of transfer to health insurance obligations that are not subject to HRES.

2 The standard deviations for NSLT health premium and reserve risk of segments 1, 2 and 3 in Annex XIV for business that is subject to a HRES shall meet all of the following requirements:

- a the standard deviations are determined separately for each of the segments 1, 2 and 3, as set out in Annex XIV, and separately for premium and reserve risk;
- b for each of the segments set out in Annex XIV, the standard deviation for premium risk is the lower of the following amounts:
  - (i) the standard deviation for NSLT health premium risk of that segment set out in Annex XIV;
  - (ii) the higher of the following amounts:
    - A. a third of the standard deviation for NSLT health premium risk of that segment set out in Annex XIV;
    - B. an estimate of the representative standard deviation of an insurance undertaking's combined ratio, being the ratio of the following annual amounts:

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**Changes to legislation:** Commission Delegated Regulation (EU) 2015/35, Article 149 is up to date with all changes known to be in force on or before 11 October 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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- the sum of the payments, including the relating expenses, and technical provisions set up for claims incurred during the year for the business subject to the HRES, including any changes due to the HRES;
- the earned premium of the year for the business subject to the HRES;
- c for each of the segments set out in Annex XIV, the standard deviation for reserve risk is the lower of the following amounts:
  - (i) the standard deviation for NSLT health reserve risk of that segment set out in Annex XIV;
  - (ii) the higher of the following amounts:
    - A. a third of the standard deviation for NSLT health reserve risk of that segment set out in Annex XIV;
    - B. an estimate of the representative standard deviation of an insurance undertaking's run-off ratio, being the ratio of the following annual amounts:
      - the sum of the best estimate provision at the end of the year for claims that were outstanding at the beginning of the year and any claims and expense payments made during the year for claims that were outstanding at the beginning of the year: both amounts include any amendments due to the HRES;
      - the best estimate provision at the beginning of the year for claims outstanding of the business subject to the HRES, including any amendments due to the HRES;
- d the determination of the standard deviation is based on adequate, applicable and relevant actuarial and statistical techniques;
- e the determination of the standard deviation is based on complete, accurate and appropriate data that is directly relevant for the business subject to the HRES and reflects the average degree of diversification at the level of insurance undertakings;
- f the determination of the standard deviation is based on current and credible information and realistic assumptions;
- g the determination of the standard deviation also takes into account any risks which are not mitigated by the HRES, in particular the risk referred to in Article 105(4)(a) of Directive 2009/138/EC and risks which are not reflected in the health catastrophe risk sub-module and that could affect a larger number of insurance undertakings subject to the HRES at the same time;
- h the methodology for the calculation of the standard deviation and the calculation of the standard deviation is publicly available.

3 Where [F<sup>2</sup>technical standards adopted pursuant to Article 3(5) of this Regulation] determine a standard deviation for NSLT health insurance premium risk for business subject to a HRES that meet the requirements set out in paragraph 2 of this Article, insurance undertakings shall use this standard deviation instead of the standard deviation for NSLT health premium risk of the segment set out in Annex XIV of this Regulation for the calculation of the standard deviation for NSLT health premium and reserve risk referred to in Article 148(1) of this Regulation.

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Where only a part of an insurance undertaking's business in a segment  $s$  is subject to the HRES, the undertaking shall use a standard deviation for NSLT health premium risk of the segment in the calculation of the standard deviation for NSLT health premium and reserve risk referred to in Article 148(1) that is equal to the following:

$$\sigma_{(prem,s)} = \frac{\sigma_{(prem,s)} \times V_{(prem,s,nHRES)} + \sigma_{(prem,s,HRES)} \times V_{(prem,s,HRES)}}{V_{(prem,s,nHRES)} + V_{(prem,s,HRES)}}$$

where:

- (a)  $\sigma_{(prem,s)}$  denotes the standard deviation for NSLT health premium risk segment  $s$  set out in Annex XIV;
- (b)  $V_{(prem,s,nHRES)}$  denotes the volume measure for NSLT health premium risk of the business in segment  $s$  that is not subject to the HRES;
- (c)  $\sigma_{(prem,s,HRES)}$  denotes the standard deviation for NSLT health premium risk of segment  $s$  for business subject to the HRES calculated in accordance with paragraph 2;
- (d)  $V_{(prem,s,HRES)}$  denotes the volume measure for NSLT health premium risk of business in segment  $s$  that is subject to the HRES.

$V_{(prem,s,HRES)}$  and  $V_{(prem,s,nHRES)}$  shall be calculated in the same way as the volume measure for NSLT health premium risk of segment  $s$  referred to in Article 147, but  $V_{(prem,s,HRES)}$  shall only take into account the insurance and reinsurance obligations subject to HRES and  $V_{(prem,s,nHRES)}$  shall only take into account the insurance and reinsurance obligations not subject to the HRES.

4 Where [F<sup>3</sup>technical standards adopted pursuant to Article 3(5) of this Regulation] determine a standard deviation for NSLT health insurance reserve risk for business subject to a HRES that fulfill the requirements set out in paragraph 2 of this Article, insurance undertakings shall use this standard deviation instead of the standard deviation for NSLT health reserve risk of the segment set out in Annex XIV of this Regulation for the calculation of the standard deviation for NSLT health premium and reserve risk referred to in Article 148(1) of this Regulation.

Where only a part of an insurance undertaking's business in a segment  $s$  is subject to the HRES, the undertaking shall use a standard deviation for NSLT health premium risk of the segment in the calculation of the standard deviation for NSLT health premium and reserve risk referred to in Article 148(1) that is equal to the following:

$$\sigma_{(res,s)} = \frac{\sigma_{(res,s)} \times V_{(res,s,nHRES)} + \sigma_{(res,s,HRES)} \times V_{(res,s,HRES)}}{V_{(res,s,nHRES)} + V_{(res,s,HRES)}}$$

where:

- (a)  $\sigma_{(res,s)}$  denotes the standard deviation for NSLT health reserve risk segment  $s$  as set out in Annex XIV;
- (b)  $V_{(res,s,nHRES)}$  denotes the volume measure for NSLT health reserve risk of the business in segment  $s$  that is not subject to the HRES;
- (c)  $\sigma_{(res,s,HRES)}$  denotes the standard deviation for NSLT health reserve risk of segment  $s$  for business subject to the HRES calculated in accordance with paragraph 2;
- (d)  $V_{(res,s,HRES)}$  denotes the volume measure for NSLT health reserve risk of business in segment  $s$  that is subject to the HRES.

$V_{(res,s,nHRES)}$  and  $V_{(res,s,HRES)}$  shall be calculated in the same way as the volume measure for NSLT health reserve risk of segment  $s$  referred to in Article 147, but  $V_{(res,s,HRES)}$  shall only take into account the insurance and reinsurance obligations subject to the HRES

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and  $V_{(res,s,nHRES)}$  shall only take into account the insurance and reinsurance obligations not subject to the HRES.

5 Insurance and reinsurance undertakings may replace the standard deviations for NSLT health premium and reserve risk for business subject to a HRES with parameters specific to the insurance and reinsurance undertaking in accordance with Article 104(7) of Directive 2009/138/EC. Supervisory authorities may require insurance and reinsurance undertakings to replace those standard deviations with parameters specific to the undertaking <sup>F4</sup>....

#### Textual Amendments

- F1** Words in Art. 149(1) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(15)(a)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)
- F2** Words in Art. 149(3) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(15)(b)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)
- F3** Words in Art. 149(4) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(15)(b)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)
- F4** Words in Art. 149(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), **11(15)(c)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)

### Changes to legislation:

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

- Regulation revoked by [2023 c. 29 Sch. 1 Pt. 3](#)
- Recital 53 Sentence 1 replacement by [EUR 2016/2283](#) Regulation

### Changes and effects yet to be applied to the whole legislation item and associated provisions

- Art. 177(2)(b) words omitted by [S.I. 2019/407 reg. 11\(25\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Reg. 11(25)(39) omitted immediately before IP completion day by virtue of S.I. 2019/710, regs. 1(2), 22)
- Art. 177(2)(h)(i) words omitted by [S.I. 2019/407 reg. 11\(25\)\(b\)\(ii\)](#) (This amendment not applied to legislation.gov.uk. Reg. 11(25)(39) omitted immediately before IP completion day by virtue of S.I. 2019/710, regs. 1(2), 22)
- Art. 177(2)(h)(i) words substituted by [S.I. 2019/407 reg. 11\(25\)\(b\)\(i\)](#) (This amendment not applied to legislation.gov.uk. Reg. 11(25)(39) omitted immediately before IP completion day by virtue of S.I. 2019/710, regs. 1(2), 22)
- Art. 177(2)(r) words substituted by [S.I. 2019/407 reg. 11\(25\)\(c\)](#) (This amendment not applied to legislation.gov.uk. Reg. 11(25)(39) omitted immediately before IP completion day by virtue of S.I. 2019/710, regs. 1(2), 22)
- Art. 177(2)(s) words substituted by [S.I. 2019/407 reg. 11\(25\)\(c\)](#) (This amendment not applied to legislation.gov.uk. Reg. 11(25)(39) omitted immediately before IP completion day by virtue of S.I. 2019/710, regs. 1(2), 22)
- Art. 177(2)(t) words substituted by [S.I. 2019/407 reg. 11\(25\)\(d\)](#) (This amendment not applied to legislation.gov.uk. Reg. 11(25)(39) omitted immediately before IP completion day by virtue of S.I. 2019/710, regs. 1(2), 22)
- Art. 177(5)(a) words substituted by [S.I. 2019/407 reg. 11\(25\)\(f\)](#) (This amendment not applied to legislation.gov.uk. Reg. 11(25)(39) omitted immediately before IP completion day by virtue of S.I. 2019/710, regs. 1(2), 22)
- Art. 177(5)(c) words substituted by [S.I. 2019/407 reg. 11\(25\)\(f\)](#) (This amendment not applied to legislation.gov.uk. Reg. 11(25)(39) omitted immediately before IP completion day by virtue of S.I. 2019/710, regs. 1(2), 22)