

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

[^{X1}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 10

Risk mitigation techniques

Article 211

Risk-Mitigation techniques using reinsurance contracts or special purpose vehicles

1 Where insurance or reinsurance undertakings transfer underwriting risks using reinsurance contracts or special purpose vehicles, in order for them to take into account the risk-mitigation technique in the Basic Solvency Capital Requirement, the qualitative criteria set out in Articles 209 and 210 and those set out in paragraphs 2 to 6 shall be met.

- 2 In the case of reinsurance contracts the counterparty shall be any of the following:
- a an insurance or reinsurance undertaking which complies with the Solvency Capital Requirement;
 - b a third-country insurance or reinsurance undertaking, situated in a country whose solvency regime is deemed equivalent or temporarily equivalent ^{F1}... in accordance with [^{F2}Article 378A of this Regulation] and which complies with the solvency requirements of that third-country;
 - ^{F3}[^{F4}c a third country insurance or reinsurance undertaking that is not situated in a country whose solvency regime is deemed equivalent or temporarily equivalent in accordance with [^{F5}Article 378A of this Regulation] that has been assigned to credit quality step 3 or better in accordance with Section 2 of Chapter I of this Title.]

[^{F4}3 Where a counterparty to a reinsurance contract is an insurance or reinsurance undertaking which ceases to comply with the Solvency Capital Requirement after the reinsurance contract has been entered into, the protection offered by the insurance risk-mitigation technique may be partially recognised for a period of no longer than six months after the counterparty ceases to comply with the Solvency Capital Requirement. In that case, the effect of the risk-mitigation technique shall be reduced by the percentage by which the Solvency Capital Requirement is breached. As soon as the counterparty has restored compliance

Changes to legislation: Commission Delegated Regulation (EU) 2015/35, Article 211 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

with the Solvency Capital Requirement, the effect of the risk-mitigation technique shall no longer be reduced. Where the counterparty fails to restore compliance with the Solvency Capital Requirement within that period of six months, the effect of the risk-mitigation technique shall no longer be recognised. Where, before the end of the period of six months, the insurance or reinsurance undertaking becomes aware that it is unlikely that the counterparty will be able to restore compliance with the Solvency Capital Requirement within that period, the insurance or reinsurance undertaking shall no longer recognise the effect of the risk-mitigation technique in the Basic Solvency Capital Requirement.]

[^{F6}3a Notwithstanding paragraph 3, where a counterparty to a reinsurance contract is an insurance or reinsurance undertaking which ceases to comply with the Minimum Capital Requirement after the reinsurance contract has been entered into, the effect of the risk-mitigation technique shall no longer be recognised in the Basic Solvency Capital Requirement.]

4 Where risk is transferred to a special purpose vehicle the requirements referred to in [^{F7}Articles 318 to 327 of this Regulation] shall be met for the risk-mitigation technique to be taken into account in the Basic Solvency Capital Requirement; where the requirements for a special purpose vehicle to be fully-funded cease to be fully met after the arrangement has been entered into, the protection offered by the insurance risk-mitigation technique may be partially recognised, provided that the insurance or reinsurance undertaking can demonstrate that compliance with the fully-funded requirement will be restored within three months; for this purpose, the effect of the risk-mitigation technique shall be reduced by the percentage of the aggregated maximum risk exposure of the special purpose vehicle, referred to in Article 326 of this Regulation not covered by the assets of the special purpose vehicle ^{F8}....

^{F9}5

6 Where risk is transferred to a special purpose vehicle that is regulated by a third country supervisory authority, the risk-mitigation technique shall only be taken into account in the Basic Solvency Capital Requirement where requirements equivalent to those set out in [^{F10}Articles 318 to 327 of this Regulation] are met by the special purpose vehicle.

Textual Amendments

- F1** Words in Art. 211(2)(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(34)(a)(i)** (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. 211(2)(b) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(34)(a)(ii)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F3** By [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(34)(a)(i)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11), it is provided that (31.12.2020) the words “to that laid down in Directive 2009/138/EC” are omitted
- F4** 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 Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance \(Solvency II\) \(Text with EEA relevance\)](#).
- F5** Words in Art. 211(2)(c) substituted (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(34)(a)(ii)** (as amended by S.I. 2020/1385, regs. 1(2), **54(2)** and with savings in S.I. 2019/680, **reg. 11**)
- F6** 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](#)

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

- F7** Words in Art. 211(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(34)(c)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)
- F8** Words in Art. 211(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), **11(34)(d)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)
- F9** Art. 211(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(34)(e)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)
- F10** Words in Art. 211(6) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(34)(c)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)

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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](#)
- Art. 211(3) words substituted by [S.I. 2019/407 reg. 11\(34\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Reg. 11(34)(b) omitted immediately before IP completion day by virtue of S.I. 2019/1233, regs. 1(3), 4(c))

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)