

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 6

*Counterparty default risk module*

*Subsection 1*

*General provisions*

*Article 189*

**Scope**

- 1 The capital requirement for counterparty default risk shall be equal to the following:

$$SCR_{def} = \sqrt{SCR_2^{(def,1)} + 1,5 \times SCR_{(def,1)} \times SCR_{(def,2)} + SCR_2^{(def,2)}}$$

where:

- (a)  $SCR_{def,1}$  denotes the capital requirement for counterparty default risk on type 1 exposures as set out in paragraph 2;
- (b)  $SCR_{def,2}$  denotes the capital requirement for counterparty default risk on type 2 exposures as set out in paragraph 3.

- 2 Type 1 exposures shall consist of exposures in relation to the following:

- [<sup>F1</sup>a Risk-mitigation contracts including reinsurance arrangements, special purpose vehicles and insurance securitisations;]
- b Cash at bank as defined in Article 6 item F of Council Directive 91/674/EEC<sup>(1)</sup>;
- c Deposits with ceding undertakings, where the number of single name exposures does not exceed 15;
- d Commitments received by an insurance or reinsurance undertaking which have been called up but are unpaid, where the number of single name exposures does not exceed

**Changes to legislation:** Commission Delegated Regulation (EU) 2015/35, Article 189 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

- 15, including called up but unpaid ordinary share capital and preference shares, called up but unpaid legally binding commitments to subscribe and pay for subordinated liabilities, called up but unpaid initial funds, members' contributions or the equivalent basic own-fund item for mutual and mutual-type undertakings, called up but unpaid guarantees, called up but unpaid letters of credit, called up but unpaid claims which mutual or mutual-type associations may have against their members by way of a call for supplementary contributions;
- e Legally binding commitments which the undertaking has provided or arranged and which may create payment obligations depending on the credit standing or default on a counterparty including guarantees, letters of credit, letters of comfort which the undertaking has provided <sup>[F1]</sup>;
- <sup>[F2]</sup>f derivatives other than credit derivatives covered in the spread risk sub-module.]
- 3 Type 2 exposures shall consist of all credit exposures which are not covered in the spread risk sub-module and which are not type 1 exposures, including the following:
- Receivables from intermediaries;
  - Policyholder debtors;
  - mortgage loans which meet the requirements in Article 191(2) to (13);
  - Deposits with ceding undertakings, where the number of single name exposures exceeds 15;
  - Commitments received by an insurance or reinsurance undertaking which have been called up but are unpaid as referred to in paragraph 2(d), where the number of single name exposures exceeds 15.
- 4 Insurance and reinsurance undertakings may, at their discretion, consider all exposures referred to in points (d) and (e) of paragraph 3 as type 1 exposures, regardless of the number of single name exposures.
- 5 Where a letter of credit, a guarantee or an equivalent risk mitigation technique has been provided to fully secure an exposure and this risk mitigation technique complies with the requirements of Articles 209 to 215, then the provider of that letter of credit, guarantee or equivalent risk mitigation technique may be considered as the counterparty on the secured exposure for the purposes of assessing the number of single name exposures.
- 6 The following credit risks shall not be covered in the counterparty default risk module:
- the credit risk transferred by a credit derivative;
  - the credit risk on debt issuance by special purpose vehicles, <sup>F3</sup>...;
  - the underwriting risk of credit and suretyship insurance or reinsurance as referred to in lines of business 9, 21 and 28 of Annex I of this Regulation;
  - the credit risk on mortgage loans which do not meet the requirements in Article 191(2) to (9) <sup>[F1]</sup>;
- <sup>[F2]</sup>e the credit risk on assets posted as collateral to a CCP or a clearing member that are bankruptcy remote.]
- 7 Investment guarantees on insurance contracts provided to policy holders by a third party and for which the insurance or reinsurance undertaking would be liable should the third party default shall be treated as derivatives in the counterparty default risk module.

#### Textual Amendments

- F1** Substituted by [Commission Delegated Regulation \(EU\) 2019/981 of 8 March 2019 amending Delegated Regulation \(EU\) 2015/35 supplementing Directive 2009/138/EC of the European](#)

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Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (Text with EEA relevance).

**F2** Inserted by Commission Delegated Regulation (EU) 2019/981 of 8 March 2019 amending Delegated Regulation (EU) 2015/35 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).

**F3** Words in Art. 189(6)(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), **11(30A)** (as amended by S.I. 2019/1390, regs. 1(4), 11(3)(h); S.I. 2020/1385, regs. 1(2), 54(2); and with savings in S.I. 2019/680, reg. 11)

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- (1) Council Directive 91/674/EEC of 19 December 1991 on the annual accounts and consolidated accounts of insurance undertakings, [OJ L 374, 31.12.1991, p. 7](#).

### Changes to legislation:

Commission Delegated Regulation (EU) 2015/35, Article 189 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.

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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)