

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 I

GENERAL PROVISIONS

SECTION 1

*Definitions and general principles*

*Article 1*

**Definitions**

For the purposes of this Regulation, the following definitions shall apply:

1. 'alternative valuation methods' means valuation methods that are consistent with [<sup>F1</sup>rules 2.1 and 2.2 of the PRA Rulebook on Valuation], other than those which solely use the quoted market prices for the same or similar assets or liabilities;
2. 'scenario analysis' means the analysis of the impact of a combination of adverse events;
3. 'health insurance obligation' means an insurance obligation that covers one or both of the following:
  - (i) the provision of medical treatment or care including preventive or curative medical treatment or care due to illness, accident, disability or infirmity, or financial compensation for such treatment or care,
  - (ii) financial compensation arising from illness, accident, disability or infirmity;
4. 'medical expense insurance obligation' means an insurance obligation that covers the provision or financial compensation referred to in point (3)(i);
5. 'income protection insurance obligation' means an insurance obligation that covers the financial compensation referred to in point (3)(ii) other than the financial compensation referred to in point (3)(i);

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6. 'workers compensation insurance obligation' means an insurance obligation that covers the provision or financial compensation referred to in points (3)(i) and (ii) and which arises only from to accidents at work, industrial injury and occupational disease;
7. 'health reinsurance obligation' means a reinsurance obligation which arises from accepted reinsurance covering health insurance obligations;
8. 'medical expense reinsurance obligation' means a reinsurance obligation which arises from accepted reinsurance covering medical expense insurance obligations;
9. 'income protection reinsurance obligation' means a reinsurance obligation which arises from accepted reinsurance covering income protection insurance obligations;
10. 'workers' compensation reinsurance obligation' means a reinsurance obligation which arises from accepted reinsurance covering workers' compensation insurance obligations;
11. 'written premiums' means the premiums due to an insurance or reinsurance undertaking during a specified time period regardless of whether such premiums relate in whole or in part to insurance or reinsurance cover provided in a different time period;
12. 'earned premiums' means the premiums relating to the risk covered by the insurance or reinsurance undertaking during a specified time period;
13. 'surrender' means all possible ways to fully or partly terminate a policy, including the following:
  - (i) voluntary termination of the policy with or without the payment of a surrender value;
  - (ii) change of insurance or reinsurance undertaking by the policy holder;
  - (iii) termination of the policy resulting from the policy holder's refusal to pay the premium;
14. 'discontinuance' of an insurance policy means surrender, lapse without value, making a contract paid-up, automatic non-forfeiture provisions or exercising other discontinuity options or not exercising continuity options;
15. 'discontinuity options' mean all legal or contractual policyholder rights which allow that policyholder to fully or partly terminate, surrender, decrease, restrict or suspend insurance cover or permit the insurance policy to lapse;
16. 'continuity options' mean all legal or contractual policyholder rights which allow that policyholder to fully or partly establish, renew, increase, extend or resume insurance or reinsurance cover;
17. 'coverage of an internal model' means the risks that are reflected in the probability distribution forecast underlying the internal model;
18. 'scope of an internal model' means the risks that the internal model is approved to cover; the scope of an internal model may include both risks which are and which are not reflected in the standard formula for the Solvency Capital Requirement;
- 18a. '[<sup>F2</sup>securitisation' means a transaction or scheme as defined in Article 2(1) of Regulation (EU) 2017/2402 <sup>(1)</sup> ;

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- 18b. ‘ STS securitisation ’ means
- (a) <sup>[F3]</sup> a securitisation designated ‘ simple, transparent and standardised ’ or ‘ STS ’ in accordance with the requirements set out in Article 18 of Regulation (EU) 2017/2402<sup>[F4]</sup>; or
  - (b) an STS equivalent non-UK securitisation within the meaning of Article 2(A9) of [Regulation \(EU\) 2017/2402](#);
19. <sup>[F4]</sup><sup>[F5]</sup> ‘ securitisation position ’ means a securitisation position within the meaning of Article 2(19) of Regulation (EU) 2017/2402;
- 19a. ‘ <sup>[F2]</sup>senior securitisation position ’ means a senior securitisation position within the meaning of Article 242(6) of Regulation (EU) No 575/2013 <sup>(2)</sup> ;]
20. <sup>[F5]</sup> ‘ re-securitisation position ’ means an exposure to a re-securitisation within the meaning of Article 2(4) of Regulation (EU) 2017/2402;
21. ‘ originator ’ means an originator within the meaning of Article 2(3) of Regulation (EU) 2017/2402;
22. ‘ sponsor ’ means a sponsor within the meaning of Article 2(5) of Regulation (EU) 2017/2402;
23. ‘ tranche ’ means tranche within the meaning of Article 2(6) of Regulation (EU) 2017/2402;]
24. ‘ central bank ’ means central bank within the meaning of Article 4(1)(46) of Regulation (EU) No 575/2013.
25. ‘ basis risk ’ means the risk resulting from the situation in which the exposure covered by the risk-mitigation technique does not correspond to the risk exposure of the insurance or reinsurance undertaking;
26. ‘ collateral arrangements ’ means arrangements under which collateral providers do one of the following:
- (a) transfer full ownership of the collateral to the collateral taker for the purposes of securing or otherwise covering the performance of a relevant obligation;
  - (b) provide collateral by way of security in favour of, or to, a collateral taker, and the legal ownership of the collateral remains with the collateral provider or a custodian when the security right is established;
27. in relation to a set of items, ‘ all possible combinations of two ’ such items means all ordered pairs of items from that set;
28. ‘ pooling arrangement ’ means an arrangement whereby several insurance or reinsurance undertakings agree to share identified insurance risks in defined proportions. The parties insured by the members of the pooling arrangement are not themselves members of the pooling arrangement.
29. ‘ pool exposure of type A ’ means the risk ceded by an insurance or reinsurance undertaking to a pooling arrangement where the insurance or reinsurance undertaking is not a party to that pooling arrangement.

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30. 'pool exposure of type B' means the risk ceded by an insurance or reinsurance undertaking to another member of a pooling arrangement, where the insurance or reinsurance undertaking is a party to that pooling arrangement;
31. 'pool exposure of type C' means the risk ceded by an insurance or reinsurance undertaking which is a party to a pooling arrangement to another insurance or reinsurance undertaking which is not a member of that pooling arrangement.
32. 'deep market' means a market where transactions involving a large quantity of financial instruments can take place without significantly affecting the price of the instruments.
33. 'liquid market' means a market where financial instruments can readily be converted through an act of buying or selling without causing a significant movement in the price.
34. 'transparent market' means a market where current trade and price information is readily available to the public, in particular to the insurance or reinsurance undertakings.
35. 'future discretionary bonuses' and 'future discretionary benefits' mean future benefits other than index-linked or unit-linked benefits of insurance or reinsurance contracts which have one of the following characteristics:
  - (a) they are legally or contractually based on one or more of the following results:
    - (i) the performance of a specified group of contracts or a specified type of contract or a single contract;
    - (ii) the realised or unrealised investment return on a specified pool of assets held by the insurance or reinsurance undertaking;
    - (iii) the profit or loss of the insurance or reinsurance undertaking or fund corresponding to the contract;
  - (b) they are based on a declaration of the insurance or reinsurance undertaking and the timing or the amount of the benefits is at its full or partial discretion;
36. 'basic risk-free interest rate term structure' means a risk-free interest rate term structure which is derived in the same way as the relevant risk-free interest rate term structure to be used to calculate the best estimate referred to in Article 77(2) of Directive 2009/138/EC but without application of a matching adjustment or a volatility adjustment or a transitional adjustment to the relevant risk-free rate structure in accordance with Article 308c of that Directive;
37. 'matching adjustment portfolio' means a portfolio of insurance or reinsurance obligations to which the matching adjustment is applied and the assigned portfolio of assets as referred to in Article 77b(1)(a) of Directive 2009/138/EC.
38. 'SLT Health obligations' means health insurance obligations that are assigned to the lines of business for life insurance obligations in accordance with Article 55(1).
39. 'NSLT Health obligations' means health insurance obligations that are assigned to the lines of business for non-life insurance obligations in accordance with Article 55(1).
40. 'Collective investment undertaking' means an undertaking for collective investment in transferable securities (UCITS) as defined in Article 1(2) of Directive 2009/65/EC of the European Parliament and of the Council<sup>(3)</sup> or an alternative investment fund (AIF)



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- as defined in Article 4(1)(a) of Directive 2011/61/EU of the European Parliament and of the Council<sup>(4)</sup>;
41. in relation to an insurance or reinsurance undertaking, ‘major business unit’ means a defined segment of the insurance and reinsurance undertaking that operates independently from other parts of the undertaking and has dedicated governance resources and procedures within the undertaking and which contains risks that are material in relation to the entire business of the undertaking;
42. in relation to an insurance or reinsurance group, ‘major business unit’ means a defined segment of the group that operates independently from other parts of the group and has dedicated governance resources and procedures within the group and which contains risks that are material in relation to the entire business of the group; any legal entity belonging to the group is a major business unit or consists of several major business units;
43. ‘administrative, management or supervisory body’ shall mean, where a two-tier board system comprising of a management body and a supervisory body is provided for under national law, the management body or the supervisory body or both of those bodies as specified in the relevant national legislation or, where nobody is specified in the relevant national legislation, the management body;
44. ‘aggregate maximum risk exposure’ means the sum of the maximum payments, including expenses that the special purpose vehicles may incur, excluding expenses that meet all of the following criteria:
- (a) the special purpose vehicle has the right to require the insurance or reinsurance undertaking which has transferred risks to the special purpose vehicle to pay the expense;
  - (b) the special purpose vehicle is not required to pay the expense unless and until an amount equal to the expense has been received from the insurance or reinsurance undertaking which has transferred the risks to the special purpose vehicle;
  - (c) the insurance or reinsurance undertaking which has transferred risks to the special purpose vehicle does not include the expense as an amount recoverable from the special purpose vehicle in accordance with Article 41 of this Regulation.
45. ‘existing insurance or reinsurance contract’ means an insurance or reinsurance contract for which insurance or reinsurance obligations have been recognised;
46. ‘the expected profit included in future premiums’ means the expected present value of future cash flows which result from the inclusion in technical provisions of premiums relating to existing insurance and reinsurance contracts that are expected to be received in the future, but that may not be received for any reason, other than because the insured event has occurred, regardless of the legal or contractual rights of the policyholder to discontinue the policy.
47. ‘mortgage insurance’ means credit insurance that provides cover to lenders in case their mortgage loans default.
48. ‘subsidiary undertaking’ means any subsidiary undertaking within the meaning of Article 22(1) and (2) of Directive 2013/34/EU, including subsidiaries thereof;
49. [<sup>F6</sup>‘related undertaking’ has the meaning given in the Solvency 2 Regulations 2015;]

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50. ‘regulated undertaking’ means ‘regulated entity’ within the meaning of [F7regulation 1(2) of the Financial Conglomerates and Other Financial Groups Regulations 2004];
51. ‘non-regulated undertaking’ means any undertaking other than those listed in [F8regulation 1(2) of the Financial Conglomerates and Other Financial Groups Regulations 2004];
52. ‘non-regulated undertaking carrying out financial activities’ means a non-regulated undertaking which carries one or more of the activities referred to in Annex I of Directive 2013/36/EU of the European Parliament and of the Council<sup>(5)</sup> where those activities constitute a significant part of its overall activity;
53. ‘ancillary services undertaking’ means a non-regulated undertaking the principal activity of which consists of owning or managing property, managing data-processing services, health and care services or any other similar activity which is ancillary to the principal activity of one or more insurance or reinsurance undertakings.
54. [F9‘UCITS management company’ has the same meaning as given to “management company” in section 237 of the Financial Services and Markets Act 2000;]
55. [F9‘alternative investment fund manager’ has the meaning given in regulation 4(1) of the Alternative Investment Managers Regulations 2013;]
- 55a. [F10‘ infrastructure assets ’ means physical assets, structures or facilities, systems and networks that provide or support essential public services;
- 55b. ‘ infrastructure entity ’ means an entity or corporate group which, during the most recent financial year of that entity or group for which figures are available or in a financing proposal, derives the substantial majority of its revenues from owning, financing, developing or operating infrastructure assets;]
56. [F9‘institutions for occupational retirement provision’ means an institution, irrespective of its legal form, operating on a funded basis, established separately from any sponsoring undertaking or trade for the purpose of providing retirement benefits in the context of an occupational activity on the basis of an agreement or a contract agreed:
  - a individually or collectively between the employers and the employees or their respective representatives; or
  - b with self-employed persons, in compliance with United Kingdom legislation;and which carries out activities directly arising therefrom;]
57. [F9‘domestic insurance undertaking’ means an undertaking authorised and supervised by third-country supervisory authorities which would require authorisation as an insurance undertaking if its head office were situated in the United Kingdom;]
58. [F9‘domestic reinsurance undertaking’ means an undertaking authorised and supervised by third-country supervisory authorities which would require authorisation as a reinsurance undertaking if its head office were situated in the United Kingdom;]
- 58A. [F11‘PRA’ means the Prudential Regulation Authority;]
- 58B. [F9‘insurance undertaking’ means an undertaking which—
  - (a) has its head office in the United Kingdom,

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- (b) has permission under Part 4A of the Financial Services and Markets Act 2000 to carry on one or more regulated activities, and
  - (c) would require authorisation in accordance with Article 14 of the Solvency 2 Directive if the United Kingdom were a member State;
- 58C. ‘reinsurance undertaking’ means an undertaking which—
  - (a) has its head office in the United Kingdom,
  - (b) has permission under Part 4A of the Financial Services and Markets Act 2000 to carry on one or more regulated activities,
  - (c) effects or carries out contracts of insurance that are limited to reinsurance contracts, and
  - (d) would require authorisation in accordance with Article 14 of the Solvency 2 Directive if the United Kingdom were a member State;
- 58D. ‘supervisory authority’ means—
  - (a) in relation to insurance or reinsurance undertakings, the PRA; and
  - (b) in relation to third-country insurance or reinsurance undertakings, the national authority, or national authorities, empowered to supervise third-country insurance or reinsurance undertakings;
- 58E. ‘special purpose vehicle’ means any undertaking, whether incorporated or not, other than an existing insurance or reinsurance undertaking, which—
  - (a) assumes risks from insurance or reinsurance undertakings (or third country insurance or reinsurance undertakings); and
  - (b) fully funds its exposure to such risks through the proceeds of a debt issuance or any other financing mechanism where the repayment rights of the providers of such debt or financing mechanism are subordinated to the reinsurance obligations of such an undertaking;
- 58F. in the definition of “aggregate maximum risk exposure” and Chapter XV of Title 1 of this Regulation, reference to an insurance or reinsurance undertaking in connection with—
  - (a) the transfer of risk from that undertaking to a special purpose vehicle; or
  - (b) the assumption of risk by a special purpose vehicle from the insurance or reinsurance undertaking,includes a reference to a third country insurance or reinsurance undertaking;]
- 59. ‘<sup>F12</sup>CCP’ means a CCP as defined in point (1) of Article 2 of Regulation (EU) No 648/2012 of the European Parliament and of the Council <sup>(6)</sup>;
- 60. ‘bankruptcy remote’, in relation to client assets, means that effective arrangements exist which ensure that those assets will not be available to the creditors of a CCP or of a clearing member in the event of the insolvency of that CCP or clearing member respectively, or that the assets will not be available to the clearing member to cover losses it incurred following the default of a client or clients other than those that provided those assets;

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61. ‘ client ’ means a client as defined in point (15) of Article 2 of Regulation (EU) No 648/2012 or an undertaking that has established indirect clearing arrangements with a clearing member in accordance with Article 4(3) of that Regulation;
62. ‘ clearing member ’ means a clearing member as defined in point (14) of Article 2 of Regulation (EU) No 648/2012;
63. ‘ CCP-related transaction ’ means a contract or a transaction listed in paragraph 1 of Article 301 of Regulation (EU) No 575/2013 between a client and a clearing member that is directly related to a contract or a transaction listed in that paragraph between that clearing member and a CCP.]
64. [<sup>F13</sup>References in this Regulation to the following Directives, or to provisions of those Directives, are to be read as references to the United Kingdom law which implemented those Directives, or provisions of those Directives, unless stated otherwise:
  - (a) Directive 2002/87/EC;
  - (b) Directive 2003/41/EC;
  - (c) Directive 2005/60/EC;
  - (d) Directive 2009/13/EC;
  - (e) Directive 2009/65/EC;
  - (f) Directive 2009/138/EC;
  - (g) Directive 2011/61/EU;
  - (h) Directive 2013/36/EU;
  - (i) Directive 2014/65/EU.
65. References in this Regulation to the PRA Rulebook is to the rulebook published by the PRA containing rules made by the PRA under the Financial Services and Markets Act 2000 as the rulebook has effect on [<sup>F14</sup>17th August 2022].
66. References to the United Kingdom law which implemented a Directive, or any provision of a Directive, are, except in Title III, to the law of the United Kingdom which was relied on by the United Kingdom immediately before IP completion day to implement the Directive in question and its implementing measures (if any)—
  - (a) as it has effect on [<sup>F15</sup>17th August 2022], in the case of rules made by the Financial Conduct Authority or by the PRA under the Financial Services and Markets Act 2000, and
  - (b) as amended from time to time, in all other cases.
67. Any expression in this Regulation which is not defined in this Article—
  - (a) which is defined in regulation 2 of the Solvency 2 Regulations 2015 (as amended under the European Union (Withdrawal) Act 2018) (“the Solvency 2 Regulations”) has the meaning given in that regulation;
  - (b) which is defined in the Financial Services and Markets Act 2000 (as so amended) (“FSMA”), but not in the Solvency 2 Regulations, has the meaning given in FSMA;

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- (c) which is defined in Directive 2009/138/EC, but not in the Solvency 2 Regulations or in FSMA, has the meaning given in that Directive as it had effect immediately before IP completion day.
68. ‘external credit assessment institution or ‘ECAI’ and ‘nominated ECAI’, have the meaning given in Article 4(98) and (99), respectively, of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012.]]]

#### Textual Amendments

- F1** Words in Art. 1(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(2)(a)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F2** Inserted by Commission Delegated Regulation (EU) 2018/1221 of 1 June 2018 amending Delegated Regulation (EU) 2015/35 as regards the calculation of regulatory capital requirements for securitisations and simple, transparent and standardised securitisations held by insurance and reinsurance undertakings (Text with EEA relevance).
- F3** Words in Art. 1(18b) renumbered as Art. 1(18b)(a) (29.8.2023) by Financial Services and Markets Act 2023 (c. 29), s. 86(3), **Sch. 2 para. 39(a)** (with s. 2(3)); S.I. 2023/779, reg. 4(zz)(iii)
- F4** Art. 1(18b)(b) and word inserted (29.8.2023) by Financial Services and Markets Act 2023 (c. 29), s. 86(3), **Sch. 2 para. 39(b)** (with s. 2(3)); S.I. 2023/779, reg. 4(zz)(iii)
- F5** Substituted by Commission Delegated Regulation (EU) 2018/1221 of 1 June 2018 amending Delegated Regulation (EU) 2015/35 as regards the calculation of regulatory capital requirements for securitisations and simple, transparent and standardised securitisations held by insurance and reinsurance undertakings (Text with EEA relevance).
- F6** Art. 1(49) substituted (31.12.2020) by The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), **11(2)(b)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F7** Words in Art. 1(50) substituted (31.12.2020) by The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), **11(2)(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. 1(51) substituted (31.12.2020) by The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), **11(2)(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. 1(54)-(58F) substituted for Art. 1(54)-(58) (31.12.2020) by The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), **11(2)(e)** (as amended by S.I. 2019/1233, regs. 1(3), 4(2)(a); S.I. 2019/1390, regs. 1(4), 11(3)(a)(i); S.I. 2020/1385, regs. 1(2), 54(2); and with savings in S.I. 2019/680, reg. 11)
- F10** Substituted by Commission Delegated Regulation (EU) 2017/1542 of 8 June 2017 amending Delegated Regulation (EU) 2015/35 concerning the calculation of regulatory capital requirements for certain categories of assets held by insurance and reinsurance undertakings (infrastructure corporates) (Text with EEA relevance).
- F11** Art. 1(58A) inserted (31.12.2020) by The Electronic Commerce and Solvency 2 (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/1361), regs. 1(2), **2(2)** (as amended by S.I. 2019/1390, regs. 1(2), 6); 2020 c. 1, Sch. 5 para. 1(1)
- F12** 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).

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- F13** Art. 1(64)-(67) inserted (31.12.2020) by The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), **11(2)(f)** (as amended by S.I. 2019/1212, regs. 1(3), 18(2)(a) (as amended by S.I. 2020/1301, regs. 1, 3, Sch. para. 45(c)(i)); S.I. 2019/1233, regs. 1(3), 4(2)(b); S.I. 2019/1390, regs. 1(4), 11(3)(a)(ii) (as amended by S.I. 2020/1301, regs. 1, 3, Sch. para. 49(b)); S.I. 2020/1301, regs. 1, 3, Sch. para. 27(d); S.I. 2020/1385, regs. 1(2), 54(2); and with savings in S.I. 2019/680, reg. 11)
- F14** Words in Art. 1(65) substituted (17.8.2022) by The Financial Services and Markets Act 2000 (Consequential Amendments of References to Rules and Miscellaneous Amendments) Regulations 2022 (S.I. 2022/854), regs. 1(2), **3(a)**
- F15** Words in Art. 1(66)(a) substituted (17.8.2022) by The Financial Services and Markets Act 2000 (Consequential Amendments of References to Rules and Miscellaneous Amendments) Regulations 2022 (S.I. 2022/854), regs. 1(2), **3(b)**

## Article 2

### Expert judgement

1 Where insurance and reinsurance undertakings make assumptions about rules relating to the valuation of assets and liabilities, technical provisions, own funds, solvency capital requirements, minimum capital requirements and investment rules, these assumptions shall be based on the expertise of persons with relevant knowledge, experience and understanding of the risks inherent in the insurance or reinsurance business.

2 Insurance and reinsurance undertakings shall, taking due account of the principle of proportionality, ensure that internal users of the relevant assumptions are informed about their relevant content, their degree of reliability and their limitations. For that purpose, service providers to whom functions or activities have been outsourced shall be considered to be internal users.

## SECTION 2

### [<sup>F16</sup>Technical standards]

### [<sup>F17</sup>Article 3

#### The PRA's powers to make technical standards and publish technical information

1 For the purposes of using credit assessments from external credit assessment institutions (ECAIs) in the calculation of the Solvency Capital Requirement in accordance with the standard formula, the PRA may make technical standards on the allocation of credit assessments from ECAIs to an objective scale of credit quality steps.

2 The objective scale of credit quality steps referred to in Article 109a(1) of Directive 2009/138/EC must include credit quality steps 0 to 6.

3 The allocation of credit quality steps referred to in paragraph 1 must be consistent with the use of external credit assessments from ECAIs in the calculation of the capital requirements for credit institutions as defined in Article 4(1)(1) of Regulation (EU) No 575/2013 and financial institutions as defined in Article 4(1) (26) thereof.

4 For the purposes of facilitating the calculation of the market risk module referred to in rule 3.11 of the Solvency Capital Requirement – Standard Formula part of the PRA Rulebook,

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facilitating the calculation of the counterparty default risk module referred to in rule 3.12 of that part of the Rulebook, evaluating risk mitigation techniques referred to in rule 3.5 of the Solvency Capital Requirement – General Provisions part of the PRA Rulebook, and calculating technical provisions, the PRA may make technical standards on:

- a lists of regional governments and local authorities, exposures to whom are to be treated as exposures to the central government of the jurisdiction in which they are established, provided that there is no difference in risk between such exposures because of the specific revenue-raising powers of the former, and specific institutional arrangements exist, the effect of which is to reduce the risk of default;
- b the equity index referred to in Article 172(1) of this Regulation, in accordance with the detailed criteria established in Article 172;
- c the adjustments to be made for currencies pegged to the euro in the currency risk sub-module referred to in rule 3.11 of the Solvency Capital Requirement – Standard Formula part of the PRA Rulebook, in accordance with the detailed criteria for the adjustments for currencies pegged to the euro for the purpose of facilitating the calculation of the currency risk sub-module.

5 The PRA must publish technical information including information concerning the symmetric adjustment referred to in the Solvency Capital Requirement – Standard Formula part of the PRA Rulebook on at least a quarterly basis.

6 For the purpose of facilitating the calculation of the health underwriting risk module referred to in rule 3.10 of the Solvency Capital Requirement – Standard Formula part of the PRA Rulebook, the PRA may make technical standards on standard deviations in relation to specific national legislative measures of third countries which permit the sharing of claims payments in respect of health risk amongst insurance and reinsurance undertakings and which meet the criteria in paragraph 7.

7 The technical standards referred to in paragraph 6 must apply only to the national legislative measures of third countries which permit the sharing of claims payments in respect of health risk amongst insurance and reinsurance undertakings and which meet the following criteria:

- a the mechanism for the sharing of claims is transparent and fully specified in advance of the annual period to which it applies;
- b the mechanism for the sharing of claims, the number of insurance undertakings that participate in the health risk equalisation system (HRES) and the risk characteristics of the business subject to the HRES ensure that for each undertaking participating in the HRES the volatility of annual losses of the business subject to the HRES is significantly reduced by means of the HRES, both in relation to premium and to reserve risk;
- c health insurance subject to the HRES is compulsory and serves as a partial or complete alternative to health cover provided by the statutory social security system;
- d in the event of default of insurance undertakings participating in the HRES, one or more Member States' governments guarantee to meet the policy holder claims of the insurance business that is subject to the HRES in full.]

#### Textual Amendments

**F17** Art. 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(4)** (as amended by [S.I. 2019/1390](#), regs. 1(4), **11(3)(b)**; [S.I. 2020/1385](#), regs. 1(2), **54(2)**); and with savings in [S.I. 2019/680](#), **reg. 11**); 2020 c. 1, Sch. 5 para. 1(1)

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## Article 4

### General requirements on the use of credit assessments

1 Insurance or reinsurance undertakings may use an external credit assessment for the calculation of the Solvency Capital Requirement in accordance with the standard formula only where it has been issued by an External Credit Assessment Institution (ECAI) or endorsed by an ECAI in accordance with Regulation (EC) No 1060/2009 of the European Parliament and of the Council<sup>(7)</sup>.

2 Insurance or reinsurance undertakings shall nominate one or more ECAI to be used for the calculation of the Solvency Capital Requirement according to the standard formula.

3 The use of credit assessments shall be consistent and such assessments shall not be used selectively

4 When using credit assessments, insurance and reinsurance undertakings shall comply with all of the following requirements:

- a where an insurance or reinsurance undertaking decides to use the credit assessments produced by a nominated ECAI for a certain class of items, it shall use those credit assessments consistently for all items belonging to that class;
- b where an insurance or reinsurance undertaking decides to use the credit assessments produced by a nominated ECAI, it shall use them in a continuous and consistent way over time;
- c an insurance or reinsurance undertaking shall only use nominated ECAI credit assessments that take into account all amounts of principal and interest owed to it;
- d where only one credit assessment is available from a nominated ECAI for a rated item, that credit assessment shall be used to determine the capital requirements for that item;
- e where two credit assessments are available from nominated ECAs and they correspond to different parameters for a rated item, the assessment generating the higher capital requirement shall be used;
- f where more than two credit assessments are available from nominated ECAs for a rated item, the two assessments generating the two lowest capital requirements shall be used. If the two lowest capital requirements are different, the assessment generating the higher capital requirement of those two credit assessments shall be used. If the two lowest capital requirements are the same, the assessment generating that capital requirement shall be used;
- g where available, insurance and reinsurance undertakings shall use both solicited and unsolicited credit assessments.

5 Where an item is part of the larger or more complex exposures of the insurance or reinsurance undertaking, the undertaking shall produce its own internal credit assessment of the item and allocate it to one of the seven steps in a credit quality assessment scale. Where the own internal credit assessment generates a lower capital requirement than the one generated by the credit assessments available from nominated ECAs, then the own internal credit assessment shall not be taken into account for the purposes of this Regulation.

[<sup>F56</sup> For the purposes of paragraph 5, the larger or more complex exposures of an undertaking shall include securitisation positions as referred to in Article 178(8) and (9) and re-securitisation positions.]



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#### Textual Amendments

- F5** Substituted by [Commission Delegated Regulation \(EU\) 2018/1221 of 1 June 2018 amending Delegated Regulation \(EU\) 2015/35 as regards the calculation of regulatory capital requirements for securitisations and simple, transparent and standardised securitisations held by insurance and reinsurance undertakings \(Text with EEA relevance\)](#).

### Article 5

#### Issuers and issue credit assessment

1 Where a credit assessment exists for a specific issuing program or facility to which the item constituting the exposure belongs, that credit assessment shall be used.

2 Where no directly applicable credit assessment exists for a certain item, but a credit assessment exists for a specific issuing program or facility to which the item constituting the exposure does not belong or a general credit assessment exists for the issuer, that credit assessment shall be used in either of the following cases:

- a it produces the same or higher capital requirement than would otherwise be the case and the exposure in question ranks *pari passu* or junior in all respects to the specific issuing program or facility or to senior unsecured exposures of that issuer, as relevant;
- b it produces the same or lower capital requirement than would otherwise be the case and the exposure in question ranks *pari passu* or senior in all respects to the specific issuing program or facility or to senior unsecured exposures of that issuer, as relevant.

In all other cases, insurance or reinsurance undertakings shall consider that there is no credit assessment by a nominated ECAI available for the exposure.

3 Credit assessments for issuers within a corporate group shall not be used as the credit assessment for another issuer within the same corporate group.

### Article 6

#### Double credit rating for securitisation positions

By way of derogation from Article 4(4)(d), where only one credit assessment is available from a nominated ECAI for a securitisation position, that credit assessment shall not be used. The capital requirements for that item shall be derived as if no credit assessment by a nominated ECAI is available.

#### Textual Amendments

- F16** [Title 1 Ch. 1 Section 2 heading](#) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(3)** (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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## CHAPTER II

### VALUATION OF ASSETS AND LIABILITIES

#### Article 7

##### Valuation assumptions

Insurance and reinsurance undertakings shall value assets and liabilities based on the assumption that the undertaking will pursue its business as a going concern.

#### Article 8

##### Scope

Articles 9 to 16 shall apply to the recognition and valuation of assets and liabilities, other than technical provisions.

#### Article 9

##### Valuation methodology — general principles

1 Insurance and reinsurance undertakings shall recognise assets and liabilities in conformity with the [<sup>F18</sup>UK-adopted international accounting standards].

2 Insurance and reinsurance undertakings shall value assets and liabilities in accordance with [<sup>F19</sup>UK-adopted international accounting standards] provided that those standards include valuation methods that are consistent with the valuation approach set out in Article 75 of Directive 2009/138/EC. Where those standards allow for the use of more than one valuation method, insurance and reinsurance undertakings shall only use valuation methods that are consistent with Article 75 of Directive 2009/138/EC.

3 Where the valuation methods included in [<sup>F20</sup>UK-adopted international accounting standards] are not consistent either temporarily or permanently with the valuation approach set out in Article 75 of Directive 2009/138/EC, insurance and reinsurance undertakings shall use other valuation methods that are deemed to be consistent with Article 75 of Directive 2009/138/EC.

4 By way of derogation from paragraphs 1 and 2, and in particular by respecting the principle of proportionality laid down in paragraphs 3 and 4 of Article 29 of Directive 2009/138/EC, insurance and reinsurance undertakings may recognise and value an asset or a liability based on the valuation method it uses for preparing its annual or consolidated financial statements provided that:

- a the valuation method is consistent with Article 75 of Directive 2009/138/EC;
- b the valuation method is proportionate with respect to the nature, scale and complexity of the risks inherent in the business of the undertaking;
- c the undertaking does not value that asset or liability using [<sup>F21</sup>UK-adopted international accounting standards] in its financial statements;
- d valuing assets and liabilities using international accounting standards would impose costs on the undertaking that would be disproportionate with respect to the total administrative expenses.

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5 Insurance and reinsurance undertakings shall value individual assets separately.

6 Insurance and reinsurance undertakings shall value individual liabilities separately.

#### Textual Amendments

**F18** Words in Art. 9(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(5)(a)** (as amended by S.I. 2019/1390, regs. 1(4), **11(3)(c)**; S.I. 2020/1385, regs. 1(2), **54(2)**; and with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, Sch. 5 para. 1(1)

**F19** Words in Art. 9(2) substituted (31.12.2020) by The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), **11(5)(b)** (as amended by S.I. 2019/1390, regs. 1(4), **11(3)(c)**; S.I. 2020/1385, regs. 1(2), **54(2)**; and with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, Sch. 5 para. 1(1)

**F20** Words in Art. 9(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(5)(a)** (as amended by S.I. 2019/1390, regs. 1(4), **11(3)(c)**; S.I. 2020/1385, regs. 1(2), **54(2)**; and with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, Sch. 5 para. 1(1)

**F21** Words in Art. 9(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(5)(a)** (as amended by S.I. 2019/1390, regs. 1(4), **11(3)(c)**; S.I. 2020/1385, regs. 1(2), **54(2)**; and with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, Sch. 5 para. 1(1)

### Article 10

#### Valuation methodology — valuation hierarchy

1 Insurance and reinsurance undertakings shall, when valuing assets and liabilities in accordance with Article 9 (1), (2) and (3), follow the valuation hierarchy set out in paragraphs 2 to 7, taking into account the characteristics of the asset or liability where market participants would take those characteristics into account when pricing the asset or liability at the valuation date, including the condition and location of the asset or liability and restrictions, if any, on the sale or use of the asset.

2 As the default valuation method insurance and reinsurance undertakings shall value assets and liabilities using quoted market prices in active markets for the same assets or liabilities.

3 Where the use of quoted market prices in active markets for the same assets or liabilities is not possible, insurance and reinsurance undertakings shall value assets and liabilities using quoted market prices in active markets for similar assets and liabilities with adjustments to reflect differences. Those adjustments shall reflect factors specific to the asset or liability including all of the following:

- a the condition or location of the asset or liability;
- b the extent to which inputs relate to items that are comparable to the asset or liability; and
- c the volume or level of activity in the markets within which the inputs are observed.

4 Insurance and reinsurance undertakings' use of quoted market prices shall be based on the criteria for active markets, as defined in [<sup>F22</sup>UK-adopted international accounting standards].

5 Where the criteria referred to in paragraph 4 are not satisfied, insurance and reinsurance undertakings shall, unless otherwise provided in this Chapter, use alternative valuation methods.

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6 When using alternative valuation methods, insurance and reinsurance undertakings shall rely as little as possible on undertaking-specific inputs and make maximum use of relevant market inputs including the following:

- a quoted prices for identical or similar assets or liabilities in markets that are not active;
- b inputs other than quoted prices that are observable for the asset or liability, including interest rates and yield curves observable at commonly quoted intervals, implied volatilities and credit spreads;
- c market-corroborated inputs, which may not be directly observable, but are based on or supported by observable market data.

All those markets inputs shall be adjusted for the factors referred to in paragraph 3.

To the extent that relevant observable inputs are not available including in circumstances where there is little, if any, market activity for the asset or liability at the valuation date, undertakings shall use unobservable inputs reflecting the assumptions that market participants would use when pricing the asset or liability, including assumptions about risk. Where unobservable inputs are used, undertakings shall adjust undertaking-specific data if reasonable available information indicates that other market participants would use different data or there is something particular to the undertaking that is not available to other market participants.

When assessing the assumptions about risk referred to in this paragraph undertakings shall take into account the risk inherent in the specific valuation technique used to measure fair value and the risk inherent in the inputs of that valuation technique.

7 Undertakings shall use valuation techniques that are consistent with one or more of the following approaches when using alternative valuation methods:

- a market approach, which uses prices and other relevant information generated by market transactions involving identical or similar assets, liabilities or group of assets and liabilities. Valuation techniques consistent with the market approach include matrix pricing.
- b income approach, which converts future amounts, such as cash flows or income or expenses, to a single current amount. The fair value shall reflect current market expectations about those future amounts. Valuation techniques consistent with the income approach include present value techniques, option pricing models and the multi-period excess earnings method;
- c cost approach or current replacement cost approach reflects the amount that would be required currently to replace the service capacity of an asset. From the perspective of a market participant seller, the price that would be received for the asset is based on the cost to a market participant buyer to acquire or construct a substitute asset of comparable quality adjusted for obsolescence.

#### Textual Amendments

- F22** Words in [Art. 10\(4\)](#) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/407), regs. 1(2), [11\(6\)](#) (as amended by S.I. 2019/1390, regs. 1(4), [11\(3\)\(d\)](#); S.I. 2020/1385, regs. 1(2), [54\(2\)](#); and with savings in S.I. 2019/680, [reg. 11](#)); 2020 c. 1, Sch. 5 para. 1(1)

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## Article 11

### Recognition of contingent liabilities

1 Insurance and reinsurance undertakings shall recognise contingent liabilities, as defined in accordance with Article 9 of this Regulation, that are material, as liabilities.

2 Contingent liabilities shall be material where information about the current or potential size or nature of those liabilities could influence the decision-making or judgement of the intended user of that information, including the supervisory authorities.

## Article 12

### Valuation methods for goodwill and intangible assets

Insurance and reinsurance undertakings shall value the following assets at zero:

1. goodwill;
2. intangible assets other than goodwill, unless the intangible asset can be sold separately and the insurance and reinsurance undertaking can demonstrate that there is a value for the same or similar assets that has been derived in accordance with Article 10(2), in which case the asset shall be valued in accordance with Article 10.

## Article 13

### Valuation methods for related undertakings

1 For the purposes of valuing the assets of individual insurance and reinsurance undertakings, insurance and reinsurance undertakings shall value holdings in related undertakings, within the meaning of Article 212(1)(b) of Directive 2009/138/EC in accordance with the following hierarchy of methods:

- a using the default valuation method set out in Article 10(2) of this Regulation;
- b using the adjusted equity method referred to in paragraph 3 where valuation in accordance with point (a) is not possible;
- c using either the valuation method set out in Article 10(3) of this Regulation or alternative valuation methods in accordance with Article 10(5) of this Regulation provided that all of the following conditions are fulfilled:
  - (i) neither valuation in accordance with point (a) nor point (b) is possible;
  - (ii) the undertaking is not a subsidiary undertaking, as defined in Article 212(2) of Directive 2009/138/EC.

2 By way of derogation from paragraph 1, for the purposes of valuing the assets of individual insurance and reinsurance undertakings, insurance and reinsurance undertakings shall value holdings in the following undertakings at zero:

- <sup>F23</sup>a undertakings that are excluded from the scope of the group supervision under Article 214(2) of Directive 2009/138/EC;
- b undertakings that are deducted from the own funds eligible for the group solvency in accordance with <sup>F24</sup>rule 10.6 of the Group Supervision part of the PRA Rulebook].

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3 The adjusted equity method referred to in point (b) of paragraph 1 shall require the participating undertaking to value its holdings in related undertakings based on the share of the excess of assets over liabilities of the related undertaking held by the participating undertaking.

[<sup>F25</sup>4 When calculating the excess of assets over liabilities for a related undertaking, the participating undertaking shall value the undertaking's individual assets and liabilities in accordance with:

- a Article 75 of Directive 2009/138/EC, and
- b if the related undertaking is:
  - i) required to calculate technical provisions in accordance with any national measures transposing Articles 76 to 85 of Directive 2009/138/EC, or
  - ii) a special purpose vehicle referred to in Article 211 of that Directive,
 also in accordance with the technical provisions in Articles 76 to 85 of that Directive.]

5 When calculating the excess of assets over liabilities for related undertakings other than insurance or reinsurance undertakings, the participating undertaking may consider the equity method as prescribed in [<sup>F26</sup>UK-adopted international accounting standards] to be consistent with Articles 75 of Directive 2009/138/EC, where valuation of individual assets and liabilities in accordance with paragraph 4 is not practicable. In such cases, the participating undertaking shall deduct from the value of the related undertaking the value of goodwill and other intangible assets that would be valued at zero in accordance with Article 12(2) of this Regulation.

[<sup>F23</sup>6 Where the criteria referred to in Article 9(4) of this Regulation are satisfied, and where the use of the valuation methods referred to in points (a) and (b) of paragraph 1 is not possible, holdings in related undertakings may be valued based on the valuation method the insurance or reinsurance undertakings uses for preparing its annual or consolidated financial statements. In such cases, the participating undertaking shall deduct from the value of the related undertaking the value of goodwill and other intangible assets that would be valued at zero in accordance with Article 12(2) of this Regulation.]

#### Textual Amendments

- F23** Substituted by [Commission Delegated Regulation \(EU\) 2016/467 of 30 September 2015 amending Commission Delegated Regulation \(EU\) 2015/35 concerning the calculation of regulatory capital requirements for several categories of assets held by insurance and reinsurance undertakings \(Text with EEA relevance\)](#).
- F24** Words in [Art. 13\(2\)\(b\)](#) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(7)(a)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)
- F25** [Art. 13\(4\)](#) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(7)(b)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)
- F26** Words in [Art. 13\(5\)](#) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(7)(c)** (as amended by [S.I. 2019/1390](#), regs. 1(4), **11(3)(e)**; [S.I. 2020/1385](#), regs. 1(2), **54(2)**; and with savings in [S.I. 2019/680](#), **reg. 11**); 2020 c. 1, Sch. 5 para. 1(1)

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## Article 14

### Valuation methods for specific liabilities

1 Insurance and reinsurance undertakings shall value financial liabilities, as referred to in [F<sup>27</sup>UK-adopted international accounting standards], in accordance with Article 9 of this Regulation upon initial recognition. There shall be no subsequent adjustment to take account of the change in own credit standing of the insurance or reinsurance undertaking after initial recognition.

2 Insurance and reinsurance undertakings shall value contingent liabilities that have been recognised in accordance with Article 11. The value of contingent liabilities shall be equal to the expected present value of future cash flows required to settle the contingent liability over the lifetime of that contingent liability, using the basic risk-free interest rate term structure.

#### Textual Amendments

**F27** Words in Art. 14(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(8)** (as amended by S.I. 2019/1390, regs. 1(4), **11(3)(f)**; S.I. 2020/1385, regs. 1(2), **54(2)**; and with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, Sch. 5 para. 1(1)

## Article 15

### Deferred taxes

1 Insurance and reinsurance undertakings shall recognise and value deferred taxes in relation to all assets and liabilities, including technical provisions, that are recognised for solvency or tax purposes in accordance with Article 9.

2 Notwithstanding paragraph 1, insurance and reinsurance undertakings shall value deferred taxes, other than deferred tax assets arising from the carryforward of unused tax credits and the carryforward of unused tax losses, on the basis of the difference between the values ascribed to assets and liabilities recognised and valued in accordance with Article 75 of Directive 2009/138/EC and in the case of technical provisions in accordance with Articles 76 to 85 of that Directive and the values ascribed to assets and liabilities as recognised and valued for tax purposes.

3 Insurance and reinsurance undertaking shall only ascribe a positive value to deferred tax assets where it is probable that future taxable profit will be available against which the deferred tax asset can be utilised, taking into account any legal or regulatory requirements on the time limits relating to the carryforward of unused tax losses or the carryforward of unused tax credits.

## Article 16

### Exclusion of valuation methods

1 Insurance and reinsurance undertakings shall not value financial assets or financial liabilities at cost or amortized cost.

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2 Insurance and reinsurance undertakings shall not apply valuation models that value at the lower of the carrying amount and fair value less costs to sell.

3 Insurance and reinsurance undertakings shall not value property, investment property, plant and equipment with cost models where the asset value is determined as cost less depreciation and impairment.

4 Insurance and reinsurance undertakings which are lessees in a financial lease or lessors shall comply with all of the following when valuing assets and liabilities in a lease arrangement:

- a lease assets shall be valued at fair value;
- b for the purposes of determining the present value of the minimum lease payments market consistent inputs shall be used and no subsequent adjustments to take account of the own credit standing of the undertaking shall be made;
- c valuation at depreciated cost shall not be applied.

5 Insurance and reinsurance undertakings shall adjust the net realisable value for inventories by the estimated cost of completion and the estimated costs necessary to make the sale where those costs are material. Those costs shall be considered to be material where their non-inclusion could influence the decision-making or the judgement of the users of the balance sheet, including the supervisory authorities. Valuation at cost shall not be applied.

6 Insurance and reinsurance undertakings shall not value non-monetary grants at a nominal amount.

7 When valuing biological assets, insurance and reinsurance undertakings shall adjust the value by adding the estimated costs to sell if the estimated costs to sell are material.

## CHAPTER III

### RULES RELATING TO TECHNICAL PROVISIONS

#### SECTION 1

##### *General provisions*

##### *Article 17*

##### **Recognition and derecognition of insurance and reinsurance obligations**

For the calculation of the best estimate and the risk margin of technical provisions, insurance and reinsurance undertakings shall recognise an insurance or reinsurance obligation at the date the undertaking becomes a party to the contract that gives rise to the obligation or the date the insurance or reinsurance cover begins, whichever date occurs earlier. Insurance and reinsurance undertakings shall only recognise the obligations within the boundary of the contract.

Insurance and reinsurance undertakings shall derecognise an insurance or reinsurance obligation only when it is extinguished, discharged, cancelled or expires.



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## Article 18

### Boundary of an insurance or reinsurance contract

1 The boundaries of an insurance or reinsurance contract shall be defined in accordance with paragraphs 2 to 7.

2 All obligations relating to the contract, including obligations relating to unilateral rights of the insurance or reinsurance undertaking to renew or extend the scope of the contract and obligations that relate to paid premiums, shall belong to the contract unless otherwise stated in paragraphs 3 to 6.

3 Obligations which relate to insurance or reinsurance cover provided by the undertaking after any of the following dates do not belong to the contract, unless the undertaking can compel the policyholder to pay the premium for those obligations:

- a the future date where the insurance or reinsurance undertaking has a unilateral right to terminate the contract;
- b the future date where the insurance or reinsurance undertaking has a unilateral right to reject premiums payable under the contract;
- c the future date where the insurance or reinsurance undertaking has a unilateral right to amend the premiums or the benefits payable under the contract in such a way that the premiums fully reflect the risks.

Point (c) shall be deemed to apply where an insurance or reinsurance undertaking has a unilateral right to amend at a future date the premiums or benefits of a portfolio of insurance or reinsurance obligations in such a way that the premiums of the portfolio fully reflect the risks covered by the portfolio.

However, in the case of life insurance obligations where an individual risk assessment of the obligations relating to the insured person of the contract is carried out at the inception of the contract and that assessment cannot be repeated before amending the premiums or benefits, insurance and reinsurance undertakings shall assess at the level of the contract whether the premiums fully reflect the risk for the purposes of point (c).

Insurance and reinsurance undertakings shall not take into account restrictions of the unilateral right as referred to in points (a), (b) and (c) of this paragraph and limitations of the extent to which premiums or benefits can be amended that have no discernible effect on the economics of the contract.

4 Where the insurance or reinsurance undertaking has a unilateral right as referred to in paragraph 3 that only relates to a part of the contract, the same principles as defined in paragraph 3 shall apply to that part of the contract.

5 <sup>[F28]</sup>Obligations that do not relate to premiums which have already been paid do not belong to an insurance or reinsurance contract if all of the following requirements are met:

- a) the contract does not provide compensation for a specified uncertain event that adversely affects the insured person;
- b) the contract does not include a financial guarantee of benefits;
- c) the undertaking cannot compel the policyholder to pay the future premium for those obligations.]

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For the purpose of points (a) and (b), insurance and reinsurance undertakings shall not take into account coverage of events and guarantees that have no discernible effect on the economics of the contract.

[<sup>F28</sup>6 Where an insurance or reinsurance contract can be unbundled into two parts and where one of those parts meets the requirements set out in points (a), (b) and (c) of paragraph 5, any obligations that do not relate to the premiums of that part and which have already been paid do not belong to the contract.]

7 Insurance and reinsurance undertakings shall, for the purposes of paragraph 3, only consider that premiums fully reflect the risks covered by a portfolio of insurance or reinsurance obligations, where there is no circumstance under which the amount of the benefits and expenses payable under the portfolio exceeds the amount of the premiums payable under the portfolio.

#### Textual Amendments

**F28** 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 \(Solvency II\) \(Text with EEA relevance\).](#)

## SECTION 2

### Data quality

#### Article 19

#### Data used in the calculation of technical provisions

1 Data used in the calculation of the technical provisions shall only be considered to be complete for the purpose of Article 82 of Directive 2009/138/EC where all of the following conditions are met:

- a the data include sufficient historical information to assess the characteristics of the underlying risks and to identify trends in the risks;
- b the data are available for each of the relevant homogeneous risk groups used in the calculation of the technical provisions and no relevant data is excluded from being used in the calculation of the technical provisions without justification.

2 Data used in the calculation of the technical provisions shall only be considered to be accurate for the purpose of Article 82 of Directive 2009/138/EC where all of the following conditions are met:

- a the data are free from material errors;
- b data from different time periods used for the same estimation are consistent;
- c the data are recorded in a timely manner and consistently over time.

3 Data used in the calculation of the technical provisions shall only be considered to be appropriate for the purpose of Article 82 of Directive 2009/138/EC where all of the following conditions are met:

- a the data are consistent with the purposes for which they will be used;

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- b the amount and nature of the data ensure that the estimations made in the calculation of the technical provisions on the basis of the data do not include a material estimation error;
- c the data are consistent with the assumptions underlying the actuarial and statistical techniques that are applied to them in the calculation of the technical provisions;
- d the data appropriately reflect the risks to which the insurance or reinsurance undertaking is exposed with regard to its insurance and reinsurance obligations;
- e the data were collected, processed and applied in a transparent and structured manner, based on a documented process that comprises all of the following:
  - (i) the definition of criteria for the quality of data and an assessment of the quality of data, including specific qualitative and quantitative standards for different data sets;
  - (ii) the use of and setting of assumptions made in the collection, processing and application of data;
  - (iii) the process for carrying out data updates, including the frequency of updates and the circumstances that trigger additional updates;
- f Insurance or reinsurance undertakings shall ensure that their data are used consistently over time in the calculation of the technical provisions.

For the purposes of point (b), an estimation error in the calculation of the technical provisions shall be considered to be material where it could influence the decision-making or the judgement of the users of the calculation result, including the supervisory authorities.

4 Insurance and reinsurance undertakings may use data from an external source provided that, in addition to fulfilling the requirements set out in paragraphs 1 to 4, all of the following requirements are met:

- a insurance or reinsurance undertakings are able to demonstrate that the use of that data is more suitable than the use of data which are exclusively available from an internal source;
- b insurance or reinsurance undertakings know the origin of that data and the assumptions or methodologies used to process that data;
- c insurance or reinsurance undertakings identify any trends in that data and the variation, over time or across data, of the assumptions or methodologies in the use of that data;
- d insurance or reinsurance undertakings are able to demonstrate that the assumptions and methodologies referred to in points (b) and (c) reflect the characteristics of the insurance or reinsurance undertaking's portfolio of insurance and reinsurance obligations.

## Article 20

### Limitations of data

Where data does not comply with Article 19, insurance and reinsurance undertakings shall document appropriately the limitations of the data including a description of whether and how such limitations will be remedied and of the functions within the system of governance of the insurance or reinsurance undertaking responsible for that process. The data, before adjustments to remedy limitations are made to it, shall be recorded and stored appropriately.

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## Article 21

### Appropriate use of approximations to calculate the best estimate

Where insurance and reinsurance undertakings have insufficient data of appropriate quality to apply a reliable actuarial method, they may use appropriate approximations to calculate the best estimate provided that all of the following requirements are met:

- (a) the insufficiency of data is not due to inadequate internal processes and procedures of collecting, storing or validating data used for the valuation of technical provisions;
- (b) the insufficiency of data cannot be remedied by the use of external data;
- (c) it would not be practicable for the undertaking to adjust the data to remedy the insufficiency.

## SECTION 3

### Methodologies to calculate technical provisions

#### Subsection 1

#### Assumptions underlying the calculation of technical provisions

## Article 22

### General provisions

1 Assumptions shall only be considered to be realistic for the purposes of Article 77(2) of Directive 2009/138/EC where they meet all of the following conditions:

- a insurance and reinsurance undertakings are able to explain and justify each of the assumptions used, taking into account the significance of the assumption, the uncertainty involved in the assumption as well as relevant alternative assumptions;
- b the circumstances under which the assumptions would be considered false can be clearly identified;
- c unless otherwise provided in this Chapter, the assumptions are based on the characteristics of the portfolio of insurance and reinsurance obligations, where possible regardless of the insurance or reinsurance undertaking holding the portfolio;
- d insurance and reinsurance undertakings use the assumptions consistently over time and within homogeneous risk groups and lines of business, without arbitrary changes;
- e the assumptions adequately reflect any uncertainty underlying the cash flows.

For the purpose of point (c), insurance and reinsurance undertakings shall only use information specific to the undertaking, including information on claims management and expenses, where that information better reflects the characteristics of the portfolio of insurance or reinsurance obligations than information that is not limited to the specific undertaking or where the calculation of technical provisions in a prudent, reliable and objective manner without using that information is not possible.

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2 Assumptions shall only be used for the purpose of Article 77(3) of Directive 2009/138/EC where they comply with paragraph 1 of this Article.

3 Insurance and reinsurance undertakings shall set assumptions on future financial market parameters or scenarios that are appropriate and consistent with Article 75 of Directive 2009/138/EC. Where insurance and reinsurance undertakings use a model to produce projections of future financial market parameters, it shall comply with all of the following requirements:

- a it generates asset prices that are consistent with asset prices observed in financial markets;
- b it assumes no arbitrage opportunity;
- c the calibration of the parameters and scenarios is consistent with the relevant risk-free interest rate term structure used to calculate the best estimate as referred to in Article 77(2) of Directive 2009/138/EC.

### *Article 23*

#### **Future management actions**

1 Assumptions on future management actions shall only be considered to be realistic for the purposes of Article 77(2) of Directive 2009/138/EC where they meet all of the following conditions:

- a the assumptions on future management actions are determined in an objective manner;
- b assumed future management actions are consistent with the insurance or reinsurance undertaking's current business practice and business strategy, including the use of risk-mitigation techniques; where there is sufficient evidence that the undertaking will change its practices or strategy, the assumed future management actions are consistent with the changed practices or strategy;
- c assumed future management actions are consistent with each other;
- d assumed future management actions are not contrary to any obligations towards policy holders and beneficiaries or to legal requirements applicable to the undertaking;
- e assumed future management actions take account of any public indications by the insurance or reinsurance undertaking as to the actions that it would expect to take or not take.

2 Assumptions about future management actions shall be realistic and include all of the following:

- (i) a comparison of assumed future management actions with management actions taken previously by the insurance or reinsurance undertaking;
- (ii) a comparison of future management actions taken into account in the current and in the past calculations of the best estimate;
- (iii) an assessment of the impact of changes in the assumptions on future management actions on the value of the technical provisions.

Insurance and reinsurance undertakings shall be able to explain any relevant deviations in relation to points (i) and (ii) upon request of the supervisory authorities and, where changes in an assumption on future management actions have a significant impact on the technical provisions, the reasons for that sensitivity and how the sensitivity is taken into account in the decision-making process of the insurance or reinsurance undertaking.

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3 For the purpose of paragraph 1, insurance and reinsurance undertakings shall establish a comprehensive future management actions plan, approved by the administrative, management or supervisory body of the insurance and reinsurance undertaking, which provides for all of the following:

- a the identification of future management actions that are relevant to the valuation of the technical provisions;
- b the identification of the specific circumstances in which the insurance or reinsurance undertaking would reasonably expect to carry out each respective future management action referred to in point (a);
- c the identification of the specific circumstances in which the insurance or reinsurance undertaking may not be able to carry out each respective future management action referred to in point (a), and a description of how those circumstances are considered in the calculation of technical provisions;
- d the order in which future management actions referred to in point (a) would be carried out and the governance requirements applicable to those future management actions;
- e a description of any on-going work required to ensure that the insurance or reinsurance undertaking is in a position to carry out each respective future management action referred to in point (a);
- f a description of how the future management actions referred to in point (a) have been reflected in the calculation of the best estimate;
- g a description of the applicable internal reporting procedures that cover the future management actions referred to in point (a) included in the calculation of the best estimate;

4 Assumptions about future management actions shall take account of the time needed to implement the management actions and any expenses caused by them.

5 The system for ensuring the transmission of information shall only be considered to be effective for the purpose of [F<sup>29</sup>the governance requirements set out in rule 2.2 of the Conditions Governing Business part of the PRA Rulebook] where the reporting procedures referred to in point (g) of paragraph 3 of this Article include at least an annual communication to the administrative, supervisory or management body.

#### Textual Amendments

- F29** Words in [Art. 23\(5\)](#) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(9)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)

### Article 24

#### Future discretionary benefits

Where future discretionary benefits depend on the assets held by the insurance or reinsurance undertaking, undertakings shall base the calculation of the best estimate on the assets currently held by the undertakings and shall assume future changes of their asset allocation in accordance with Article 23. The assumptions on the future returns of the assets shall be consistent with the relevant risk-free interest rate term structure, including where applicable a matching adjustment, a volatility adjustment, or a transitional measure on the risk-free rate, and the valuation of the assets in accordance with Article 75 of Directive 2009/138/EC.

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## Article 25

### **Separate calculation of the future discretionary benefits**

When calculating technical provisions, insurance and reinsurance undertakings shall determine separately the value of future discretionary benefits.

## Article 26

### **Policyholder behaviour**

When determining the likelihood that policy holders will exercise contractual options, including lapses and surrenders, insurance and reinsurance undertakings shall conduct an analysis of past policyholder behaviour and a prospective assessment of expected policyholder behaviour. That analysis shall take into account all of the following:

- (a) how beneficial the exercise of the options was and will be to the policy holders under circumstances at the time of exercising the option;
- (b) the influence of past and future economic conditions;
- (c) the impact of past and future management actions;
- (d) any other circumstances that are likely to influence decisions by policyholders on whether to exercise the option.

The likelihood shall only be considered to be independent of the elements referred to in points (a) to (d) where there is empirical evidence to support such an assumption.

## Subsection 2

### **Information underlying the calculation of best estimates**

## Article 27

### **Credibility of information**

Information shall only be considered to be credible for the purposes of Article 77(2) of Directive 2009/138/EC where insurance and reinsurance undertakings provide evidence of the credibility of the information taking into account the consistency and objectivity of that information, the reliability of the source of the information and the transparency of the way in which the information is generated and processed.

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### Subsection 3

#### **Cash flow projections for the calculation of the best estimate**

#### Article 28

#### **Cash flows**

The cash flow projection used in the calculation of the best estimate shall include all of the following cash flows, to the extent that these cash flows relate to existing insurance and reinsurance contracts:

- (a) benefit payments to policy holders and beneficiaries;
- (b) payments that the insurance or reinsurance undertaking will incur in providing contractual benefits that are paid in kind;
- (c) payments of expenses as referred to in point (1) of Article 78 of Directive 2009/138/EC;
- (d) premium payments and any additional cash flows that result from those premiums;
- (e) payments between the insurance or reinsurance undertaking and intermediaries related to insurance or reinsurance obligations;
- (f) payments between the insurance or reinsurance undertaking and investment firms in relation to contracts with index-linked and unit-linked benefits;
- (g) payments for salvage and subrogation to the extent that they do not qualify as separate assets or liabilities in accordance with [<sup>F30</sup>UK-adopted international accounting standards];
- (h) taxation payments which are, or are expected to be, charged to policy holders or are required to settle the insurance or reinsurance obligations.

#### **Textual Amendments**

**F30** Words in [Art. 28\(g\)](#) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(10)** (as amended by [S.I. 2019/1390](#), regs. 1(4), **11(3)(g)**; [S.I. 2020/1385](#), regs. 1(2), **54(2)**); and with savings in [S.I. 2019/680](#), **reg. 11**); 2020 c. 1, Sch. 5 para. 1(1)

#### Article 29

#### **Expected future developments in the external environment**

The calculation of the best estimate shall take into account expected future developments that will have a material impact on the cash in- and out-flows required to settle the insurance and reinsurance obligations over the lifetime thereof. For that purpose future developments shall include demographic, legal, medical, technological, social, environmental and economic developments including inflation as referred to in point (2) of Article 78 of Directive 2009/138/EC.



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## Article 30

### Uncertainty of cash flows

The cash flow projection used in the calculation of the best estimate shall, explicitly or implicitly, take account of all uncertainties in the cash flows, including all of the following characteristics:

- (a) uncertainty in the timing, frequency and severity of insured events;
- (b) uncertainty in claim amounts, including uncertainty in claims inflation, and in the period needed to settle and pay claims;
- (c) uncertainty in the amount of expenses referred to in point (1) of Article 78 of Directive 2009/138/EC;
- (d) uncertainty in expected future developments referred to in Article 29 to the extent that it is practicable;
- (e) uncertainty in policyholder behaviour;
- (f) dependency between two or more causes of uncertainty;
- (g) dependency of cash flows on circumstances prior to the date of the cash flow.

## Article 31

### Expenses

1 A cash flow projection used to calculate best estimates shall take into account all of the following expenses, which relate to recognised insurance and reinsurance obligations of insurance and reinsurance undertakings and which are referred to in point (1) of Article 78 of Directive 2009/138/EC:

- a administrative expenses;
- b investment management expenses;
- c claims management expenses;
- d acquisition expenses.

The expenses referred to in points (a) to (d) shall take into account overhead expenses incurred in servicing insurance and reinsurance obligations.

2 Overhead expenses shall be allocated in a realistic and objective manner and on a consistent basis over time to the parts of the best estimate to which they relate.

3 Expenses in respect of reinsurance contracts and special purpose vehicles shall be taken into account in the gross calculation of the best estimate.

4 Expenses shall be projected on the assumption that the undertaking will write new business in the future.

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## Article 32

### Contractual options and financial guarantees

When calculating the best estimate, insurance and reinsurance undertakings shall take into account all of the following:

- (a) all financial guarantees and contractual options included in their insurance and reinsurance policies;
- (b) all factors which may affect the likelihood that policy holders will exercise contractual options or realise the value of financial guarantees.

## Article 33

### Currency of the obligation

The best estimate shall be calculated separately for cash flows in different currencies.

## Article 34

### Calculation methods

- 1 The best estimate shall be calculated in a transparent manner and in such a way as to ensure that the calculation method and the results that derive from it are capable of review by a qualified expert.
- 2 The choice of actuarial and statistical methods for the calculation of the best estimate shall be based on their appropriateness to reflect the risks which affect the underlying cash flows and the nature of the insurance and reinsurance obligations. The actuarial and statistical methods shall be consistent with and make use of all relevant data available for the calculation of the best estimate.
- 3 Where a calculation method is based on grouped policy data, insurance and reinsurance undertakings shall ensure that the grouping of policies creates homogeneous risk groups that appropriately reflect the risks of the individual policies included in those groups.
- 4 Insurance and reinsurance undertakings shall analyse the extent to which the present value of cash flows depend both on the expected outcome of future events and developments and on how the actual outcome in certain scenarios could deviate from the expected outcome.
- 5 Where the present value of cash flows depends on future events and developments as referred to in paragraph 4, insurance and reinsurance undertakings shall use a method to calculate the best estimate for cash flows which reflects such dependencies.

## Article 35

### Homogeneous risk groups of life insurance obligations

The cash flow projections used in the calculation of best estimates for life insurance obligations shall be made separately for each policy. Where the separate calculation for each policy would be an undue burden on the insurance or reinsurance undertaking, it

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may carry out the projection by grouping policies, provided that the grouping complies with all of the following requirements:

- (a) there are no significant differences in the nature and complexity of the risks underlying the policies that belong to the same group;
- (b) the grouping of policies does not misrepresent the risk underlying the policies and does not misstate their expenses;
- (c) the grouping of policies is likely to give approximately the same results for the best estimate calculation as a calculation on a per policy basis, in particular in relation to financial guarantees and contractual options included in the policies.

#### Article 36

### Non-life insurance obligations

1 The best estimate for non-life insurance obligations shall be calculated separately for the premium provision and for the provision for claims outstanding.

2 The premium provision shall relate to future claim events covered by insurance and reinsurance obligations falling within the contract boundary referred to in Article 18. Cash flow projections for the calculation of the premium provision shall include benefits, expenses and premiums relating to these events.

3 The provision for claims outstanding shall relate to claim events that have already occurred, regardless of whether the claims arising from those events have been reported or not.

4 Cash flow projections for the calculation of the provision for claims outstanding shall include benefits, expenses and premiums relating to the events referred to in paragraph 3.

#### Subsection 4

### Risk margin

#### Article 37

### Calculation of the risk margin

1 The risk margin for the whole portfolio of insurance and reinsurance obligations shall be calculated using the following formula:

$$RM = CoC \times \sum_{t \geq 0} \frac{SCR(t)}{(1+r(t+1))^{t+1}}$$

where:

- (a) CoC denotes the Cost-of-Capital rate;
- (b) the sum covers all integers including zero;
- (c) SCR(t) denotes the Solvency Capital Requirement referred to in Article 38(2) after t years;
- (d) r(t + 1) denotes the basic risk-free interest rate for the maturity of t + 1 years.

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The basic risk-free interest rate  $r(t + 1)$  shall be chosen in accordance with the currency used for the financial statements of the insurance and reinsurance undertaking.

2 Where insurance and reinsurance undertakings calculate their Solvency Capital Requirement using an approved internal model and determine that the model is appropriate to calculate the Solvency Capital Requirement referred to in Article 38(2) for each point in time over the lifetime of the insurance and reinsurance obligations, the insurance and reinsurance undertakings shall use the internal model to calculate the amounts  $SCR(t)$  referred to in paragraph 1.

3 Insurance and reinsurance undertakings shall allocate the risk margin for the whole portfolio of insurance and reinsurance obligations to the lines of business referred to in Article 80 of Directive 2009/138/EC. The allocation shall adequately reflect the contributions of the lines of business to the Solvency Capital Requirement referred to in Article 38(2) over the lifetime of the whole portfolio of insurance and reinsurance obligations.

### Article 38

#### Reference undertaking

- 1 The calculation of the risk margin shall be based on all of the following assumptions:
  - a the whole portfolio of insurance and reinsurance obligations of the insurance or reinsurance undertaking that calculates the risk margin (the original undertaking) is taken over by another insurance or reinsurance undertaking (the reference undertaking);
  - b notwithstanding point (a), where the original undertaking simultaneously pursues both life and non-life insurance activities according to Article 73(5) of Directive 2009/138/EC, the portfolio of insurance obligations relating to life insurance activities and life reinsurance obligations and the portfolio of insurance obligations relating to non-life insurance activities and non-life reinsurance obligations are taken over separately by two different reference undertakings;
  - c the transfer of insurance and reinsurance obligations includes any reinsurance contracts and arrangements with special purpose vehicles relating to these obligations;
  - d the reference undertaking does not have any insurance or reinsurance obligations or own funds before the transfer takes place;
  - e after the transfer, the reference undertaking does not assume any new insurance or reinsurance obligations;
  - f after the transfer, the reference undertaking raises eligible own funds equal to the Solvency Capital Requirement necessary to support the insurance and reinsurance obligations over the lifetime thereof;
  - g after the transfer, the reference undertaking has assets which amount to the sum of its Solvency Capital Requirement and of the technical provisions net of the amounts recoverable from reinsurance contracts and special purpose vehicles;
  - h the assets are selected in such a way that they minimise the Solvency Capital Requirement for market risk that the reference undertaking is exposed to;
  - i the Solvency Capital Requirement of the reference undertaking captures all of the following risks:
    - (i) underwriting risk with respect to the transferred business,
    - (ii) where it is material, the market risk referred to in point (h), other than interest rate risk,

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- (iii) credit risk with respect to reinsurance contracts, arrangements with special purpose vehicles, intermediaries, policyholders and any other material exposures which are closely related to the insurance and reinsurance obligations,
- (iv) operational risk;
- j the loss-absorbing capacity of technical provisions, referred to in Article 108 of Directive 2009/138/EC, in the reference undertaking corresponds for each risk to the loss-absorbing capacity of technical provisions in the original undertaking;
- k there is no loss-absorbing capacity of deferred taxes as referred to in Article 108 of Directive 2009/138/EC for the reference undertaking;
- l the reference undertaking will, subject to points (e) and (f), adopt future management actions that are consistent with the assumed future management actions, as referred to in Article 23, of the original undertaking.

2 Over the lifetime of the insurance and reinsurance obligations, the Solvency Capital Requirement necessary to support the insurance and reinsurance obligations referred to in the first subparagraph of Article 77(5) of Directive 2009/138/EC shall be assumed to be equal to the Solvency Capital Requirement of the reference undertaking under the assumptions set out in paragraph 1.

3 For the purposes of point (i) of paragraph 1, a risk shall be considered to be material where its impact on the calculation of the risk margin could influence the decision-making or the judgment of the users of that information, including supervisory authorities.

#### *Article 39*

### **Cost-of-Capital rate**

The Cost-of-Capital rate referred to in Article 77(5) of Directive 2009/138/EC shall be assumed to be equal to 6 %.

#### *Subsection 5*

### **Calculation of technical provisions as a whole**

#### *Article 40*

### **Circumstances in which technical provisions shall be calculated as a whole and the method to be used**

1 For the purposes of the second subparagraph of Article 77(4) of Directive 2009/138/EC, reliability shall be assessed pursuant to paragraphs 2 and 3 of this Article and technical provisions shall be valued pursuant to paragraph 4 of this Article.

2 The replication of cash flows shall be considered to be reliable where those cash flows are replicated in amount and timing in relation to the underlying risks of those cash flows and in all possible scenarios. The following cash flows associated with insurance or reinsurance obligations cannot be reliably replicated:

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- a cash flows associated with insurance or reinsurance obligations that depend on the likelihood that policy holders will exercise contractual options, including lapses and surrenders;
- b cash flows associated with insurance or reinsurance obligations that depend on the level, trend, or volatility of mortality, disability, sickness and morbidity rates;
- c all expenses that will be incurred in servicing insurance and reinsurance obligations.

3 Financial instruments shall be considered to be financial instruments for which a reliable market value is observable where those financial instruments are traded on an active, deep, liquid and transparent market. Active markets shall also comply with Article 10(4).

4 Insurance and reinsurance undertakings shall determine the value of technical provisions on the basis of the market price of the financial instruments used in the replication.

### *Subsection 6*

## ***Recoverables from reinsurance contracts and special purpose vehicles***

### *Article 41*

## **General provisions**

1 The amounts recoverable from reinsurance contracts and special purpose vehicles shall be calculated consistently with the boundaries of the insurance or reinsurance contracts to which those amounts relate.

2 The amounts recoverable from special purpose vehicles, the amounts recoverable from finite reinsurance contracts as referred to in Article 210 of Directive 2009/138/EC and the amounts recoverable from other reinsurance contracts shall each be calculated separately. The amounts recoverable from a special purpose vehicle shall not exceed the aggregate maximum risk exposure of that special purpose vehicle to the insurance or reinsurance undertaking.

3 For the purpose of calculating the amounts recoverable from reinsurance contracts and special purpose vehicles, cash flows shall only include payments in relation to compensation of insurance events and unsettled insurance claims. Payments in relation to other events or settled insurance claims shall be accounted for outside the amounts recoverable from reinsurance contracts and special purpose vehicles and other elements of the technical provisions. Where a deposit has been made for the cash flows, the amounts recoverable shall be adjusted accordingly to avoid a double counting of the assets and liabilities relating to the deposit.

4 The amounts recoverable from reinsurance contracts and special purpose vehicles for non-life insurance obligations shall be calculated separately for premium provisions and provisions for claims outstanding in the following manner:

- a the cash flows relating to provisions for claims outstanding shall include the compensation payments relating to the claims accounted for in the gross provisions for claims outstanding of the insurance or reinsurance undertaking ceding risks;
- b the cash flows relating to premium provisions shall include all other payments.

5 Where cash flows from the special purpose vehicles to the insurance or reinsurance undertaking do not directly depend on the claims against the insurance or reinsurance undertaking ceding risks, the amounts recoverable from those special purpose vehicles for future claims shall only be taken into account to the extent that it can be verified in a prudent, reliable

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and objective manner that the structural mismatch between claims and amounts recoverable is not material.

## *Article 42*

### **Counterparty default adjustment**

1 Adjustments to take account of expected losses due to default of a counterparty referred to in Article 81 of Directive 2009/138/EC shall be calculated separately from the rest of the amounts recoverable.

2 The adjustment to take account of expected losses due to default of a counterparty shall be calculated as the expected present value of the change in cash flows underlying the amounts recoverable from that counterparty, that would arise if the counterparty defaults, including as a result of insolvency or dispute, at a certain point in time. For that purpose, the change in cash flows shall not take into account the effect of any risk mitigating technique that mitigates the credit risk of the counterparty, other than risk mitigating techniques based on collateral holdings. The risk mitigating techniques that are not taken into account shall be separately recognised without increasing the amount recoverable from reinsurance contracts and special purpose vehicles.

3 The calculation referred to in paragraph 2 shall take into account possible default events over the lifetime of the reinsurance contract or arrangement with the special purpose vehicle and whether and how the probability of default varies over time. It shall be carried out separately by each counterparty and for each line of business. In non-life insurance, it shall also be carried out separately for premium provisions and provisions for claims outstanding.

4 The average loss resulting from a default of a counterparty, referred to in Article 81 of Directive 2009/138/EC, shall not be assessed at lower than 50 % of the amounts recoverable excluding the adjustment referred to in paragraph 1, unless there is a reliable basis for another assessment.

5 The probability of default of a special purpose vehicle shall be calculated on the basis of the credit risk inherent in the assets held by the special purpose vehicle.

## *SECTION 4*

### ***Relevant risk-free interest rate term structure***

#### *Subsection 1*

#### ***General provisions***

#### *[<sup>F28</sup> Article 43*

#### **General provisions**

1 The rates of the basic risk-free interest rate term structure shall meet all of the following criteria:

- a insurance and reinsurance undertakings are able to earn the rates in a risk-free manner in practice;

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- b the rates are reliably determined based on financial instruments traded in a deep, liquid and transparent financial market.

The rates of the relevant risk-free interest rate term structure shall be calculated separately for each currency and maturity, based on all information and data relevant for that currency and that maturity.

2 The techniques, data specifications and parameters used for determining the technical information on the relevant risk-free interest rate term structure referred to in [F31 regulation 4B of the Solvency 2 Regulations 2015 (S.I. 2015/575)], including the ultimate forward rate, the last maturity for which the relevant risk-free interest rate term structure is not being extrapolated and the duration of its convergence towards the ultimate forward rate, shall be transparent, prudent, reliable, objective and consistent over time.

F32 3 .....

F32 4 .....

F32 5 ..... ]

#### Textual Amendments

- F28** 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).
- F31** Words in Art. 43(2) substituted (31.12.2020) by The Risk Transformation and Solvency 2 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1233), regs. 1(4), **6(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F32** Art. 43(3)-(5) omitted (31.12.2020) by virtue of The Risk Transformation and Solvency 2 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1233), regs. 1(4), **6(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

### Subsection 2

#### **Basic risk free interest rate term structure**

#### Article 44

#### **Relevant financial instruments to derive the basic risk-free interest rates**

1 For each currency and maturity, the basic risk-free interest rates shall be derived on the basis of interest rate swap rates for interest rates of that currency, adjusted to take account of credit risk.

2 For each currency, for maturities where interest rate swap rates are not available from deep, liquid and transparent financial markets the rates of government bonds issued in that currency, adjusted to take account of the credit risk of the government bonds, shall be used to derive the basic risk free-interest rates, provided that, such government bond rates are available from deep, liquid and transparent financial markets.



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## Article 45

### Adjustment to swap rates for credit risk

The adjustment for credit risk referred to in Article 44(1) shall be determined in a transparent, prudent, reliable and objective manner that is consistent over time. <sup>F33</sup>The adjustment is to be calculated to reflect the level of credit risk inherent in a financial instrument which is used to derive the basic risk-free interest rate. If a relevant financial instrument contains negligible credit risk, the adjustment may be zero.]

#### Textual Amendments

**F33** Words in [Art. 45](#) substituted (28.5.2021) by [The Solvency 2 \(Credit Risk Adjustment\) Regulations 2021 \(S.I. 2021/463\)](#), regs. 1, 2

## Article 46

### Extrapolation

1 The principles applied when extrapolating the relevant risk free interest rate term structure shall be the same for all currencies. This shall also apply as regards the determination of the longest maturities for which interest rates can be observed in a deep, liquid and transparent market and the mechanism to ensure a smooth convergence to the ultimate forward rate.

2 Where insurance and reinsurance undertakings apply Article 77d of Directive 2009/138/EC, the extrapolation shall be applied to the risk-free interest rates including the volatility adjustment referred to in that Article.

3 Where insurance and reinsurance undertakings apply Article 77b of Directive 2009/138/EC, the extrapolation shall be based on the risk-free interest rates without a matching adjustment. The matching adjustment referred to in that Article shall be applied to the extrapolated risk-free interest rates.

## Article 47

### Ultimate forward rate

1 For each currency, the ultimate forward rate referred to in paragraph 1 of Article 46 shall be stable over time and shall only change as a result of changes in long-term expectations. The methodology to derive the ultimate forward rate shall be clearly specified in order to ensure the performance of scenario calculations by insurance and reinsurance undertakings. It shall be determined in a transparent, prudent, reliable and objective manner that is consistent over time.

2 For each currency the ultimate forward rate shall take account of expectations of the long-term real interest rate and of expected inflation, provided those expectations can be determined for that currency in a reliable manner. The ultimate forward rate shall not include a term premium to reflect the additional risk of holding long-term investments.

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## Article 48

### Basic risk-free interest rate term structure of currencies pegged to the euro

1 For a currency pegged to the euro, the basic risk-free interest rate term structure for the euro, adjusted for currency risk, may be used to calculate the best estimate with respect to insurance or reinsurance obligations denoted in that currency, provided that all of the following conditions are met:

- a the pegging ensures that the exchange rate between that currency and the euro stays within a range not wider than 20 % of the upper limit of the range;
- b the economic situation of the euro area and the area of that currency are sufficiently similar to ensure that interest rates for the euro and that currency develop in a similar way;
- c the pegging arrangement ensures that the relative changes in the exchange rate over a one-year-period do not exceed the range referred to in point (a) of this paragraph, in the event of extreme market events, that correspond to the confidence level set out in <sup>F34</sup>rules 3.3 and 3.4 of the Solvency Capital Requirement – General Provisions part of the PRA Rulebook];
- d one of the following criteria is complied with:
  - (i) participation of that currency in the European Exchange Rate Mechanism (ERM II);
  - (ii) existence of a decision from the Council which recognizes pegging arrangements between that currency and the euro;
  - (iii) establishment of the pegging arrangement by the law of the country establishing that country's currency.

For the purpose of point (c), the financial resources of the parties that guarantee the pegging shall be taken into account.

2 The adjustment for currency risk shall be negative and shall correspond to the cost of hedging against the risk that the value in the pegged currency of an investment denominated in euro decreases as a result of changes in the level of the exchange rate between the euro and the pegged currency. The adjustment shall be the same for all insurance and reinsurance undertakings.

#### Textual Amendments

- F34** Words in [Art. 48\(1\)\(c\)](#) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(11)** (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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### Subsection 3

#### Volatility adjustment

##### Article 49

#### Reference portfolios

1 The reference portfolios referred to in Article 77d(2) and (4) of Directive 2009/138/EC shall be determined in a transparent, prudent, reliable and objective manner that is consistent over time. The methods applied when determining the reference portfolios shall be the same for all currencies and countries.

2 For each currency and each country, the assets of the reference portfolio shall be valued in accordance with Article 10(1) and shall be traded in markets that, except in periods of stressed liquidity, comply with Article 40(3). Financial instruments traded in markets that temporarily cease to comply with Article 40(3) may only be included in the portfolio where that market is expected to comply with the criteria again within a reasonable period.

3 For each currency and each country, the reference portfolio of assets shall meet all of the following requirements:

- a for each currency, the assets are representative of the investments made by insurance and reinsurance undertakings in that currency to cover the best estimate for insurance and reinsurance obligations denominated in that currency; for each country, the assets are representative of the investments made by insurance and reinsurance undertakings in that country to cover the best estimate for insurance and reinsurance obligations sold in the insurance market of that country and denominated in the currency of that country;
- b where available the portfolio is based on relevant indices which are readily available to the public and published criteria exist for when and how the constituents of those indices will be changed;
- c the portfolio of assets includes all of the following assets:
  - bonds, securitisations and loans, including mortgage loans
  - equity
  - property

For the purposes of points (a) and (b), investments of insurance and reinsurance undertakings in collective investment undertakings and other investments packaged as funds shall be treated as investments in the underlying assets.

##### Article 50

#### Formula to calculate the spread underlying the volatility adjustment

For each currency and each country the spread referred to in Article 77d(2) and (4) of Directive 2009/138/EC shall be equal to the following:

$$S = w_{gov} \times \max(S_{gov}, 0) + w_{corp} \times \max(S_{corp}, 0)$$

where:

- (a)  $w_{gov}$  denotes the ratio of the value of government bonds included in the reference portfolio of assets for that currency or country and the value of all the assets included in that reference portfolio;

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- (b)  $S_{gov}$  denotes the average currency spread on government bonds included in the reference portfolio of assets for that currency or country;
- (c)  $w_{corp}$  denotes the ratio of the value of bonds other than government bonds, loans and securitisations included in the reference portfolio of assets for that currency or country and the value of all the assets included in that reference portfolio;
- (d)  $S_{corp}$  denotes the average currency spread on bonds other than government bonds, loans and securitisations included in the reference portfolio of assets for that currency or country.

For the purposes of this Article, ‘government bonds’ means exposures to central governments and central banks.

#### Article 51

##### **Risk-corrected spread**

The portion of the average currency spread that is attributable to a realistic assessment of expected losses, unexpected credit risk or any other risk referred to in Article 77d(3) and (4) of Directive 2009/138/EC shall be calculated in the same manner as the fundamental spread referred to in Article 77c (2) of Directive 2009/138/EC and Article 54 of this Regulation.

#### Subsection 4

##### **Matching adjustment**

#### Article 52

##### **Mortality risk stress**

1 The mortality risk stress referred to in Article 77b(1)(f) of Directive 2009/138/EC shall be the more adverse of the following two scenarios in terms of its impact on basic own funds:

- a an instantaneous permanent increase of 15 % in the mortality rates used for the calculation of the best estimate;
- b an instantaneous increase of 0.15 percentage points in the mortality rates (expressed as percentages) which are used in the calculation of technical provisions to reflect the mortality experience in the following 12 months.

2 For the purpose of paragraph 1 the increase in mortality rates shall only apply to those insurance policies for which the increase in mortality rates leads to an increase in technical provisions taking into account all of the following:

- a multiple insurance policies in respect of the same insured person may be treated as if they were one insurance policy;
- b where the calculation of technical provisions is based on groups of policies as referred to in Article 35, the identification of the policies for which technical provisions increase under an increase of mortality rates may also be based on those groups of policies instead of single policies, provided that it yields a result which is not materially different.

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3 With regard to reinsurance obligations, the identification of the policies for which technical provisions increase under an increase of mortality rates shall apply to the underlying insurance policies only and shall be carried out in accordance with paragraph 2.

### *Article 53*

#### **Calculation of the matching adjustment**

1 For the purpose of the calculation referred to in Article 77c(1)(a) of Directive 2009/138/EC insurance and reinsurance undertakings shall only consider the assigned assets whose expected cash flows are required to replicate the cash flows of the portfolio of insurance and reinsurance obligations, excluding any assets in excess of that. The 'expected cash flow' of an asset means the cash flow of the asset adjusted to allow for the probability of default of the asset that corresponds to the element of the fundamental spread set out in Article 77c(2)(a)(i) of Directive 2009/138/EC or, where no reliable credit spread can be derived from the default statistics, the portion of the long term average of the spread over the risk-free interest rate set out in Article 77c(2)(b) and (c) of that Directive.

2 The deduction of the fundamental spread, referred to in Article 77c(1)(b) of Directive 2009/138/EC, from the result of the calculation set out in Article 77c(1)(a) of that Directive, shall include only the portion of the fundamental spread that has not already been reflected in the adjustment to the cash flows of the assigned portfolio of assets, as set out in paragraph 1 of this Article.

### *Article 54*

#### **Calculation of the fundamental spread**

1 The fundamental spread referred to in Article 77c(2) shall be calculated in a transparent, prudent, reliable and objective manner that is consistent over time, based on relevant indices where available. The methods to derive fundamental spread of a bond shall be the same for each currency and each country and may be different for government bonds and for other bonds.

2 The calculation of the credit spread referred to in Article 77c(2)(a)(i) of Directive 2009/138/EC shall be based on the assumption that in case of default 30 % of the market value can be recovered.

3 The long-term average referred to in Article 77c(2)(b) and (c) of Directive 2009/138/EC shall be based on data relating to the last 30 years. Where a part of that data is not available, it shall be replaced by constructed data. The constructed data shall be based on the available and reliable data relating to the last 30 years. Data that is not reliable shall be replaced by constructed data using that methodology. The constructed data shall be based on prudent assumptions.

4 The expected loss referred to in Article 77c(2)(a)(ii) of Directive 2009/138/EC shall correspond to the probability-weighted loss the insurance or reinsurance undertaking incurs where the asset is downgraded to a lower credit quality step and is replaced immediately afterwards. The calculation of the expected loss shall be based on the assumption that the replacing asset meets all of the following criteria:

- a the replacing asset has the same cash flow pattern as the replaced asset before downgrade;
- b the replacing asset belongs to the same asset class as the replaced asset;

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- c the replacing asset has the same credit quality step as the replaced asset before downgrade or a higher one.

## SECTION 5

### ***Lines of business***

#### *Article 55*

### **Lines of business**

1 The lines of business referred to in Article 80 of Directive 2009/138/EC shall be those set out in Annex I to this Regulation.

2 The assignment of an insurance or reinsurance obligation to a line of business shall reflect the nature of the risks relating to the obligation. The legal form of the obligation shall not necessarily be determinative of the nature of the risk.

3 Provided that the technical basis is consistent with the nature of the risks relating to the obligation, obligations of health insurance pursued on a similar technical basis to that of life insurance shall be assigned to the lines of business for life insurance and obligations of health insurance pursued on a similar technical basis to that of non-life insurance shall be assigned to the lines of business for non-life insurance.

4 Where the insurance obligations arising from the operations referred to in Article 2(3) (b) of Directive 2009/138/EC cannot clearly be assigned to the lines of business set out in Annex I to this Regulation on the basis of their nature, they shall be included in line of business 32 as set out in that Annex.

5 Where an insurance or reinsurance contract covers risks across life and non-life insurance, the insurance or reinsurance obligations shall be unbundled into their life and non-life parts.

6 Where an insurance or reinsurance contract covers risks across the lines of business as set out in Annex I to this Regulation, the insurance or reinsurance obligations shall, where possible, be unbundled into the appropriate lines of business.

7 Where an insurance or reinsurance contract includes health insurance or reinsurance obligations and other insurance or reinsurance obligations, those obligations shall, where possible, be unbundled.

## SECTION 6

### ***Proportionality and simplifications***

#### *Article 56*

### **Proportionality**

1 Insurance and reinsurance undertakings shall use methods to calculate technical provisions which are proportionate to the nature, scale and complexity of the risks underlying their insurance and reinsurance obligations.

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2 In determining whether a method of calculating technical provisions is proportionate, insurance and reinsurance undertakings shall carry out an assessment which includes:

- a an assessment of the nature, scale and complexity of the risks underlying their insurance and reinsurance obligations;
- b an evaluation in qualitative or quantitative terms of the error introduced in the results of the method due to any deviation between the following:
  - (i) the assumptions underlying the method in relation to the risks;
  - (ii) the results of the assessment referred to in point (a).

3 The assessment referred to in point (a) of paragraph 2 shall include all risks which affect the amount, timing or value of the cash in- and out-flows required to settle the insurance and reinsurance obligations over their lifetime. For the purpose of the calculation of the risk margin, the assessment shall include all risks referred to in Article 38(1)(i) over the lifetime of the underlying insurance and reinsurance obligations. The assessment shall be restricted to the risks that are relevant to that part of the calculation of technical provisions to which the method is applied.

4 A method shall be considered to be disproportionate to the nature, scale and complexity of the risks if the error referred to in point (b) of paragraph 2 leads to a misstatement of technical provisions or their components that could influence the decisions-making or judgment of the intended user of the information relating to the value of technical provisions, unless one of the following conditions are met:

- a no other method with a smaller error is available and the method is not likely to result in an underestimation of the amount of technical provisions;
- b the method leads to an amount of technical provisions of the insurance or reinsurance undertaking that is higher than the amount that would result from using a proportionate method and the method does not lead to an underestimation of the risk inherent in the insurance and reinsurance obligations that it is applied to.

#### Article 57

#### **Simplified calculation of recoverables from reinsurance contracts and special purpose vehicles**

1 Without prejudice to Article 56 of this Regulation, insurance and reinsurance undertakings may calculate the amounts recoverable from reinsurance contracts and special purpose vehicles before adjusting those amounts to take account of the expected loss due to default of the counterparty as the difference between the following estimates:

- a the best estimate calculated gross as referred to in Article 77(2) of Directive 2009/138/EC;
- b the best estimate, after taking into account the amounts recoverable from reinsurance contracts and special purpose vehicles and without an adjustment for the expected loss due to default of the counterparty (unadjusted net best estimate) calculated in accordance with paragraph 2.

2 Insurance and reinsurance undertakings may use methods to derive the unadjusted net best estimate from the gross best estimate without an explicit projection of the cash flows underlying the amounts recoverable from reinsurance contracts and special purpose vehicles. Insurance and reinsurance undertakings shall calculate the unadjusted net best estimate based on homogeneous risk groups. Each of those homogeneous risk groups shall cover not more

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than one reinsurance contract or special purpose vehicles unless those reinsurance contracts or special purpose vehicles provide a transfer of homogeneous risks.

#### Article 58

##### **Simplified calculation of the risk margin**

Without prejudice to Article 56, insurance and reinsurance undertakings may use simplified methods when they calculate the risk margin, including one or more of the following:

- (a) methods which use approximations of the amounts denoted by the terms  $SCR(t)$  referred to in Article 37(1);
- (b) methods which approximate the discounted sum of the amounts denoted by the terms  $SCR(t)$  as referred to in Article 37(1) without calculating each of those amounts separately.

#### Article 59

##### **Calculations of the risk margin during the financial year**

Without prejudice to Article 56, insurance and reinsurance undertakings may derive the risk margin for calculations that need to be performed quarterly from the result of an earlier calculation of the risk margin without an explicit calculation of the formula referred to in Article 37(1).

#### Article 60

##### **Simplified calculation of the best estimate for insurance obligations with premium adjustment mechanism**

Without prejudice to Article 56, insurance and reinsurance undertakings may calculate the best estimate of life insurance obligations with an arrangement by which the insurance undertaking has the right or the obligation to adjust the future premiums of an insurance contract to reflect material changes in the expected level of claims and expenses (premium adjustment mechanism) using cash flow projections which assume that changes in the level of claims and expenses occur simultaneously with premium adjustments and which result in a net cash flow that is equal to zero, provided that all of the following conditions are met:

- (a) the premium adjustment mechanism fully compensates the insurance undertaking for any increase in the level of claims and expenses in a timely manner;
- (b) the calculation does not result in an underestimation of the best estimate;
- (c) the calculation does not result in an underestimation of the risk inherent in those insurance obligations.



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## Article 61

### Simplified calculation of the counterparty default adjustment

Without prejudice to Article 56 of this Regulation, insurance and reinsurance undertakings may calculate the adjustment for expected losses due to default of the counterparty, referred to in Article 81 of Directive 2009/138/EC, for a specific counterparty and homogeneous risk group to be equal as follows:

$$Adj_{CD} = -\max\left(0,5 \times \frac{PD}{1-PD} \times Dur_{mod} \times BE_{rec}; 0\right)$$

where:

- (a)  $PD$  denotes the probability of default of that counterparty during the following 12 months;
- (b)  $Dur_{mod}$  denotes the modified duration of the amounts recoverable from reinsurance contracts with that counterparty in relation to that homogeneous risk group;
- (c)  $BE_{rec}$  denotes the amounts recoverable from reinsurance contracts with that counterparty in relation to that homogeneous risk group.

## CHAPTER IV

### OWN FUNDS

#### SECTION 1

#### *Determination of own funds*

##### *Subsection 1*

#### *Supervisory approval of ancillary own funds*

## Article 62

### Assessment of the application

1 Supervisory authorities shall take all of the following into account for the purposes of the assessment referred to in Article 90 (4) of Directive 2009/138/EC:

- a the legal effectiveness and enforceability of the terms of the commitment in all relevant jurisdictions;
- b the contractual terms of the arrangement that the insurance or reinsurance undertaking has entered into, or will enter into, with the counterparties to provide funds;
- c where relevant, the insurance or reinsurance undertaking's memorandum and articles of association or statutes;
- d whether the insurance or reinsurance undertaking has processes in place to inform the supervisory authorities of any future changes, which may have the effect of reducing the loss-absorbency of the ancillary own-fund item, to any of the following:

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- (i) the structure or contractual terms of the arrangement;
- (ii) the status of the counterparties concerned;
- (iii) the recoverability of the ancillary own funds item.

2 Supervisory authorities shall also assess whether Article 90 of Directive 2009/138/EC is complied with taking into account the range of circumstances under which the item can be called up to absorb losses.

3 Where the insurance or reinsurance undertaking is seeking approval of a method by which to determine the amount of each ancillary own-fund item, the supervisory authorities shall assess whether the undertaking's process for regularly validating the method is appropriate to ensure that the results of the method reflect the loss-absorbency of the item on an ongoing basis.

4 In addition to the requirements set out in paragraphs 1 to 3, supervisory authorities shall assess the application for approval of ancillary own funds on the basis of the criteria set out in Articles 63, 64 and 65.

### *Article 63*

#### **Assessment of the application — Status of the counterparties**

1 Supervisory authorities shall take all of the following into account for the purposes of the assessment of the counterparties' ability to pay referred to in Article 90(4)(a) of Directive 2009/138/EC:

- a the risk of default of the counterparties;
- b the risk that default arises from a delay in the counterparties satisfying their commitments under the ancillary own funds item.

2 In relation to paragraph 1(a), the supervisory authorities shall assess the risk of default of the counterparties by examining the probability of default of the counterparties and the loss given default, taking into account all of the following criteria:

- a the credit standing of the counterparties, provided that this appropriately reflects the counterparties' ability to satisfy their commitments under the ancillary own funds item;
- b whether there are any current or foreseeable practical or legal impediments to the counterparties' satisfaction of their commitments under the ancillary own funds item;
- c whether the counterparties are subject to legal or regulatory requirements that reduce the counterparties' ability to satisfy their commitments under the ancillary own funds item;
- d whether the legal form of the counterparties prejudice the counterparties' satisfaction of their commitments under the ancillary own funds item;
- e whether the counterparties are subject to other exposures which reduce the counterparties' ability to satisfy their commitments under the ancillary own funds item;
- f whether, in relation to their commitment under the ancillary own fund item, the contractual terms of the arrangement under any applicable law are such that the counterparties have rights to set-off amounts they owe against any amounts owed to them by the insurance or reinsurance undertaking.

3 In relation to paragraph 1(b), the supervisory authorities shall assess the liquidity position of the counterparties, taking into account all of the following:

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- a whether there are any current or foreseeable practical or legal impediments to the counterparties' ability to promptly satisfy their commitments under the ancillary own funds item;
  - b whether the counterparties are subject to legal or regulatory requirements that may reduce the counterparties' ability to promptly satisfy their commitments under the ancillary own funds item;
  - c whether the legal form of the counterparties prejudices the counterparties' prompt satisfaction of their commitments under the ancillary own funds item.
- 4 Supervisory authorities shall take all of the following into account for the purposes of the assessment of the counterparties' willingness to pay referred to in Article 90(4)(a) of Directive 2009/138/EC:
- a the range of circumstances under which the ancillary own funds item can be called up to absorb losses;
  - b whether incentives or disincentives exist which may affect the counterparties' willingness to satisfy their commitments under the ancillary own funds item;
  - c whether previous transactions between the counterparties and the insurance or reinsurance undertaking, including the counterparties' previous satisfaction of their commitments under ancillary own funds items, give an indication as to the counterparties' willingness to satisfy their current commitments under the ancillary own funds item.
- 5 The supervisory authorities shall, in assessing the counterparties' ability and willingness to pay, consider any other factors relevant to the status of the counterparties including, where relevant, the insurance or reinsurance undertaking's business model.
- 6 Where an ancillary own-fund item concerns a group of counterparties, supervisory authorities and insurance and reinsurance undertakings may assess the status of the group of counterparties as though it were a single counterparty provided that all of the following conditions are fulfilled:
- a the counterparties are individually non-material;
  - b the counterparties included in that group are sufficiently homogeneous;
  - c the assessment of a group of counterparties does not overestimate the ability and willingness to pay of the counterparties included in that group.
- 7 A counterparty shall be considered as material where the status of that single counterparty is likely to have a significant effect on the assessment of the group of counterparties' ability and willingness to pay.

#### Article 64

#### **Assessment of the application — Recoverability of the funds**

Supervisory authorities shall take all of the following into account for the purposes of the assessment of the recoverability of the funds referred to in Article 90(4)(b) of Directive 2009/138/EC:

- (a) whether the recoverability of the funds is increased as a result of the availability of collateral or an analogous arrangement that complies with Articles 209 to 214;
- (b) whether there is any current or foreseeable practical or legal impediment to the recoverability of the funds;

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- (c) whether the recoverability of the funds is subject to legal or regulatory requirements;
- (d) the ability of the insurance or reinsurance undertaking to take action to enforce the counterparties' satisfaction of their commitments under the ancillary own funds item.

#### *Article 65*

#### **Assessment of the application — Information on the outcome of past calls**

Supervisory authorities shall take all of the following into account for the purposes of the assessment of the information on the outcome of past calls referred to in Article 90(4)(c) of Directive 2009/138/EC:

- (a) whether the insurance or reinsurance undertaking has made past calls from the same or similar counterparties under the same or similar circumstances;
- (b) whether that information is relevant and reliable as regards the expected outcome of future calls.

#### *Article 66*

#### **Specification of amount relating to an unlimited amount of ancillary own funds**

1 The supervisory authorities shall not approve an unlimited amount of ancillary own funds.

2 Where the supervisory authorities approve an amount of ancillary own funds, the decision of the supervisory authorities shall specify whether the amount that has been approved is the amount for which the insurance or reinsurance undertaking has applied or a lower amount.

#### *Article 67*

#### **Specification of amount and timing relating to the approval of a method**

Where the supervisory authorities approve a method to determine the amount of each ancillary own fund item, the supervisory authorities' decision shall set out all of the following:

- (a) the initial amount of the ancillary own funds item that has been calculated using that method at the date the approval is granted;
- (b) the minimum frequency of recalculation of the amount of ancillary own funds item using that method where it is more frequent than annual, and the reasons for that frequency;
- (c) the time period for which the calculation of the ancillary own funds item using that method is granted.

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## Subsection 2

### **Own funds treatment of participations**

#### Article 68

#### **Treatment of participations in the determination of basic own funds**

1 For the purpose of determining the basic own funds of insurance and reinsurance undertakings, basic own funds as referred to in [F35the Own Funds part of the PRA Rulebook] shall be reduced by the full value of participations, as referred to in [F36paragraph 6], in a financial and credit institution that exceeds 10 % of items included in points (a) (i), (ii), (iv) and (vi) of Article 69.

2 For the purpose of determining the basic own funds of insurance and reinsurance undertakings, basic own funds as referred to in Article 88 of Directive 2009/138/EC shall be reduced by the part of the value of all participations, as referred to in [F37paragraph 6 below], in financial and credit institutions, other than participations referred to in paragraph 1, that exceeds 10 % of items included in points (a) (i), (ii), (iv) and (vi) of Article 69.

[F233 Notwithstanding paragraphs 1 and 2, insurance and reinsurance undertakings shall not deduct strategic participations as referred to in Article 171 which are included in the calculation of the group solvency on the basis of method 1 as set out in [F38the Financial Conglomerates part of the PRA Rulebook] or on the basis of method 1 as set out in Article 230 of Directive 2009/138/EC.]

4 The deductions set out in paragraph 2 shall be applied on a pro-rata basis to all participations referred to in that paragraph.

5 The deductions set out in paragraphs 1 and 2 shall be made from the corresponding tier in which the participation has increased the own funds of the related undertaking as follows:

- a holdings of Common Equity Tier 1 items of financial and credit institutions shall be deducted from the items included in points (a) (i), (ii), (iv) and (vi) of Article 69;
- b holdings of Additional Tier 1 instruments of financial and credit institutions shall be deducted from the items included in points (a)(iii) and (v) and point (b) of Article 69;
- c holdings of Tier 2 instruments of financial and credit institutions shall be deducted from the basic own-fund items included in Article 72.

[F396 Participations in financial and credit institutions must comprise the following:

- a participations which insurance and reinsurance undertakings hold in:
  - i) credit institutions and financial institutions within the meaning of the United Kingdom law which implemented Article 4(1) and (5) of Directive 2006/48/EC;
  - ii) investment firms within the meaning of the United Kingdom law which implemented point 1 of Article 4(1) of Directive 2004/39/EC;
- b subordinated claims and instruments referred to in the United Kingdom law which implemented Articles 63 and 64(3) of Directive 2006/48/EC which insurance and reinsurance undertakings hold in respect of the entities defined in point (a) of this paragraph in which they hold a participation.]

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### Textual Amendments

- F23** Substituted by Commission Delegated Regulation (EU) 2016/467 of 30 September 2015 amending Commission Delegated Regulation (EU) 2015/35 concerning the calculation of regulatory capital requirements for several categories of assets held by insurance and reinsurance undertakings (Text with EEA relevance).
- F35** Words in Art. 68(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(12)(a)(i)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F36** Words in Art. 68(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(12)(a)(ii)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F37** Words in Art. 68(2) substituted (31.12.2020) by The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), **11(12)(b)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F38** Words in Art. 68(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(12)(c)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F39** Art. 68(6) inserted (31.12.2020) by The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), **11(12)(d)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)

## SECTION 2

### Classification of own funds

#### Article 69

#### Tier 1 — List of own-fund items

The following basic own-fund items shall be deemed to substantially possess the characteristics set out in Article 93(1)(a) and (b) of Directive 2009/138/EC, taking into consideration the features set out in Article 93(2) of that Directive, and shall be classified as Tier 1, where those items display all of the features set out in Article 71:

- (a) the part of excess of assets over liabilities, valued in accordance with Article 75 and Section 2 of Chapter VI of Directive 2009/138/EC, comprising the following items:
- (i) paid-in ordinary share capital and the related share premium account;
  - (ii) paid-in initial funds, members' contributions or the equivalent basic own-fund item for mutual and mutual-type undertakings;
  - (iii) paid-in subordinated mutual member accounts;
  - (iv) surplus funds that are not considered as insurance and reinsurance liabilities in accordance with Article 91(2) of Directive 2009/138/EC;
  - (v) paid-in preference shares and the related share premium account;
  - (vi) a reconciliation reserve;

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- (b) paid-in subordinated liabilities valued in accordance with Article 75 of Directive 2009/138/EC.

## Article 70

### Reconciliation Reserve

1 The reconciliation reserve referred to in point (a)(vi) of Article 69 equals the total excess of assets over liabilities reduced by all of the following:

- a the amount of own shares held by the insurance and reinsurance undertaking;
- b foreseeable dividends, distributions and charges;
- c the basic own-fund items included in points (a)(i) to (v) of Article 69, Article 72(a) and Article 76(a);
- d the basic own-fund items not included in points (a)(i) to (v) of Article 69, point (a) of Article 72 and point (a) of Article 76, which have been approved by the supervisory authority in accordance with Article 79;
- e the restricted own-fund items that meet one of the following requirements:
  - (i) exceed the notional Solvency Capital Requirement in the case of matching adjustment portfolios and ring-fenced funds determined in accordance with Article 81(1);
  - (ii) that are excluded in accordance with Article 81(2);
- f the amount of participations held in financial and credit institutions as referred to in [F40 Article 68(6) of this Regulation] deducted in accordance with Article 68, to the extent that this is not already included in points (a) to (e).

2 The excess of assets over liabilities referred to in paragraph 1 includes the amount that corresponds to the expected profit included in future premiums set out in paragraph 2 of Article 260.

3 The determination of whether, and to what extent, the reconciliation reserve displays the features set out in Article 71 shall not amount to an assessment of the features of the assets and liabilities that are included in computing the excess of assets over liabilities or the underlying items in the undertakings' financial statements.

#### Textual Amendments

**F40** Words in [Art. 70\(1\)\(f\)](#) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(13)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)

## Article 71

### Tier 1 — Features determining classification

1 The features referred to in Article 69 shall be the following:

- a the basic own fund item:

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- (i) in the case of items referred to in points (a) (i) and (ii) of Article 69, ranks after all other claims in the event of winding-up proceedings regarding the insurance or reinsurance undertaking;
  - (ii) in the case of items referred to in points (a)(iii) and (v) and point (b) of Article 69, ranks to the same degree as, or ahead of, the items referred to in points (a) (i) and (ii) of Article 69, but after items listed in Articles 72 and 76 that display the features set out in Article 73 and 77 respectively and after the claims of all policy holders and beneficiaries and non-subordinated creditors;
- b the basic own-fund item does not include features which may cause the insolvency of the insurance or reinsurance undertaking or may accelerate the process of the undertaking becoming insolvent;
- c the basic own fund item is immediately available to absorb losses;
- d the basic own-fund item absorbs losses at least once there is non-compliance with the Solvency Capital Requirement and does not hinder the recapitalisation of the insurance or reinsurance undertaking;
- e the basic own-fund item, in the case of items referred to in points (a)(iii) and (v) and point (b) of Article 69, possesses one of the following principal loss absorbency mechanisms to be triggered at the trigger event specified in paragraph 8:
  - (i) [F<sup>28</sup>the nominal or principal amount of the basic own-fund item is written down as set out in paragraphs 5 and 5a;
  - (ii) the basic own-fund item automatically converts into a basic own-fund item listed in point (a)(i) or (ii) of Article 69 as set out in paragraphs 6 and 6a of this Article;]
  - (iii) a principal loss absorbency mechanism that achieves an equivalent outcome to the principal loss absorbency mechanisms set out in points (i) or (ii);
- f the basic own-fund item meets one of the following criteria:
  - (i) in the case of items referred to in points (a)(i) and (ii) of Article 69, the item is undated or, where the insurance or reinsurance undertaking has a fixed maturity, is of the same maturity as the undertaking;
  - (ii) in the case of items referred to in points (a)(iii) and (v) and point (b) of Article 69, the item is undated; the first contractual opportunity to repay or redeem the basic own-fund item does not occur before 5 years from the date of issuance;
- g the basic own-fund item referred to in points (a)(iii) and (v) and point (b) of Article 69 may only allow for repayment or redemption of that item between 5 and 10 years after the date of issuance where the undertaking's Solvency Capital Requirement is exceeded by an appropriate margin taking into account the solvency position of the undertaking including the undertaking's medium-term capital management plan;
- h the basic own-fund item, in the case of items referred to in points (a)(i), (ii), (iii) and (v) and point (b) of Article 69, is only repayable or redeemable at the option of the insurance or reinsurance undertaking and the repayment or redemption of the basic own-fund item is subject to prior supervisory approval;
- i the basic own-fund item, in the case of items referred to in points (a)(i), (ii), (iii) and (v) and point (b) of Article 69, does not include any incentives to repay or redeem that item that increase the likelihood that an insurance or reinsurance undertaking will repay or redeem that basic own-fund item where it has the option to do so;
- j the basic own-fund item, in the case of items referred to in points (a)(i), (ii), (iii) and (v) and point (b) of Article 69, provides for the suspension of repayment or redemption



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- of that item where there is non-compliance with the Solvency Capital Requirement or repayment or redemption would lead to such non-compliance until the undertaking complies with the Solvency Capital Requirement and the repayment or redemption would not lead to non-compliance with the Solvency Capital Requirement;
- k notwithstanding point (j), the basic own-fund item may only allow for repayment or redemption of that item where there is non-compliance with the Solvency Capital Requirement or repayment or redemption would lead to such non-compliance, where all of the following conditions are met:
- (i) the supervisory authority has exceptionally waived the suspension of repayment or redemption of that item;
  - (ii) the item is exchanged for or converted into another Tier 1 own-fund item of at least the same quality;
  - (iii) the Minimum Capital Requirement is complied with after the repayment or redemption.
- l the basic own-fund item meets one of the following criteria:
- (i) in the case of items referred to in points (a)(i) and (ii) of Article 69(1), either the legal or contractual arrangements governing the basic own-fund item or national legislation allow for the cancellation of distributions in relation to that item where there is non-compliance with the Solvency Capital Requirement or the distribution would lead to such non-compliance until the undertaking complies with the Solvency Capital Requirement and the distribution would not lead to non-compliance with the Solvency Capital Requirement;
  - (ii) in the case of items referred to in points (a)(iii) and (v) and point (b) of Article 69 the terms of the contractual arrangement governing the basic own-fund item provide for the cancellation of distributions in relation to that item where there is non-compliance with the Solvency Capital Requirement or the distribution would lead to such non-compliance until the undertaking complies with the Solvency Capital Requirement and the distribution would not lead to non-compliance with the Solvency Capital Requirement;
- m the basic own-fund item may only allow for a distribution to be made where there is non-compliance with the Solvency Capital Requirement or the distribution on a basic-own fund item would lead to such non-compliance, where all of the following conditions are met:
- (i) the supervisory authority has exceptionally waived the cancellation of distributions;
  - (ii) the distribution does not further weaken the solvency position of the insurance or reinsurance undertaking;
  - (iii) the Minimum Capital Requirement is complied with after the distribution is made.
- n the basic own fund item, in the case of items referred to in points (a)(i), (ii), (iii) and (v) and point (b) of Article 69, provides the insurance or reinsurance undertaking with full flexibility over the distributions on the basic own-fund item;
- o the basic own-fund item is free from encumbrances and is not connected with any other transaction, which when considered with the basic own-fund item, could result in that basic own-fund item not complying with Article 94(1) of Directive 2009/138/EC.

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2 For the purposes of this Article, the exchange or conversion of a basic own-fund item into another Tier 1 basic own-fund item or the repayment or redemption of a Tier 1 own-fund item out of the proceeds of a new basic own-fund item of at least the same quality shall not be deemed to be a repayment or redemption, provided that the exchange, conversion, repayment or redemption is subject to the approval of the supervisory authority.

3 For the purposes of point (n) of paragraph 1, in the case of basic own-fund items referred to in points (a)(i) and (ii) of Article 69, full flexibility over the distributions is provided where all of the following conditions are met:

- a there is no preferential distribution treatment regarding the order of distribution payments and the terms of the contractual arrangement governing the own-fund item do not provide preferential rights to the payment of distributions;
- b distributions are paid out of distributable items;
- c the level of distributions is not determined on the basis of the amount for which the own-fund item was purchased at issuance and there is no cap or other restriction on the maximum level of distribution;
- d notwithstanding point (c), in the case of instruments issued by mutual and mutual-type undertakings, a cap or other restriction on the maximum level of distribution may be set, provided that cap or other restriction is not an event linked to distributions being made, or not made, on other own fund items;
- e there is no obligation for an insurance or reinsurance undertaking to make distributions;
- f non-payment of distributions does not constitute an event of default of the insurance or reinsurance undertaking;
- g the cancellation of distributions imposes no restrictions on the insurance or reinsurance undertaking.

4 For the purposes of point (n) of paragraph 1, in the case of basic own-fund items referred to in points (a)(iii) and (a)(v) and point (b) of Article 69 full flexibility over the distributions is provided where all of the following conditions are met:

- a distributions are paid out of distributable items;
- b insurance and reinsurance undertakings have full discretion at all times to cancel distributions in relation to the own-fund item for an unlimited period and on a non-cumulative basis and the undertakings may use the cancelled payments without restriction to meet its obligations as they fall due;
- c there is no obligation to substitute the distribution by a payment in any other form;
- d there is no obligation to make distributions in the event of a distribution being made on another own fund item;
- e non-payment of distributions does not constitute an event of default of the insurance or reinsurance undertaking;
- f the cancellation of distributions imposes no restrictions on the insurance or reinsurance undertaking.

5 For the purposes of paragraph (1)(e)(i), the nominal or principal amount of the basic own-fund item shall be written down in such a way that all of the following are reduced:

- a the claim of the holder of that item in the event of winding-up proceedings;
- b the amount required to be paid on repayment or redemption of that item;
- c the distributions paid on that item.

[<sup>F12</sup>5a For the purposes of point (i) of point (e) of paragraph 1, the provisions governing the write-down of the nominal or principal amount of the basic own-fund item shall provide for all of the following:

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- a) if the trigger event specified in paragraph 8 has occurred in the circumstances described in point (c) of the second subparagraph of that paragraph and a partial write-down would be sufficient to re-establish compliance with the Solvency Capital Requirement, there is a partial write-down of the nominal or principal amount for an amount that is at least sufficient to re-establish compliance with the Solvency Capital Requirement;
- b) if the trigger event specified in paragraph 8 has occurred in the circumstances described in point (c) of the second subparagraph of that paragraph and a partial write-down would not be sufficient to re-establish compliance with the Solvency Capital Requirement, the nominal or principal amount as determined at the time of original issuance of the basic own-fund item is written down at least on a linear basis in a manner which ensures that full write-down will occur when 75 % coverage of the Solvency Capital Requirement is reached, or prior to that event;
- c) if the trigger event specified in paragraph 8 has occurred in the circumstances described in point (a) or point (b) of the second subparagraph of that paragraph, the nominal or principal amount is written down in full;
- d) following a write-down in accordance with point (b) of this paragraph ( ‘ the initial write-down ’ ):
  - (i) if the trigger event specified in paragraph 8 subsequently occurs in the circumstances described in point (a) or point (b) of the second subparagraph of that paragraph, the nominal or principal amount is written down in full;
  - (ii) if, by the end of the period of three months from the date of the trigger event that resulted in the initial write-down, no trigger event has occurred in the circumstances described in point (a) or point (b) of the second subparagraph of paragraph 8 but the solvency ratio has deteriorated further, the nominal or principal amount as determined at the time of original issuance of the basic own-fund item is written down further in accordance with point (b) of this paragraph to reflect that further deterioration in the solvency ratio;
  - (iii) a further write-down is made in accordance with point (ii) for each subsequent deterioration in the solvency ratio at the end of each subsequent period of three months until the insurance or reinsurance undertaking has re-established compliance with the Solvency Capital Requirement.

For the purposes of this paragraph, ‘ solvency ratio ’ means the ratio of the eligible amount of own funds to cover the Solvency Capital Requirement and the Solvency Capital Requirement, using the latest available values.]

6 For the purposes of paragraph (1)(e)(ii), the provisions governing the conversion into basic own-fund items listed in points (a) (i) or (ii) of Article 69 shall specify either of the following:

- a the rate of conversion and a limit on the permitted amount of conversion;
- b a range within which the instruments will convert into the basic own funds item listed in points (a)(i) or (ii) of Article 69.

[<sup>F12</sup>6a For the purposes of point (ii) of point (e) of paragraph 1, the provisions governing the conversion into basic own-fund items listed in points (i) or (ii) of point (a) of Article 69 shall provide for all of the following:

- a) if the trigger event specified in paragraph 8 has occurred in the circumstances described in point (c) of the second subparagraph of that paragraph and a partial conversion would be sufficient to re-establish compliance with the Solvency Capital Requirement, there is a partial conversion of the item for an amount that is at least sufficient to re-establish compliance with the Solvency Capital Requirement;

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- b) if the trigger event specified in paragraph 8 has occurred in the circumstances described in point (c) of the second subparagraph of that paragraph and a partial conversion would not be sufficient to re-establish compliance with the Solvency Capital Requirement, the item is converted in such a way that the remaining nominal or principal amount of the item decreases at least on a linear basis ensuring that full conversion will occur when 75 % coverage of the Solvency Capital Requirement is reached, or prior to that event;
- c) if the trigger event specified in paragraph 8 has occurred in the circumstances described in point (a) or point (b) of the second subparagraph of that paragraph, the item is converted in full;
- d) following a conversion in accordance with point (b) of this paragraph ( ‘ the initial conversion ’ ):
  - (i) if the trigger event specified in paragraph 8 subsequently occurs in the circumstances described in point (a) or point (b) of the second subparagraph of that paragraph, the item is converted in full;
  - (ii) if, by the end of the period of three months from the date of the trigger event that resulted in the initial conversion, no trigger event has occurred in the circumstances described in point (a) or point (b) of the second subparagraph of paragraph 8 but the solvency ratio has deteriorated further, the item is converted further in accordance with point (b) of this paragraph to reflect that further deterioration in the solvency ratio;
  - (iii) a further conversion is made in accordance with point (ii) for each subsequent deterioration in the solvency ratio at the end of each subsequent period of three months until the insurance or reinsurance undertaking has re-established compliance with the Solvency Capital Requirement.

For the purposes of this paragraph, ‘ solvency ratio ’ has the same meaning as it has for the purposes of paragraph 5a.]

7 The nominal or principal amount of the basic own-fund item shall absorb losses at the trigger event. Loss absorbency resulting from the cancellation of, or a reduction in, distributions shall not be deemed to be sufficient to be considered to be a principal loss absorbency mechanism in accordance with paragraph (1)(e).

8 The trigger event referred to in paragraph (1)(e) shall be significant non-compliance with the Solvency Capital Requirement.

For the purposes of this paragraph, non-compliance with the Solvency Capital Requirement shall be considered significant where any of the following conditions is met:

- a the amount of own-fund items eligible to cover the Solvency Capital Requirement is equal to or less than the 75 % of the Solvency Capital Requirement;
- b the amount of own-fund items eligible to cover the Minimum Capital Requirement is equal to or less than Minimum Capital Requirement;
- c compliance with the Solvency Capital Requirement is not re-established within a period of three months of the date when non-compliance with the Solvency Capital Requirement was first observed.

Insurance and reinsurance undertakings may specify, in the provisions governing the instrument, one or more trigger events in addition to the events referred to in points (a) to (c).

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9 For the purposes of points (d), (j) and (l) of paragraph 1, references to the Solvency Capital Requirement shall be read as references to the Minimum Capital Requirement where non-compliance with the Minimum Capital Requirement occurs before non-compliance with the Solvency Capital Requirement.

[<sup>F12</sup>10 Notwithstanding the requirement in point (e) of paragraph 1 for the principal loss absorbency mechanism to be triggered at the trigger event specified in paragraph 8, the basic own-fund item may allow for the principal loss absorbency mechanism not to be triggered at that event where all of the following conditions are met:

- a) the trigger event occurs in the circumstances described in point (c) of the second subparagraph of paragraph 8;
- b) there have been no previous trigger events in the circumstances described in point (a) or (b) of the second subparagraph of that paragraph;
- c) the supervisory authority agrees exceptionally to waive the triggering of the principal loss absorbency mechanism on the basis of both of the following pieces of information:
  - (i) projections provided to the supervisory authority by the insurance or reinsurance undertaking when that undertaking submits the recovery plan required by [<sup>F41</sup>rule 4.4(2) of the Group Supervision part of the PRA Rulebook and rule 3.1(2) of the Undertakings in Difficulty part of the PRA Rulebook], that demonstrate that triggering the principal loss absorbency mechanism in that case would be very likely to give rise to a tax liability that would have a significant adverse effect on the undertaking's solvency position;
  - (ii) certificate issued by that undertaking's statutory auditors certifying that all of the assumptions used in the projections are realistic.

11 Notwithstanding the requirement in point (ii) of point (f) of paragraph (1), the basic own-fund item may allow for repayment or redemption earlier than that period where all of the following conditions are met:

- a the undertaking's Solvency Capital Requirement, after the repayment or redemption, will be exceeded by an appropriate margin taking into account the solvency position of the undertaking, including the undertaking's medium-term capital management plan;
- b the circumstances are as described in point (i) or point (ii):
  - (i) there is a change in the regulatory classification of the basic own-fund item which would be likely to result in its exclusion from own funds or reclassification as a lower tier of own funds, and both of the following conditions are met:
    - the supervisory authority considers such a change to be sufficiently certain;
    - the undertaking demonstrates to the satisfaction of the supervisory authority that the regulatory reclassification of the basic own-fund item was not reasonably foreseeable at the time of its issuance;
  - (ii) there is a change in the applicable tax treatment of the basic own-fund item which the undertaking demonstrates to the satisfaction of the supervisory authority is material and was not reasonably foreseeable at the time of its issuance.]

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### Textual Amendments

- F12** 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).
- F28** 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).
- F41** Words in Art. 71(10)(c)(i) substituted (31.12.2020) by The Risk Transformation and Solvency 2 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1233), regs. 1(4), 6(3); 2020 c. 1, Sch. 5 para. 1(1)

## Article 72

### Tier 2 Basic own-funds — List of own-fund items

The following basic own-fund items shall be deemed to substantially possess the characteristics set out in Article 93(1)(b) of Directive 2009/138/EC, taking into consideration the features set out in Article 93(2) of that Directive, and shall be classified as Tier 2 where the following items display all of the features set out in Article 73:

- (a) the part excess of assets over liabilities, valued in accordance with Article 75 and Section 2 of Chapter VI of Directive 2009/138/EC, comprising the following items:
  - (i) ordinary share capital and the related share premium account;
  - (ii) initial funds, members' contributions or the equivalent basic own-fund item for mutual and mutual-type undertakings;
  - (iii) subordinated mutual member accounts;
  - (iv) preference shares and the related share premium account;
- (b) subordinated liabilities valued in accordance with Article 75 of Directive 2009/138/EC.

## Article 73

### Tier 2 Basic own-funds — Features determining classification

1 <sup>[F23]</sup>The features referred to in Article 72 shall be either those set out in points (a) to (i) or those set out in point (j):]

- a the basic own-fund item ranks after the claims of all policy holders and beneficiaries and non-subordinated creditors;
- b the basic own-fund item does not include features which may cause the insolvency of the insurance or reinsurance undertaking or may accelerate the process of the undertaking becoming insolvent;
- c the basic own-fund item is undated or has an original maturity of at least 10 years; the first contractual opportunity to repay or redeem the basic own-fund item does not occur before 5 years from the date of issuance;

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- d the basic own-fund item is only repayable or redeemable at the option of the insurance or reinsurance undertaking and the repayment or redemption of the basic own-fund item is subject to prior supervisory approval;
- e the basic own-fund item may include limited incentives to repay or redeem that basic own-fund item, provided that these do not occur before 10 years from the date of issuance;
- f the basic own-fund item provides for the suspension of repayment or redemption of that item where there is non-compliance with the Solvency Capital Requirement or repayment or redemption would lead to such non-compliance until the undertaking complies with the Solvency Capital Requirement and the repayment or redemption would not lead to non-compliance with the Solvency Capital Requirement;
- g the basic own-fund item meets one of the following criteria:
  - (i) in the case of items referred to in points (a)(i) and (ii) of Article 72, either the legal or contractual arrangements governing the basic own-fund item or national legislation allow for the distributions in relation to that item to be deferred where there is non-compliance with the Solvency Capital Requirement or the distribution would lead to such non-compliance until the undertaking complies with the Solvency Capital Requirement and the distribution would not lead to non-compliance with the Solvency Capital Requirement;
  - (ii) in the case of items referred to in points (a)(iii) and (iv) and point (b) of Article 72 the terms of the contractual arrangement governing the basic own-fund item provide for the distributions in relation to that item to be deferred where there is non-compliance with the Solvency Capital Requirement or the distribution would lead to such non-compliance until the undertaking complies with the Solvency Capital Requirement and the distribution would not lead to non-compliance with the Solvency Capital Requirement;
- h the basic own-fund item may only allow for a distribution to be made where there is non-compliance with the Solvency Capital Requirement or the distribution on a basic-own fund item would lead to such non-compliance, where all of the following conditions are met:
  - (i) the supervisory authority has exceptionally waived the deferral of distributions;
  - (ii) the payment does not further weaken the solvency position of the insurance or reinsurance undertaking;
  - (iii) the Minimum Capital Requirement is complied with after the distribution is made.
- i the basic own-fund item is free from encumbrances and is not connected with any other transaction, which when considered with the basic own-fund item, could result in that basic own-fund item not complying with the first subparagraph of Article 94(2) of Directive 2009/138/EC.
- j the basic own-fund item displays the features set out in Article 71 that are relevant for basic own-fund items referred to in points (a)(iii), (v) and (b) of Article 69, but exceeds the limit set out in Article 82(3).

Notwithstanding point (f), the basic own-fund item may only allow for the repayment or redemption of that item where there is non-compliance with the Solvency Capital Requirement or repayment or redemption would lead to such non-compliance, where all of the following conditions are met:

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- (i) the supervisory authority has exceptionally waived the suspension of repayment or redemption of that item;
- (ii) the item is exchanged for or converted into another Tier 1 or Tier 2 basic own-fund item of at least the same quality;
- (iii) the Minimum Capital Requirement is complied with after the repayment or redemption.

2 For the purposes of this Article, the exchange or conversion of a basic own-fund item into another Tier 1 or Tier 2 basic own-fund item or the repayment or redemption of a Tier 2 basic own-fund item out of the proceeds of a new basic own-fund item of at least the same quality shall not be deemed to be a repayment or redemption, provided that the exchange, conversion, repayment or redemption is subject to the approval of the supervisory authority.

3 For the purposes of points (f) and (g) of paragraph 1, references to the Solvency Capital Requirement shall be read as references to the Minimum Capital Requirement where non-compliance with the Minimum Capital Requirement occurs before non-compliance with the Solvency Capital Requirement.

4 For the purposes of point (e) of paragraph 1, undertakings shall consider incentives to redeem in the form of an interest rate step-up associated with a call option as limited where the step-up takes the form of a single increase in the coupon rate and results in an increase in the initial rate that is no greater than the higher of the following amounts:

- a 100 basis points, less the swap spread between the initial index basis and the stepped-up index basis;
- b 50 % of the initial credit spread, less the swap spread between the initial index basis and the stepped-up index basis.

[<sup>F125</sup> Notwithstanding the requirement in point (c) of paragraph 1, the basic own-fund item may allow for repayment or redemption before 5 years where all of the following conditions are met:

- a the undertaking's Solvency Capital Requirement, after the repayment or redemption, will be exceeded by an appropriate margin, taking into account the solvency position of the undertaking, including the undertaking's medium-term capital management plan;
- b the circumstances are as described in point (i) or point (ii):
  - (i) there is a change in the regulatory classification of the basic own-fund item which would be likely to result in its exclusion from own funds or reclassification as a lower tier of own funds, and both of the following conditions are met:
    - the supervisory authority considers such a change to be sufficiently certain;
    - the undertaking demonstrates to the satisfaction of the supervisory authority that the regulatory reclassification of the basic own-fund item was not reasonably foreseeable at the time of its issuance;
  - (ii) there is a change in the applicable tax treatment of the basic own-fund item which the undertaking demonstrates to the satisfaction of the supervisory authority is material and was not reasonably foreseeable at the time of its issuance.]



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### Textual Amendments

- F12** 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).
- F23** Substituted by [Commission Delegated Regulation \(EU\) 2016/467 of 30 September 2015 amending Commission Delegated Regulation \(EU\) 2015/35 concerning the calculation of regulatory capital requirements for several categories of assets held by insurance and reinsurance undertakings](#) (Text with EEA relevance).

## Article 74

### Tier 2 Ancillary own-funds — List of own-fund items

Without prejudice to Article 96 of Directive 2009/138/EC, the following ancillary own-fund items shall be deemed to substantially possess the characteristics set out in Article 93(1)(b) of Directive 2009/138/EC, taking into consideration the features set out in Article 93(2) of that Directive, and shall be classified as Tier 2, where the following items display all of the features set out in Article 75:

- (a) unpaid and uncalled ordinary share capital callable on demand;
- (b) unpaid and uncalled initial funds, members' contributions or the equivalent basic own-fund item for mutual and mutual-type undertakings, callable on demand;
- (c) unpaid and uncalled preference shares callable on demand;
- (d) a legally binding commitment to subscribe and pay for subordinated liabilities on demand;
- (e) letters of credit and guarantees which are held in trust for the benefit of insurance creditors by an independent trustee and provided by credit institutions authorised in accordance with Article 8 of Directive 2013/36/EU;
- (f) letters of credit and guarantees provided that the items can be called up on demand and are clear of encumbrances;
- (g) any future claims which mutual or mutual-type associations of shipowners with variable contributions solely insuring risks listed in classes 6, 12 and 17 in Part A of Annex 1 of Directive 2009/138/EC may have against their members by way of a call for supplementary contributions, within the following 12 months;
- (h) any future claims which mutual or mutual-type associations may have against their members by way of a call for supplementary contributions, within the following 12 months, provided that a call can be made on demand and is clear of encumbrances;
- (i) other legally binding commitments received by the insurance or reinsurance undertaking, provided that the item can be called up on demand and is clear of encumbrances.

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## Article 75

### **Tier 2 Ancillary own-funds — Features determining classification**

In order to be classified as Tier 2, the ancillary own-fund items listed in Article 74 shall display the features of a basic own fund item classified in Tier 1 in accordance with Articles 69 and 71 once that item has been called up and paid in.

## Article 76

### **Tier 3 Basic own-funds— List of own-fund items**

The following basic own-fund items shall be deemed to possess the characteristics set out in Article 93(1)(b) of Directive 2009/138/EC, taking into consideration the features set out in Article 93(2) of that Directive, and shall be classified as Tier 3 where the following items display all of the features set out in Article 77:

- (a) the part excess of assets over liabilities, valued in accordance with Sections 1 and 2 of Chapter VI of Directive 2009/138/EC, comprising the following items:
  - (i) subordinated mutual member accounts;
  - (ii) preference shares and the related share premium account;
  - (iii) an amount equal to the value of net deferred tax assets;
- (b) subordinated liabilities valued in accordance with Article 75 of Directive 2009/138/EC.

## Article 77

### **Tier 3 Basic own-funds— Features determining classification**

- 1 The features referred to in Article 76 shall be the following:
  - a the basic own-fund item, in the case of items referred to in points (a)(i) and (ii) and point (b) of Article 76, ranks after the claims of all policy holders and beneficiaries and non-subordinated creditors;
  - b the basic own-fund item does not include features which may cause the insolvency of the insurance or reinsurance undertaking or may accelerate the process of the undertaking becoming insolvent;
  - c the basic own-fund item, in the case of items referred to in points (a)(i) and (ii) and point (b) of Article 76, is undated or has an original maturity of at least 5 years, where the maturity date is the first contractual opportunity to repay or redeem the basic own-fund item;
  - d the basic own-fund item, in the case of items referred to in points (a)(i) and (ii) and point (b) of Article 76, is only repayable or redeemable at the option of the insurance or reinsurance undertaking and the repayment or redemption of the basic own-fund item is subject to prior supervisory approval;
  - e the basic own-fund item, in the case of items referred to in points (a)(i) and (ii) and point (b) of Article 76, may include limited incentives to repay or redeem that basic own-fund item;

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- f the basic own-fund item, in the case of items referred to in points (a)(i) and (ii) and point (b) of Article 76, provides for the suspension of repayment or redemption where there is non-compliance with the Solvency Capital Requirement or repayment or redemption would lead to such non-compliance until the undertaking complies with the Solvency Capital Requirement and the repayment or redemption would not lead to non-compliance with the Solvency Capital Requirement;
- g the basic own-fund item, in the case of items referred to in points (a)(i) and (ii) and point (b) of Article 76, provides for the deferral of distributions where there is non-compliance with the Minimum Capital Requirement or the distribution would lead to such non-compliance until the undertaking complies with the Minimum Capital Requirement and the distribution would not lead to non-compliance with the Minimum Capital Requirement;
- h the basic own-fund item is free from encumbrances and is not connected with any other transaction, which could undermine the features that the item is required to possess in accordance with this Article.

Notwithstanding point (f), the basic own-fund item may only allow for the repayment or redemption of that item where there is non-compliance with the Solvency Capital Requirement or repayment or redemption would lead to such non-compliance, where all the following conditions are met:

- (i) the supervisory authority has exceptionally waived the suspension of repayment or redemption of that item;
- (ii) the item is exchanged for or converted into another Tier 1, Tier 2 basic own-fund item or Tier 3 basic own-fund item of at least the same quality;
- (iii) the Minimum Capital Requirement is complied with after the repayment or redemption.

2 For the purposes of this Article, the exchange or conversion of a basic own-fund item into another Tier 1, Tier 2 basic own-fund item or Tier 3 basic own-fund item or the repayment or redemption of a Tier 3 basic own-fund item out of the proceeds of a new basic own-fund item of at least the same quality shall not be deemed to be a repayment or redemption, provided that the exchange, conversion, repayment or redemption is subject to the approval of the supervisory authority.

3 For the purposes of point (f) of paragraph 1, references to the Solvency Capital Requirement shall be read as references to the Minimum Capital Requirement where non-compliance with the Minimum Capital Requirement occurs before non-compliance with the Solvency Capital Requirement.

4 For the purposes of point (e) of paragraph 1, undertakings shall consider incentives to redeem in the form of an interest rate step-up associated with a call option as limited where the step-up takes the form of a single increase in the coupon rate and results in an increase in the initial rate that is no greater than the higher of the following amounts:

- a 100 basis points, less the swap spread between the initial index basis and the stepped-up index basis;
- b 50 % of the initial credit spread, less the swap spread between the initial index basis and the stepped-up index basis.

[<sup>F125</sup> Notwithstanding the requirement in point (c) of paragraph 1, the basic own-fund item may allow for repayment or redemption sooner than 5 years after the date of issuance where all of the following conditions are met:

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- a the undertaking's Solvency Capital Requirement, after the repayment or redemption, will be exceeded by an appropriate margin, taking into account the solvency position of the undertaking, including the undertaking's medium-term capital management plan;
- b the circumstances are as described in point (i) or point (ii):
  - (i) there is a change in the regulatory classification of the basic own-fund item which would be likely to result in its exclusion from own funds, and both of the following conditions are met:
    - the supervisory authority considers such a change to be sufficiently certain;
    - the undertaking demonstrates to the satisfaction of the supervisory authority that the regulatory reclassification of the basic own-fund item was not reasonably foreseeable at the time of its issuance;
  - (ii) there is a change in the applicable tax treatment of the basic own-fund item which the undertaking demonstrates to the satisfaction of the supervisory authority is material and was not reasonably foreseeable at the time of its issuance.]

#### Textual Amendments

**F12** 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 \(Solvency II\) \(Text with EEA relevance\)](#).

### Article 78

#### Tier 3 Ancillary own-funds– List of own-funds items

Ancillary own-fund items that have been approved by the supervisory authority in accordance with Article 90 of Directive 2009/138/EC, and which do not display all of the features set out in Article 75 shall be classified as Tier 3 ancillary own funds.

### Article 79

#### Supervisory Authorities approval of the assessment and classification of own-fund items

1 Without prejudice to Article 90 of Directive 2009/138/EC, where an own-fund item is not included in the list of own-funds items set out in Articles 69, 72, 74, 76 and 78, insurance or reinsurance undertakings shall only consider that item as own funds where an approval of the item's assessment and classification has been received from the supervisory authority.

2 The supervisory authority shall assess the following, on the basis of documents submitted by the insurance or reinsurance undertaking, when approving the assessment and classification of own-fund items not included in the list of own-fund items set out in Articles 69, 72, 74, 76 and 78:

- a where the undertaking is applying for approval for classification as Tier 1, whether the basic own-fund item substantially possesses the characteristics set out in Article 93(1) (a) and (b) of Directive 2009/138/EC, taking into consideration the features set out in Article 93(2) of that Directive;

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- b where the undertaking is applying for classification as Tier 2 basic own funds, whether the basic own-fund item substantially possesses the characteristics set out in Article 93(1)(b) of Directive 2009/138/EC, taking into consideration the features set out in Article 93(2) of that Directive;
  - c where the undertaking is applying for classification as Tier 2 ancillary own funds, whether the ancillary own-fund item substantially possesses the characteristics in Article 93(1)(a) and (b) of Directive 2009/138/EC, taking into consideration the features set out in Article 93(2) of that Directive;
  - d where the undertaking is applying for classification as Tier 3 basic own funds, whether the basic own-fund item possesses the characteristics set out in Article 93(1)(b) of Directive 2009/138/EC, taking into consideration the features set out in Article 93(2) of that Directive;
  - e the legal enforceability of the contractual terms of the own-fund item in all relevant jurisdictions;
  - f whether the own-fund item has been fully paid-in.
- 3 Basic own-fund items not included in the list of own-fund items set out in Articles 69, 72 and 76 shall only be classified as Tier 1 basic own funds where they are fully paid-in.
- 4 The inclusion of own-fund items approved by the supervisory authority in accordance with this Article shall be subject to quantitative limits set out in Article 82.

### SECTION 3

#### *Eligibility of own funds*

##### *Subsection 1*

#### *Ring-fenced funds*

##### *Article 80*

#### **Ring-fenced funds requiring adjustments**

- 1 A reduction of the reconciliation reserve referred to in Article 70(1)(e) shall be required where own-fund items within a ring-fenced fund have a reduced capacity to fully absorb losses on a going-concern basis due to their lack of transferability within the insurance or reinsurance undertaking for any of the following reasons:
- a the items can only be used to cover losses on a defined portion of the insurance or reinsurance undertaking's insurance or reinsurance contracts;
  - b the items can only be used to cover losses in respect of certain policy holders or beneficiaries;
  - c the items can only be used to cover losses arising from particular risks or liabilities.
- 2 The own-fund items referred to in paragraph 1, (hereinafter referred to as 'restricted own-fund items'), shall not include the value of future transfers attributable to shareholders.

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## Article 81

### Adjustment for ring-fenced funds and matching adjustment portfolios

1 For the purposes of calculating the reconciliation reserve, insurance and reinsurance undertakings shall reduce the excess of assets over liabilities referred to in Article 70 by comparing the following amounts:

- a the restricted own-fund items within the ring-fenced fund or matching adjustment portfolio;
- b the notional Solvency Capital Requirement for the ring-fenced fund or matching adjustment portfolio.

Where the insurance or reinsurance undertaking calculates the Solvency Capital Requirement using the standard formula, the notional Solvency Capital Requirement shall be calculated in accordance with Article 217.

Where the undertaking calculates the Solvency Capital Requirement using an internal model, the notional Solvency Capital Requirement shall be calculated using that internal model, as if the undertaking pursued only the business included in the ring-fenced fund or matching adjustment portfolio.

2 By way of derogation from paragraph 1, where the assets, the liabilities and the risk within a ring-fenced fund are not material, insurance and reinsurance undertakings may reduce the reconciliation reserve by the total amount of restricted own-fund items.

## Subsection 2

### Quantitative limits

## Article 82

### Eligibility and limits applicable to Tiers 1, 2 and 3

1 As far as compliance with the Solvency Capital Requirement is concerned, the eligible amounts of Tier 2 and Tier 3 items shall be subject to all of the following quantitative limits:

- a the eligible amount of Tier 1 items shall be at least one half of the Solvency Capital Requirement;
- b the eligible amount of Tier 3 items shall be less than 15 % of the Solvency Capital Requirement;
- c the sum of the eligible amounts of Tier 2 and Tier 3 items shall not exceed 50 % of the Solvency Capital Requirement.

2 As far as compliance with the Minimum Capital Requirements is concerned, the eligible amounts of Tier 2 items shall be subject to all of the following quantitative limits:

- a the eligible amount of Tier 1 items shall be at least 80 % of the Minimum Capital Requirement;
- b the eligible amounts of Tier 2 items shall not exceed 20 % of the Minimum Capital Requirement.

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3 Within the limit referred to in point (a) of paragraph 1 and point (a) of paragraph 2, the sum of the following basic own-fund items shall make up less than 20 % of the total amount of Tier 1 items:

- a items referred to in point (a)(iii) of Article 69;
- b items referred to in point (a)(v) of Article 69;
- c items referred to in point (b) of Article 69;
- d items that are included in Tier 1 basic own funds under the transitional arrangement set out in Article 308b(9) of Directive 2009/138/EC.

## CHAPTER V

### SOLVENCY CAPITAL REQUIREMENT STANDARD FORMULA

#### SECTION I

#### *General provisions*

##### *Subsection 1*

#### *Scenario based calculations*

##### *Article 83*

1 Where the calculation of a module or sub-module of the Basic Solvency Capital Requirement is based on the impact of a scenario on the basic own funds of insurance and reinsurance undertakings, all of the following assumptions shall be made in that calculation:

- a the scenario does not change the amount of the risk margin included in technical provisions;
- b the scenario does not change the value of deferred tax assets and liabilities;
- c the scenario does not change the value of future discretionary benefits included in technical provisions;
- d no management actions are taken by the undertaking during the scenario.

2 The calculation of technical provisions arising as a result of determining the impact of a scenario on the basic own funds of insurance and reinsurance undertakings as referred to in paragraph 1 shall not change the value of future discretionary benefits, and shall take account of all of the following:

- a without prejudice to point (d) of paragraph 1, future management actions following the scenario, provided they comply with Article 23;
- b any material adverse impact of the scenario or the management actions referred to in point (a) on the likelihood that policy holders will exercise contractual options.

3 Insurance and reinsurance undertakings may use simplified methods to calculate the technical provisions arising as a result of determining the impact of a scenario as referred to in paragraph 1, provided that the simplified method does not lead to a misstatement of the Solvency Capital Requirement that could influence the decision-making or the judgement of the user of the information relating to the Solvency Capital Requirement, unless the simplified calculation leads to a Solvency Capital Requirement which exceeds the Solvency Capital Requirement that results from the calculation according to the standard formula.

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4 The calculation of assets and liabilities arising as a result of determining the impact of a scenario as referred to in paragraph 1 shall take account of the impact of the scenario on the value of any relevant risk mitigation instruments held by the undertaking which comply with Articles 209 to 215.

5 Where the scenario would result in an increase in the basic own funds of insurance and reinsurance undertakings, the calculation of the module or sub-module shall be based on the assumption that the scenario has no impact on the basic own funds.

### *Subsection 2*

#### ***Look-through approach***

##### *Article 84*

1 The Solvency Capital Requirement shall be calculated on the basis of each of the underlying assets of collective investment undertakings and other investments packaged as funds (look-through approach).

2 The look-through approach referred to in paragraph 1 shall also apply to the following:

- a indirect exposures to market risk other than collective investment undertakings and investments packaged as funds;
- b indirect exposures to underwriting risk;
- c indirect exposures to counterparty risk.

[<sup>F28</sup>3 Where Article 88 is complied with and the look-through approach cannot be applied to collective investment undertakings or investments packaged as funds, the Solvency Capital Requirement may be calculated on the basis of the target underlying asset allocation or, if the target underlying asset allocation is not available to the undertaking, on the basis of the last reported asset allocation, of the collective investment undertaking or fund, provided that, in either case, the underlying assets are managed in accordance with that target allocation or last reported asset allocation, as applicable, and that exposures and risks are not expected to vary materially over a short period of time.

For the purposes of that calculation, data groupings may be used provided they enable all relevant sub-modules and scenarios of the standard formula to be calculated in a prudent manner, and that they do not apply to more than 20 % of the total value of the insurance or reinsurance undertaking's assets.]

[<sup>F12</sup>3a For the purposes of determining the percentage of assets where data groupings are used as referred to in paragraph 3, insurance or reinsurance undertakings shall not take into account underlying assets of the collective investment undertaking, or the investments packaged as funds, backing unit-linked or index-linked obligations for which the market risk is borne by the policyholders.]

[<sup>F28</sup>4 [<sup>F42</sup>Paragraph 2 shall not apply to investments in related undertakings, other than investments in respect of which all of the following conditions are met:]

- a the main purpose of the related undertaking is to hold and manage assets on behalf of the participating undertaking;
- b the related undertaking supports the operations of the participating undertaking related to investment activities, following a specific and documented investment mandate;
- c the related undertaking does not carry on any significant business other than investing for the benefit of the participating undertaking.



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F43  
...]

#### Textual Amendments

- F12** 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).
- F28** 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).
- F42** Substituted by Commission Delegated Regulation (EU) 2020/442 of 17 December 2019 correcting 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).
- F43** Words in Art. 84(4) omitted (31.12.2020) by virtue of The Risk Transformation and Solvency 2 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1233), regs. 1(4), **6(4)**; 2020 c. 1, Sch. 5 para. 1(1)

### Subsection 3

#### **Regional governments and local authorities**

#### Article 85

The conditions for a categorisation of regional governments and local authorities shall be that there is no difference in risk between exposures to these and exposures to the central government, because of the specific revenue-raising power of the former, and specific institutional arrangements exist, the effect of which is to reduce the risk of default.

### Subsection 4

#### **Material basis risk**

#### Article 86

Notwithstanding Article 210(2), where insurance or reinsurance undertakings transfer underwriting risk using reinsurance contracts or special purpose vehicles that are subject to material basis risk from a currency mismatch between underwriting risk and the risk-mitigation technique, insurance or reinsurance undertakings may take into account the risk-mitigation technique in the calculation of the Solvency Capital Requirement according to the standard formula, provided that the risk-mitigation technique complies with Article 209, Article 210(1), (3) and (4) and Article 211, and the calculation is carried out as follows:

- (a) the basis risk stemming from a currency mismatch between underwriting risk and the risk-mitigation technique shall be taken into account in the relevant underwriting risk module, sub-module or scenario of the standard formula at the most granular level by adding 25 % of the difference between the following to the capital requirement calculated in accordance with the relevant module, sub-module or scenario:

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**Changes to legislation:** Commission Delegated Regulation (EU) 2015/35 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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- (i) the hypothetical capital requirement for the relevant underwriting risk module, sub-module or scenario that would result from a simultaneous occurrence of the scenario set out in Article 188;
  - (ii) the capital requirement for the relevant underwriting risk module, sub-module or scenario.
- (b) where the risk-mitigation technique covers more than one module, sub-module or scenario, the calculation referred to in point (a) shall be carried out for each of those modules, sub-modules and scenarios. The capital requirement resulting from those calculations shall not exceed 25 % of the capacity of the non-proportional reinsurance contract or special purpose vehicle.

#### Subsection 5

### Calculation of the basic solvency capital requirement

#### Article 87

The Basic Solvency Capital Requirement shall include a risk module for intangible asset risk. and shall be equal to the following:

$$\text{BasicSCR} = \sqrt{\sum_{i,j} \text{Corr}_{i,j} \times \text{SCR}_i \times \text{SCR}_j} + \text{SCR}_{\text{intangibles}}$$

where:

- (a) the summation,  $\text{Corr}_{i,j}$ ,  $\text{SCR}_i$  and  $\text{SCR}_j$  are specified as set out in point (1) of Annex IV to Directive 2009/138/EC;
- (b)  $\text{SCR}_{\text{intangibles}}$  denotes the capital requirement for intangible asset risk referred to in Article 203.

#### Subsection 6

### Proportionality and simplifications

#### Article 88

#### Proportionality

1 <sup>[F28]</sup>For the purposes of Article 109 of Directive 2009/138/EC, insurance and reinsurance undertakings shall determine whether the simplified calculation is proportionate to the nature, scale and complexity of the risks by carrying out an assessment which shall include all of the following:]

- a an assessment of the nature, scale and complexity of the risks of the undertaking falling within the relevant module or sub-module;
- b an evaluation in qualitative or quantitative terms, as appropriate, of the error introduced in the results of the simplified calculation due to any deviation between the following:
  - (i) the assumptions underlying the simplified calculation in relation to the risk;
  - (ii) the results of the assessment referred to in point (a).

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

[<sup>F28</sup>2 A simplified calculation shall not be considered to be proportionate to the nature, scale and complexity of the risks where the error referred to in point (b) of paragraph 1 leads to a misstatement of the Solvency Capital Requirement that could influence the decision-making or the judgement of the user of the information relating to the Solvency Capital Requirement, unless the simplified calculation leads to a Solvency Capital Requirement which exceeds the Solvency Capital Requirement that results from the standard calculation.]

#### Textual Amendments

**F28** 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 \(Solvency II\) \(Text with EEA relevance\).](#)

### Article 89

#### General provisions for simplifications for captives

Captive insurance undertakings and captive reinsurance undertakings as defined in points (2) and (5) of Article 13 of Directive 2009/138/EC may use the simplified calculations set out in Articles 90, 103, 105 and 106 of this Regulation where Article 88 of this Regulation is complied with and all of the following requirements are met:

- (a) in relation to the insurance obligations of the captive insurance undertaking or captive reinsurance undertaking, all insured persons and beneficiaries are legal entities of the group of which the captive insurance or captive reinsurance undertaking is part;
- (b) in relation to the reinsurance obligations of the captive insurance or captive reinsurance undertaking, all insured persons and beneficiaries of the insurance contracts underlying the reinsurance obligations are legal entities of the group of which the captive insurance or captive reinsurance undertaking is part;
- (c) the insurance obligations and the insurance contracts underlying the reinsurance obligations of the captive insurance or captive reinsurance undertaking do not relate to any compulsory third party liability insurance.

### Article 90

#### Simplified calculation for captive insurance and reinsurance undertakings of the capital requirement for non-life premium and reserve risk

1 Where Articles 88 and 89 are complied with, captive insurance and captive reinsurance undertakings may calculate the capital requirement for non-life premium and reserve risk as follows:

$$SCR_{nl\ prem\ res} = \sqrt{0,65 \times \sum_s NL_2^{(pr,s)} + 0,35 \times (\sum_s NL_{(pr,s)})^2}$$

,

where the *s* covers all segments set out in Annex II.

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

2 For the purposes of paragraph 1, the capital requirement for non-life premium and reserve risk of a particular segment  $s$  set out in Annex II shall be equal to the following:

$$NL_{pr,s} = 0,6 \times \sqrt{V_2^{(prem,s)} + V_{(prem,s)} \times V_{(res,s)} + V_2^{(res,s)}}$$

where:

- (a)  $V_{(prem,s)}$  denotes the volume measure for premium risk of segment  $s$  calculated in accordance with paragraph 3 of Article 116;
- (b)  $V_{(res,s)}$  denotes the volume measure for reserve risk of a segment calculated in accordance with paragraph 6 of Article 116.

*f<sup>F12</sup> Article 90a*

### **Simplified calculation for discontinuance of insurance policies in the non-life lapse risk sub-module**

For the purposes of point (a) of Article 118(1), where Article 88 is complied with, insurance and reinsurance undertakings may determine the insurance policies for which discontinuance would result in an increase of technical provisions without the risk margin on the basis of groups of policies, provided that the grouping complies with the requirements laid down in points (a), (b) and (c) of Article 35.

#### **Textual Amendments**

**F12** 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 \(Solvency II\) \(Text with EEA relevance\)](#).

*Article 90b*

### **Simplified calculation of the sum insured for natural catastrophe risks**

1 Where Article 88 is complied with, insurance and reinsurance undertakings may calculate the sum insured for windstorm risk referred to in point (b) of paragraph 6, and in paragraph 7, of Article 121 on the basis of groups of risk zones. Each of the risk zones within a group shall be situated within one and the same particular region set out in Annex V. Where the sum insured for windstorm risk referred to in point (b) of Article 121(6) is calculated on the basis of a group of risk zones, the risk weight for windstorm risk referred to in point (a) of Article 121(6) shall be the risk weight for windstorm risk in the risk zone within that group with the highest risk weight for windstorm risk set out in Annex X.

2 Where Article 88 is complied with, insurance and reinsurance undertakings may calculate the sum insured for earthquake risk referred to in point (b) of paragraph 3, and in paragraph 4, of Article 122 on the basis of groups of risk zones. Each of the risk zones within a group shall be situated within one and the same particular region set out in Annex VI. Where the sum insured for earthquake risk referred to in point (b) of Article 122(3) is calculated on the basis of a group of risk zones, the risk weight for earthquake risk referred to in point (a) of Article 122(3) shall be the risk weight for earthquake risk in the risk zone within that group with the highest risk weight for earthquake risk as set out in Annex X.

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

3 Where Article 88 is complied with, insurance and reinsurance undertakings may calculate the sum insured for flood risk referred to in point (b) of paragraph 6, and in paragraph 7, of Article 123 on the basis of groups of risk zones. Each of the risk zones within a group shall be situated within one and the same particular region set out in Annex VII. Where the sum insured for flood risk referred to in point (b) of Article 123(6) is calculated on the basis of a group of risk zones, the risk weight for flood risk referred to in point (a) of Article 123(6) shall be the risk weight for flood risk in the risk zone within that group with the highest risk weight for flood risk as set out in Annex X.

4 Where Article 88 is complied with, insurance and reinsurance undertakings may calculate the sum insured for hail risk referred to in point (b) of paragraph 6, and in paragraph 7, of Article 124 on the basis of groups of risk zones. Each of the risk zones within a group shall be situated within one and the same particular region set out in Annex VIII. Where the sum insured for hail risk referred to in point (b) of Article 124(6) is calculated on the basis of a group of risk zones, the risk weight for hail risk referred to in point (a) of Article 124(6) shall be the risk weight for hail risk in the risk zone within that group with the highest risk weight for hail risk as set out in Annex X.

5 Where Article 88 is complied with, insurance and reinsurance undertakings may calculate the weighted sum insured for subsidence risk referred to in Article 125(2) on the basis of groups of risk zones. Where the weighted sum insured referred to in Article 125(2) is calculated on the basis of a group of risk zones, the risk weight for subsidence risk referred to in point (a) of Article 125(2) shall be the risk weight for subsidence risk in the risk zone within that group with the highest risk weight for subsidence risk as set out in Annex X.

#### Textual Amendments

**F12** 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 \(Solvency II\) \(Text with EEA relevance\)](#).

### Article 90c

#### Simplified calculation of the capital requirement for fire risk

1 Where Article 88 is complied with, insurance and reinsurance undertakings may calculate the capital requirement for fire risk referred to in Article 132(1) as follows:

$$SCR_{fire} = \max(SCR_{firei}, SCR_{firec}, SCR_{firer})$$

where:

- a)  $SCR_{firei}$  denotes the largest industrial fire risk concentration;
- b)  $SCR_{firec}$  denotes the largest commercial fire risk concentration;
- c)  $SCR_{firer}$  denotes the largest residential fire risk concentration.

2 The largest industrial fire risk concentration of an insurance or reinsurance undertaking shall be equal to the following:

$$SCR_{firei} = \max(E_{1,i}, E_{2,i}, E_{3,i}, E_{4,i}, E_{5,i})$$

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where  $E_{k,i}$  denotes the total exposure within the perimeter of the  $k$ -th largest industrial fire risk exposure.

3 The largest commercial fire risk concentration of an insurance or reinsurance undertaking shall be equal to the following:

$$SCR_{firec} = \max(E_{1,c}; E_{2,c}; E_{3,c}; E_{4,c}; E_{5,c})$$

where  $E_{k,c}$  denotes the total exposure within the perimeter of the  $k$ -th largest commercial fire risk exposure.

4 The largest residential fire risk concentration of an insurance or reinsurance undertaking shall be equal to the following:

$$SCR_{firer} = \max(E_{1,r}; E_{2,r}; E_{3,r}; E_{4,r}; E_{5,r}; \theta)$$

where:

- (a)  $E_{k,r}$  denotes the total exposure within the perimeter of the  $k$ -th largest residential fire risk exposure;
- (b)  $\theta$  denotes the market share based residential fire risk exposure.

5 For the purpose of paragraphs 2, 3 and 4, the total exposure within the perimeter of the  $k$ -th largest industrial, commercial or residential fire risk exposure of an insurance or reinsurance undertaking is the sum insured by the insurance or reinsurance undertaking with respect to a set of buildings that meets all of the following conditions:

- a in relation to each building, the insurance or reinsurance undertaking has obligations in lines of business 7 and 19 set out in Annex I which cover damage due to fire or explosion, including as a result of terrorist attacks;
- b each building is partly or fully located within a radius of 200 meters around the industrial, commercial or residential building with the  $k$ -th largest sum insured after deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles.

For the purposes of determining the sum insured with respect to a building, insurance and reinsurance undertakings shall take into account all reinsurance contracts and special purpose vehicles that would pay out in case of insurance claims related to that building. Reinsurance contracts and special purpose vehicles that are subject to conditions not related to that building shall not be taken into account.

6 The market share based residential fire risk exposure shall be equal to the following:

$$\theta = SI_{av} \cdot 500 \cdot \max(0,05; \max_c(\text{marketShare}_c))$$

where:

- (a)  $SI_{av}$  is the average sum insured by the insurance or reinsurance undertaking with respect to residential property;
- (b)  $c$  denotes all countries where the insurance or reinsurance undertaking has obligations in lines of business 7 and 19 set out in Annex I covering residential property;
- (c)  $\text{marketShare}_c$  is the market share of the insurance or reinsurance undertaking in country  $c$  related to obligations in those lines of business covering residential property.]

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## Textual Amendments

**F12** 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).

## Article 91

### Simplified calculation of the capital requirement for life mortality risk

Where Article 88 is complied with, insurance and reinsurance undertakings may calculate the capital requirement for life mortality risk as follows:

$$SCR_{mortality} = 0,15 \times q \times \sum_{n=1}^{k-1} CAR_k \times \frac{(1-q)^{k-1}}{(1+i_k)^{k-0,5}}$$

where, with respect to insurance and reinsurance policies with a positive capital at risk:

- (a)  $I^{F28}CAR_k$  denotes the total capital at risk in year  $k$ , meaning the sum over all contracts of the higher of zero and the difference, in relation to each contract, between the following amounts:
  - (i) the sum of:
    - the amount that the insurance or reinsurance undertaking would pay in year  $k$  in the event of the death of the persons insured under the contract after deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles;
    - the expected present value of amounts not covered in the previous indent that the insurance or reinsurance undertaking would pay after year  $k$  in the event of the immediate death of the persons insured under the contract after deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles;
  - (ii) the best estimate of the corresponding obligations in year  $k$  after deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles;
- (b)  $I^{F28}q$  denotes the expected average mortality rate over all the insured persons and over all future years weighted by the sum insured;
- (c)  $n$  denotes the modified duration in years of payments payable on death included in the best estimate;
- (d)  $i_k$  denotes the annualized spot rate for maturity  $k$  of the relevant risk-free term structure as referred to in Article 43.

## Textual Amendments

**F28** 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).

## Article 92

### Simplified calculation of the capital requirement for life longevity risk

Where Article 88 is complied with, insurance and reinsurance undertakings may calculate the capital requirement for life longevity risk calculated as follows:

$$SCR_{longevity} = 0,2 \times q \times n \times 1,1^{(n-1)/2} \times BE_{long}$$

where, with respect to the policies referred to in Article 138(2):

- (a)  $q$  denotes the expected average mortality rate of the insured persons during the following 12 months weighted by the sum insured;
- (b)  $n$  denotes the modified duration in years of the payments to beneficiaries included in the best estimate;
- (c)  $BE_{long}$  denotes the best estimate of the obligations subject to longevity risk.

## Article 93

### Simplified calculation of the capital requirement for life disability-morbidity risk

Where 88 is complied with, insurance and reinsurance undertakings may calculate the capital requirement for life disability-morbidity risk as follows:

$SCR_{disability-morbidity} =$	$0,35 \cdot CAR_1 \cdot d_1 + 0,25 \cdot 1,1^{(n-3)/2} \cdot (n - 1) \cdot CAR_2 \cdot d_2 + 0,2 \cdot 1,1^{(n-1)/2} \cdot t \cdot n \cdot BE_{dis}$
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where with respect to insurance and reinsurance policies with a positive capital at risk:

- (a)  $CAR_1$  denotes the total capital at risk, meaning the sum over all contracts of the higher of zero and the difference between the following amounts:
  - (i) the sum of:
    - the amount that the insurance or reinsurance undertaking would currently pay in the event of the death or disability of the persons insured under the contract after deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles;
    - the expected present value of amounts not covered in the previous indent that the insurance or reinsurance undertaking would pay in the future in the event of the immediate death or disability of the persons insured under the contract after deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles;
  - (ii) the best estimate of the corresponding obligations after deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles;



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- (b)  $CAR_2$  denotes the total capital at risk as defined in point (a) after 12 months;
- (c)  $d_1$  denotes the expected average disability-morbidity rate during the following 12 months weighted by the sum insured;
- (d)  $d_2$  denotes the expected average disability-morbidity rate in the 12 months after the following 12 months weighted by the sum insured;
- (e)  $n$  denotes the modified duration of the payments on disability-morbidity included in the best estimate;
- (f)  $t$  denotes the expected termination rates during the following 12 months;
- (g)  $BE_{dis}$  denotes the best estimate of obligations subject to disability-morbidity risk.

#### Article 94

##### Simplified calculation of the capital requirement for life-expense risk

Where Article 88 is complied with, insurance and reinsurance undertakings may calculate the capital requirement for life-expense risk as follows:

$$SCR_{expenses} = 0,1 \times EI \times n + EI \times \left( \left( \frac{1}{i+0,01} \right) \times ((1+i+0,01)^n - 1) - \frac{1}{i} ((1+i)^n - 1) \right)$$

where:

- (a)  $EI$  denotes the amount of expenses incurred in servicing life insurance or reinsurance obligations other than health insurance and reinsurance obligations during the last year;
- (b)  $n$  denotes the modified duration in years of the cash flows included in the best estimate of those obligations;
- (c)  $i$  denotes the weighted average inflation rate included in the calculation of the best estimate of those obligations, where the weights are based on the present value of expenses included in the calculation of the best estimate for servicing existing life obligations.

#### Article 95

##### Simplified calculation of the capital requirement for permanent changes in lapse rates

1 Where Article 88 is complied with, insurance and reinsurance undertakings may calculate the capital requirement for the risk of a permanent increase in lapse rates as follows:

$$Lapse_{up} = 0,5 \times l_{up} \times n_{up} \times S_{up}$$

where:

- (a)  $l_{up}$  denotes the higher of the average lapse rate of the policies with positive surrender strains and 67 %;
- (b)  $n_{up}$  denotes the average period in years over which the policies with a positive surrender strains run off;
- (c)  $S_{up}$  denotes the sum of positive surrender strains.

2 Where Article 88 is complied with, insurance and reinsurance undertakings may calculate the capital requirement for the risk of a permanent decrease in lapse rates as follows:

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

$$Lapse_{down} = 0,5 \times l_{down} \times n_{down} \times S_{down}$$

where:

- (a)  $l_{down}$  denotes the higher of the average lapse rate of the policies with negative surrender strains and 40 %;
- (b)  $n_{down}$  denotes the average period in years over which the policies with a negative surrender strains runs off;
- (c)  $S_{down}$  denotes the sum of negative surrender strains.

3 The surrender strain of an insurance policy referred to in paragraphs 1 and 2 is the difference between the following:

- a the amount currently payable by the insurance undertaking on discontinuance by the policy holder, net of any amounts recoverable from policy holders or intermediaries;
- b the amount of technical provisions without the risk margin.

*f<sup>F12</sup> Article 95a*

#### **Simplified calculation of the capital requirement for risks in the life lapse risk sub-module**

Where Article 88 is complied with, insurance and reinsurance undertakings may calculate each of the following capital requirements on the basis of groups of policies, provided that the grouping complies with the requirements laid down in points (a), (b) and (c) of Article 35:

- (a) the capital requirement for the risk of a permanent increase in lapse rates referred to in Article 142(2);
- (b) the capital requirement for the risk of a permanent decrease in lapse rates referred to in Article 142(3);
- (c) the capital requirement for mass lapse risk referred to in Article 142(6).]

#### **Textual Amendments**

**F12** 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).

*Article 96*

#### **Simplified calculation of the capital requirement for life-catastrophe risk**

Where Article 88 is complied with, insurance and reinsurance undertakings may calculate the capital requirement for life-catastrophe risk calculated as follows:

$$SCR_{life-catastrophe} = \sum_i 0,0015 \times CAR_i$$

where:

- (a) the sum includes all policies with a positive capital at risk;

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- (b)  $CAR_i$  denotes the capital at risk of the policy  $i$ , meaning the higher of zero and the difference between the following amounts:
- (i) the sum of:
    - the amount that the insurance or reinsurance undertaking would currently pay in the event of the death of the persons insured under the contract after deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles;
    - the expected present value of amounts not covered in the previous indent that the insurance or reinsurance undertaking would pay in the future in the event of the immediate death of the persons insured under the contract after deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles;
  - (ii) the best estimate of the corresponding obligations after deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles.

*[<sup>F12</sup>Article 96a*

#### **Simplified calculation for discontinuance of insurance policies in the NSLT health lapse risk sub-module**

For the purposes of point (a) of Article 150(1), where Article 88 is complied with, insurance and reinsurance undertakings may determine the insurance policies for which discontinuance would result in an increase of technical provisions without the risk margin on the basis of groups of policies, provided that the grouping complies with the requirements laid down in points (a), (b) and (c) of Article 35.]

#### **Textual Amendments**

- F12** 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).

*Article 97*

#### **Simplified calculation of the capital requirement for health mortality risk**

Where Article 88 is complied with, insurance and reinsurance undertakings may calculate the capital requirement for health mortality risk as follows:

$$[^{F28} \text{ } SCR_{\text{health-mortality}} = 0,15 \times q \times \sum_{k=1}^{k-1} CAR_k \times \frac{(1-q)^{k-1}}{(1+i_k)^{k-0,5}} ]$$

where with respect to insurance and reinsurance policies with a positive capital at risk:

- (a)  $[^{F28} CAR_k$  denotes the total capital at risk in year  $k$ , meaning the sum over all contracts of the higher of zero and the difference, in relation to each contract, between the following amounts:

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- (i) the sum of:
  - the amount that the insurance or reinsurance undertaking would pay in year  $k$  in the event of the death of the persons insured under the contract after deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles;
  - the expected present value of amounts not covered in the previous indent that the insurance or reinsurance undertaking would pay after year  $k$  in the event of the immediate death of the persons insured under the contract after deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles;
- (ii) the best estimate of the corresponding obligations in year  $k$  after deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles;]
- (b)  $\int^{F28} q$  denotes the expected average mortality rate over all insured persons and over all future years weighted by the sum insured;]
- (c)  $n$  denotes the modified duration in years of payments payable on death included in the best estimate;
- (d)  $i_k$  denotes the annualized spot rate for maturity  $k$  of the relevant risk-free term structure as referred to in Article 43.

#### Textual Amendments

**F28** 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 \(Solvency II\) \(Text with EEA relevance\).](#)

### Article 98

#### Simplified calculation of the capital requirement for health longevity risk

Where Article 88 is complied with, insurance and reinsurance undertakings may calculate the capital requirement for health longevity risk as follows:

$$SCR_{\text{health-longevity}} = 0,2 \times q \times n \times 1,1^{(n-1)/2} \times BE_{\text{long}}$$

where, with respect to the policies referred to in Article 138(2):

- (a)  $q$  denotes the expected average mortality rate of the insured persons during the following 12 months weighted by the sum insured;
- (b)  $n$  denotes the modified duration in years of the payments to beneficiaries included in the best estimate;
- (c)  $BE_{\text{long}}$  denotes the best estimate of the obligations subject to longevity risk.

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

## Article 99

### Simplified calculation of the capital requirement for medical expense disability-morbidity risk

Where Article 88 is complied with, insurance and reinsurance undertakings may calculate the capital requirement for medical expense disability-morbidity risk as follows:

$$SCR_{\text{medical expense}} = 0,05 \times MP \times n + MP \times \left( \left( \frac{1}{i+0,01} \right) ((1+i+0,01)^n - 1) - \frac{1}{i} ((1+i)^n - 1) \right)$$

where:

- (a) *MP* denotes the amount of medical payments during the last year on medical expense insurance or reinsurance obligations during the last year;
- (b) *n* denotes the modified duration in years of the cash flows included in the best estimate of those obligations;
- (c) *i* denotes the average rate of inflation on medical payments included in the calculation of the best estimate of those obligations, where the weights are based on the present value of medical payments included in the calculation of the best estimate of those obligations.

## Article 100

### Simplified calculation of the capital requirement for income protection disability-morbidity risk

Where Article 88 is complied with, insurance and reinsurance undertakings may calculate the capital requirement for income protection disability-morbidity risk as follows:

$SCR_{\text{income-protection-disability-morbidity}} =$	$0,35 \cdot CAR_1 \cdot d_1 + 0,25 \cdot 1,1^{(n-3)/2} \cdot (n - 1) \cdot CAR_2 \cdot d_2 + 0,2 \cdot 1,1^{(n-1)/2} \cdot t \cdot n \cdot BE_{dis}$
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where with respect to insurance and reinsurance policies with a positive capital at risk:

- (a) *CAR*<sub>1</sub> denotes the total capital at risk, meaning the sum over all contracts of the higher of zero and the difference between the following amounts:
  - (i) the sum of:
    - the amount that the insurance or reinsurance undertaking would currently pay in the event of the death or disability of the persons insured under the contract after deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles;
    - the expected present value of amounts not covered in the previous indent that the undertaking would pay in the future in the event of the immediate death or disability of the persons insured under the contract after deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles;

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- (ii) the best estimate of the corresponding obligations after deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles;
- (b)  $CAR_2$  denotes the total capital at risk as defined in point (a) after 12 months;
- (c)  $d_1$  denotes the expected average disability-morbidity rate during the following 12 months weighted by the sum insured;
- (d)  $d_2$  denotes the expected average disability-morbidity rate in the 12 months after the following 12 months weighted by the sum insured;
- (e)  $n$  denotes the modified duration of the payments on disability-morbidity included in the best estimate;
- (f)  $t$  denotes the expected termination rates during the following 12 months;
- (g)  $BE_{dis}$  denotes the best estimate of obligations subject to disability-morbidity risk.

#### Article 101

##### Simplified calculation of the capital requirement for health expense risk

Where Article 88 is complied with, insurance and reinsurance undertakings may calculate the capital requirement for health expense risk as follows:

$$SCR_{\text{health-expense}} = 0,1 \times EI \times n + EI \times \left( \left( \frac{1}{i+0,01} \right) \times ((1+i+0,01)^n - 1) - \frac{1}{i} ((1+i)^n - 1) \right)$$

where:

- (1)  $EI$  denotes the amount of expenses incurred in servicing health insurance and reinsurance obligations during the last year;
- (2)  $n$  denotes the modified duration in years of the cash flows included in the best estimate of those obligations;
- (3)  $i$  denotes the weighted average inflation rate included in the calculation of the best estimate of these obligations, weighted by the present value of expenses included in the calculation of the best estimate for servicing existing health obligations.

#### Article 102

##### Simplified calculation of the capital requirement for SLT health lapse risk

1 Where Article 88 is complied with, insurance and reinsurance undertakings may calculate the capital requirement for the risk of a permanent increase in lapse rates referred to in Article 159(1)(a) as follows:

$$Lapse_{up} = 0,5 \times l_{up} \times n_{up} \times S_{up}$$

where:

- (a)  $l_{up}$  denotes the higher of the average lapse rate of the policies with positive surrender strains and 83 %;
- (b)  $n_{up}$  denotes the average period in years over which the policies with a positive surrender strains run off;

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(c)  $S_{up}$  denotes the sum of positive surrender strains.

2 Where Article 88 is complied with, insurance and reinsurance undertakings may calculate the capital requirement for the risk of a permanent decrease in lapse rates referred to in 159(1)(b) as follows:

$$Lapse_{down} = 0,5 \times l_{down} \times n_{down} \times S_{down}$$

where:

- (a)  $l_{down}$  denotes the average lapse rate of the policies with negative surrender strains;
- (b)  $n_{down}$  denotes the average period in years over which the policies with a negative surrender strains runs off;
- (c)  $S_{down}$  denotes the sum of negative surrender strains.

3 The surrender strain of an insurance policy referred to in paragraphs (1) and (2) is the difference between the following:

- a the amount currently payable by the insurance undertaking on discontinuance by the policy holder, net of any amounts recoverable from policy holders or intermediaries;
- b the amount of technical provisions without the risk margin.

*[<sup>F12</sup>Article 102a*

### **Simplified calculation of the capital requirement for risks in the SLT health lapse risk sub-module**

Where Article 88 is complied with, insurance and reinsurance undertakings may calculate each of the following capital requirements on the basis of groups of policies, provided that the grouping complies with the requirements laid down in points (a), (b) and (c) of Article 35:

- (a) the capital requirement for the risk of a permanent increase in SLT health lapse rates referred to in Article 159(2);
- (b) the capital requirement for the risk of a permanent decrease in SLT health lapse rates referred to in Article 159(3);
- (c) the capital requirement for SLT health mass lapse risk referred to in Article 159(6).]

#### **Textual Amendments**

**F12** 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 \(Solvency II\) \(Text with EEA relevance\).](#)

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

### Article 103

#### Simplified calculation of the capital requirement for interest rate risk for captive insurance or reinsurance undertakings

1 Where Articles 88 and 89 are complied with, captive insurance or captive reinsurance undertakings may calculate the capital requirement for interest rate risk referred to in Article 165 as follows:

- a the sum, for each currency, of the capital requirements for the risk of an increase in the term structure of interest rates as set out in paragraph 2 of this Article;
- b the sum, for each currency, of the capital requirements for the risk of a decrease in the term structure of interest rates as set out in paragraph 3 of this Article.

2 For the purposes of point (a) of paragraph 1 of this Article, the capital requirement for the risk of an increase in the term structure of interest rates for a given currency shall be equal to the following:

$$IR_{up} = \sum_i MVAL_i \times dur_i \times rate_i \times stress_{(i,up)} - \sum_{lob} BE_{lob} \times dur_{lob} \times rate_{lob} \times stress_{(lob,up)}$$

where:

- (a) the first sum covers all maturity intervals  $i$  set out in paragraph 4 of this Article;
- (b)  $MVAL_i$  denotes the value in accordance with Article 75 of Directive 2009/138/EC of assets less liabilities other than technical provisions for maturity interval  $i$ ;
- (c)  $dur_i$  denotes the simplified duration of maturity interval  $i$ ;
- (d)  $rate_i$  denotes the relevant risk-free rate for the simplified duration of maturity interval  $i$ ;
- (e)  $stress_{(i,up)}$  denotes the relative upward stress of interest rate for simplified duration of maturity interval  $i$ ;
- (f) the second sum covers all lines of business set out in Annex I of this Regulation;
- (g)  $BE_{lob}$  denotes the best estimate for line of business  $lob$ ;
- (h)  $dur_{lob}$  denotes the modified duration of the best estimate in line of business  $lob$ ;
- (i)  $rate_{lob}$  denotes the relevant risk-free rate for modified duration in line of business  $lob$ ;
- (j)  $stress_{(lob,up)}$  denotes the relative upward stress of interest rate for the modified duration  $dur_{lob}$ .

3 For the purposes of point (b) of paragraph 1 of this Article, the capital requirement for the risk of a decrease in the term structure of interest rates for a given currency shall be equal to the following:

$$IR_{down} = \sum_i MVAL_i \times dur_i \times rate_i \times stress_{(i,down)} - \sum_{lob} BE_{lob} \times dur_{lob} \times rate_{lob} \times stress_{(lob,down)}$$

where:

- (a) the first sum covers all maturity intervals  $i$  set out in paragraph 4;
- (b)  $MVAL_i$  denotes the value in accordance with Article 75 of Directive 2009/138/EC of assets less liabilities other than technical provisions for maturity interval  $i$ ;
- (c)  $dur_i$  denotes the simplified duration of maturity interval  $i$ ;



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- (d)  $rate_i$  denotes the relevant risk-free rate for the simplified duration of maturity interval  $i$ ;
  - (e)  $stress_{(i,down)}$  denotes the relative downward stress of interest rate for simplified duration of maturity interval  $i$ ;
  - (f) the second sum covers all lines of business set out in Annex I of this Regulation;
  - (g)  $BE_{lob}$  denotes the best estimate for line of business  $lob$ ;
  - (h)  $dur_{lob}$  denotes the modified duration of the best estimate in line of business  $lob$ ;
  - (i)  $rate_{lob}$  denotes the relevant risk-free rate for modified duration in line of business  $lob$ ;
  - (j)  $stress_{(lob, down)}$  denote the relative downward stress of interest rate for modified duration  $dur_{lob}$ .
- 4 The maturity intervals  $i$  and the simplified duration  $dur_i$  referred to in points (a) and (c) of paragraph 2 and in point (a) and (c) of paragraph 3 shall be as follows:
- a up to the maturity of one year, the simplified duration shall be 0.5 years;
  - b between maturities of 1 and 3 years, the simplified duration shall be 2 years;
  - c between maturities of 3 and 5 years, the simplified duration shall be 4 years;
  - d between maturities of 5 and 10 years, the simplified duration shall be 7 years;
  - e from the maturity of 10 years onwards, the simplified duration shall be 12 years.

#### Article 104

##### Simplified calculation for spread risk on bonds and loans

1 Where Article 88 is complied with, insurance or reinsurance undertakings may calculate the capital requirement for spread risk referred to in Article 176 of this Regulation as follows:

$$SCR_{bonds} = MV^{bonds} \times \left( \sum_i \%MV_i^{bonds} \times stress_i + \%MV_{bonds}^{norating} \times \min [dur_{norating} \times 0,03; 1] \right) + \Delta Liab_{net}$$

where:

- (a)  $SCR_{bonds}$  denotes the capital requirement for spread risk on bonds and loans;
- (b)  $MV^{bonds}$  denotes the value in accordance with [F44 rules 2.1 and 2.2 of the Valuation part of the PRA Rulebook] of the assets subject to capital requirements for spread risk on bonds and loans;
- (c)  $\%MV_i^{bonds}$  denotes the proportion of the portfolio of the assets subject to a capital requirement for spread risk on bonds and loans with credit quality step  $i$ , where a credit assessment by a nominated ECAI is available for those assets;
- (d)  $\%MV_{norating}^{bonds}$  denotes the proportion of the portfolio of the assets subject to a capital requirement for spread risk on bonds and loans for which no credit assessment by a nominated ECAI is available;
- (e)  $dur_i$  and  $dur_{norating}$  denote the modified duration denominated in years of the assets subject to a capital requirement for spread risk on bonds and loans where no credit assessment by a nominated ECAI is available;

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- (f)  $stress_i$  denotes a function of the credit quality step  $i$  and of the modified duration denominated in years of the assets subject to a capital requirement for spread risk on bonds and loans with credit quality step  $i$ , set out in paragraph 2;
- (g)  $\Delta Liab_{ul}$  denotes the increase in the technical provisions less risk margin for policies where the policyholders bear the investment risk with embedded options and guarantees that would result from an instantaneous decrease in the value of the assets subject to the capital requirement for spread risk on bonds of:

$$MV_{bonds} \times \left( \sum_i \%MV_{bonds}^i \times stress_i + \%MV_{bonds}^{norating} \times \min[duration_{norating} \times 0,03; 1] \right).$$

2  $stress_i$  referred to in point (f) of paragraph 1, for each credit quality step  $i$ , shall be equal to:

$$duration_i \times b_i$$

, where  $duration_i$  is the modified duration denominated in years of the assets subject to a capital requirement for spread risk on bonds and loans with credit quality step  $i$ , and  $b_i$  is determined in accordance with the following table:

Credit quality step $i$	0	1	2	3	4	5	6
$b_i$	0,9 %	1,1 %	1,4 %	2,5 %	4,5 %	7,5 %	7,5 %

3  $duration_{norating}$  referred to in point (e) of paragraph 1 and  $duration_i$  referred to in paragraph 2 shall not be lower than 1 year.

#### Textual Amendments

**F44** Words in Art. 104(1)(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(14)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)

### Article 105

#### Simplified calculation for captive insurance or reinsurance undertakings of the capital requirement for spread risk on bonds and loans

Where Articles 88 and 89 are complied with, captive insurance or captive reinsurance undertakings may base the calculation of the capital requirement for spread risk to in Article 176 on the assumption that all assets are assigned to credit quality step 3.

### <sup>F12</sup>Article 105a

#### Simplified calculation for the risk factor in the spread risk sub-module and the market risk concentration sub-module

Where Article 88 is complied with, insurance and reinsurance undertakings may assign a bond other than those to be included in the calculations under paragraphs (2) to (16) of Article 180 a risk factor  $stress_i$  equivalent to credit quality step 3 for the purposes of Articles 176(3) and assign the bond to credit quality step 3 for the purpose of calculating

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the weighted average credit quality step in accordance with 182(4), provided that all of the following conditions are met:

- (a) credit assessments from a nominated ECAI are available for at least 80 % of the total value of the bonds other than those to be included in the calculations under paragraphs (2) to (16) of Article 180;
- (b) a credit assessment by a nominated ECAI is not available for the bond in question;
- (c) the bond in question provides a fixed redemption payment on or before the date of maturity, in addition to regular fixed or floating rate interest payments;
- (d) the bond in question is not a structured note or collateralised security as referred to in Annex VI to Commission Implementing Regulation (EU) 2015/2450<sup>(8)</sup>;
- (e) the bond in question does not cover liabilities that provide profit participation arrangements, nor does it cover unit-linked or index-linked liabilities, nor liabilities where a matching adjustment is applied.]

#### Textual Amendments

**F12** 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 \(Solvency II\) \(Text with EEA relevance\)](#).

### Article 106

#### **Simplified calculation of the capital requirement for market risk concentration for captive insurance or reinsurance undertakings**

Where Articles 88 and 89 are complied with, captive insurance or captive reinsurance undertakings may use all of the following assumptions for the calculation of the capital requirement for concentration risk:

- (1) intra-group asset pooling arrangements of captive insurance or reinsurance undertakings may be exempted from the calculation base referred to in Article 184(2) to the extent that there exist legally enforceable contractual terms which ensure that the liabilities of the captive insurance or reinsurance undertaking will be offset by the intra-group exposures it holds against other entities of the group.
- (2) the relative excess exposure threshold referred to in Article 184(1)(c) shall be equal to 15 % for the following single name exposures:
  - (a) exposures to credit institutions that do not belong to the same group and that have been assigned to the credit quality step 2;
  - (b) exposures to entities of the group that manages the cash of the captive insurance or reinsurance undertaking that have been assigned to the credit quality step 2.

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## Article 107

### Simplified calculation of the risk mitigating effect for reinsurance arrangements or securitisation

1 <sup>[F28]</sup>Where both Article 88 is complied with and the best estimate of amounts recoverable from a reinsurance arrangement or securitisation and the corresponding debtors is not negative, insurance and reinsurance undertakings may calculate the risk-mitigating effect on underwriting risk of that reinsurance arrangement or securitisation referred to in Article 196 as follows:]

$$RM_{re,all} \times \frac{Recoverables_i}{Recoverables_{all}}$$

where

- (a)  $RM_{re,all}$  denotes the risk mitigating effect on underwriting risk of the reinsurance arrangements and securitisations for all counterparties calculated in accordance with paragraph 2;
- (b)  $Recoverables_i$  denotes the best estimate of amounts recoverable from the reinsurance arrangement or securitisation and the corresponding debtors for counterparty  $i$  and  $Recoverables_{all}$  denotes the best estimate of amounts recoverable from the reinsurance arrangements and securitisations and the corresponding debtors for all counterparties.

2 The risk mitigating effect on underwriting risk of the reinsurance arrangements and securitisations for all counterparties referred to in paragraph 1 is the difference between the following capital requirements:

- a the hypothetical capital requirement for underwriting risk of the insurance or reinsurance undertaking if none of the reinsurance arrangements and securitisations exist;
- b the capital requirements for underwriting risk of the insurance or reinsurance undertaking.

#### Textual Amendments

- F28** 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).

## Article 108

### Simplified calculation of the risk mitigating effect for proportional reinsurance arrangements

<sup>[F28]</sup>Where both Article 88 is complied with and the best estimate of amounts recoverable from a proportional reinsurance arrangement and the corresponding debtors for a counterparty  $i$  is not negative, insurance and reinsurance undertakings may calculate the risk-mitigating effect on underwriting risk  $j$  of the proportional reinsurance arrangement for counterparty  $i$  referred to Article 196 as follows:]

$$\frac{Recoverables_i}{BE - Recoverables_{all}} \times SCR_j$$

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where

- (a)  $BE$  denotes the best estimate of obligations gross of the amounts recoverable,
- (b)  $Recoverables_i$  denotes the best estimate of amounts recoverable from the proportional reinsurance arrangement and the corresponding debtors for counterparty  $i$ ,
- (c)  $Recoverables_{all}$  denotes the best estimate of amounts recoverable from the proportional reinsurance arrangements and the corresponding debtors for all counterparties
- (d)  $SCR_j$  denotes the capital requirements for underwriting risk  $j$  of the insurance or reinsurance undertaking.

#### Textual Amendments

- F28** 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 \(Solvency II\) \(Text with EEA relevance\).](#)

### Article 109

#### Simplified calculations for pooling arrangements

Where Article 88 is complied with, insurance or reinsurance undertakings may use the following simplified calculations for the purposes of Articles 193, 194 and 195:

- (a) The best estimate referred to in Article 194(1)(d) may be calculated as follows:

$$BE_C = \frac{P_C}{P_U} \times BE_U$$

where  $BE_U$  denotes the best estimate of the liability ceded to the pooling arrangement by the undertaking to the pooling arrangement, net of any amounts reinsured with counterparties external to the pooling arrangement.

- (b) The best estimate referred to in Article 195(c) may be calculated as follows:

$$BE_{CE} = \frac{1}{P_U} \times BE_{CEP}$$

where  $BE_{CEP}$  denotes the best estimate of the liability ceded to the external counterparty by the pool, in relation to risk ceded to the pool by the undertaking.

- (c) The risk mitigating effect referred to in Article 195(d) may be calculated as follows:

$$\Delta RM_{CE} = \frac{BE_{CE}}{\sum_{CE} BE_{CE}} \times \Delta RM_{CEP}$$

where:

- (i)  $BE_{CE}$  denotes the best estimate of the liability ceded to the external counterparty by the pooling arrangement as a whole;
- (ii)  $\Delta RM_{CEP}$  denotes the contribution of all external counterparties to the risk mitigating effect of the pooling arrangement on the underwriting risk of the undertaking;

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- (d) The counterparty pool members and the counterparties external to the pool may be grouped according to the credit assessment by a nominated ECAI, provided there are separate groupings for pooling exposures of type A, type B and type C.

### *[<sup>F28</sup>Article 110*

#### **Simplified calculation — grouping of single name exposures**

Where Article 88 is complied with, insurance and reinsurance undertakings may calculate the loss-given-default set out in Article 192, including the risk-mitigating effect on underwriting and market risks and the risk-adjusted value of collateral, for a group of single name exposures. In that case, the group of single name exposures shall be assigned the highest probability of default assigned to single name exposures included in the group in accordance with Article 199.]

#### **Textual Amendments**

- F28** 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 \(Solvency II\) \(Text with EEA relevance\).](#)

### *Article 111*

#### **Simplified calculation of the risk mitigating effect**

Where Article 88 is complied with, insurance or reinsurance undertakings may calculate the risk-mitigating effect on underwriting and market risk of a reinsurance arrangement, securitisation or derivative referred to in Article 196 as the difference between the following capital requirements:

- (a) [<sup>F28</sup>the sum of the hypothetical capital requirement for the sub-modules of the underwriting and market risk modules of the insurance or reinsurance undertaking affected by the risk-mitigating technique, calculated in accordance with this Section and Sections 2 to 5 of this Chapter but as if the reinsurance arrangement, securitisation or derivative did not exist;]
- (b) the sum of the capital requirements for the sub-modules of the underwriting and market risk modules of the insurance or reinsurance undertaking affected by the risk-mitigating technique.

#### **Textual Amendments**

- F28** 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 \(Solvency II\) \(Text with EEA relevance\).](#)

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## <sup>F12</sup>Article 111a

### Simplified calculation of the risk-mitigating effect on underwriting risk

For the purposes of Article 196, where Article 88 is complied with and the reinsurance arrangement, securitisation or derivative covers obligations from only one of the segments (segment  $s$ ) set out in Annex II or, as applicable, Annex XIV, insurance and reinsurance undertakings may calculate the risk-mitigating effect of that reinsurance arrangement, securitisation or derivative on their underwriting risk as follows:

$$\sqrt{(SCR_{hyp}^{CAT} - SCR_{without}^{CAT})^2 + (3 \times \sigma_s \times (P_s^{hyp} - P_s^{without} + Recoverables))^2 + 1,5 \times \sigma_s \times (P_s^{hyp} - P_s^{without} + Recoverables) \times (SCR_{hyp}^{CAT} - SCR_{without}^{CAT})}$$

where:

- a)  $SCR_{CAT}^{hyp}$  denotes the hypothetical capital requirement for the non-life catastrophe underwriting risk module referred to in Article 119(2), or, as applicable, the hypothetical capital requirement for the health catastrophe risk sub-module referred to in Article 160, that would apply if the reinsurance arrangement, securitisation or derivative did not exist;
- b)  $SCR_{CAT}^{without}$  denotes the capital requirement for the non-life catastrophe underwriting risk module referred to in Article 119(2) or, as applicable, the capital requirement for the health catastrophe risk sub-module referred to in Article 160;
- c)  $\sigma_s$  denotes the standard deviation for non-life premium risk of segment  $s$  determined in accordance with Article 117(3) or, as applicable, the standard deviation for the NSLT health premium risk of segment  $s$  determined in accordance with Article 148(3);
- d)  $P_s^{hyp}$  denotes the hypothetical volume measure for premium risk of segment  $s$  determined in accordance with Article 116(3) or (4), or, as applicable, Article 147(3) or (4), that would apply if the reinsurance arrangement, securitisation or derivative did not exist;
- e)  $P_s^{without}$  denotes the volume measure for premium risk of segment  $s$  determined in accordance with Article 116(3) or (4) or, as applicable, Article 147(3) or (4);
- f) *Recoverables* denotes the best estimate of amounts recoverable from the reinsurance arrangement, securitisation or derivative and the corresponding debtors.]

#### Textual Amendments

**F12** 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 \(Solvency II\) \(Text with EEA relevance\).](#)



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**Changes to legislation:** Commission Delegated Regulation (EU) 2015/35 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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## Article 112

### Simplified calculation of the risk adjusted value of collateral to take into account the economic effect of the collateral

1 Where Article 88 of this Regulation is complied with, and where the counterparty requirement and the third party requirement referred to in Article 197(1) are both met, insurance or reinsurance undertakings may, for the purposes of Article 197, calculate the risk-adjusted value of a collateral provided by way of security as referred to in Article 1(26)(b), as 85 % of the value of the assets held as collateral, valued in accordance with Article 75 of Directive 2009/138/EC.

2 Where Articles 88 and 214 of this Regulation are complied with, and where the counterparty requirement referred to in Article 197(1) is met and the third party requirement referred to in Article 197(1) is not met, insurance or reinsurance undertakings may, for the purposes of Article 197, calculate the risk-adjusted value of a collateral provided by way of security as referred to in Article 1(26)(b), as 75 % of the value of the assets held as collateral, valued in accordance with Article 75 of Directive 2009/138/EC.

## [<sup>F12</sup> Article 112a

### Simplified calculation of the loss-given-default for reinsurance

Where Article 88 is complied with, insurance or reinsurance undertakings may calculate the loss-given-default on a reinsurance arrangement or insurance securitisation referred to in the first subparagraph of Article 192(2) as follows:

$$LGD = \max[90 \% \cdot (Recoverables + 50 \% \cdot RM_{re}) - F \cdot Collateral; 0]$$

where:

- a) *Recoverables* denotes the best estimate of amounts recoverable from the reinsurance arrangement or insurance securitisation and the corresponding debtors;
- b) *RM<sub>re</sub>* denotes the risk mitigating effect on underwriting risk of the reinsurance arrangement or securitisation;
- c) *Collateral* denotes the risk-adjusted value of collateral in relation to the reinsurance arrangement or securitisation;
- d) *F* denotes a factor to take into account the economic effect of the collateral arrangement in relation to the reinsurance arrangement or securitisation in case of any credit event related to the counterparty.

#### Textual Amendments

**F12** 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).



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## Article 112b

### **Simplified calculation of the capital requirement for counterparty default risk on type 1 exposures**

Where Article 88 is complied with and the standard deviation of the loss distribution of type 1 exposures, as determined in accordance with Article 200(4), is lower than or equal to 20 % of the total losses-given default on all type 1 exposures, insurance and reinsurance undertakings may calculate the capital requirement for counterparty default risk referred to in Article 200(1) as follows:

$$SCR_{def,1} = 5 \cdot \sigma$$

where  $\sigma$  denotes the standard deviation of the loss distribution of type 1 exposures as determined in accordance with Article 200(4).]

#### **Textual Amendments**

**F12** 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 \(Solvency II\) \(Text with EEA relevance\)](#).

## Subsection 7

### **Scope of the underwriting risk modules**

#### Article 113

For the calculation of the capital requirements for non-life underwriting risk, life underwriting risk and health underwriting risk, insurance and reinsurance undertakings shall apply:

- (a) the non-life underwriting risk module to non-life insurance and reinsurance obligations other than health insurance and reinsurance obligations;
- (b) the life underwriting risk module to life insurance and reinsurance obligations other than health insurance and reinsurance obligations;
- (c) the health underwriting risk module to health insurance and reinsurance obligations.

## SECTION 2

### **Non-life underwriting risk module**

#### Article 114

### **Non-life underwriting risk module**

1 The non-life underwriting risk module shall consist of all of the following sub-modules:

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- a the non-life premium and reserve risk sub-module referred to in point (a) of the third subparagraph of Article 105(2) of Directive 2009/138/EC;
- b the non-life catastrophe risk sub-module referred to in point (b) of the third subparagraph of Article 105(2) of Directive 2009/138/EC;
- c the non-life lapse risk sub-module.

2 The capital requirement for non-life underwriting risk shall be equal to the following:

$$SCR_{non-life} = \sqrt{\sum_{i,j} CorrNL_{(i,j)} \times SCR_i \times SCR_j}$$

where:

- (a) the sum covers all possible combinations  $(i,j)$  of the sub-modules set out in paragraph 1;
- (b)  $CorrNL_{(i,j)}$  denotes the correlation parameter for non-life underwriting risk for sub-modules  $i$  and  $j$ ;
- (c)  $SCR_i$  and  $SCR_j$  denote the capital requirements for risk sub-module  $i$  and  $j$  respectively.

3 The correlation parameter  $CorrNL_{(i,j)}$  referred to in paragraph 2 denotes the item set out in row  $i$  and in column  $j$  of the following correlation matrix:

$j \ i$	Non-life premium and reserve	Non-life catastrophe	Non-life lapse
Non-life premium and reserve	1	0,25	0
Non-life catastrophe	0,25	1	0
Non-life lapse	0	0	1

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

C1 Art. 114(3): power to amend and revoke conferred (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), 4, [Sch. 3](#) (as amended by [S.I. 2020/1301](#), regs. 1, 3, [Sch. para. 27\(a\)](#) and [S.I. 2020/1385](#), regs. 1(2), 54(2))

### Article 115

#### Non-life premium and reserve risk sub-module

The capital requirement for non-life premium and reserve risk shall be equal to the following:

$$SCR_{nl\ prem\ res} = 3 \times \sigma_{nl} \times V_{nl}$$

where:

- (a)  $\sigma_{nl}$  denotes the standard deviation for non-life premium and reserve risk determined in accordance with Article 117;
- (b)  $V_{nl}$  denotes the volume measure for non-life premium and reserve risk determined in accordance with Article 116.

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## Article 116

### Volume measure for non-life premium and reserve risk

1 The volume measure for non-life premium and reserve risk shall be equal to the sum of the volume measures for premium and reserve risk of the segments set out in Annex II.

2 For all segments set out in Annex II, the volume measure of a particular segment  $s$  shall be equal to the following:

$$V_s = (V_{(prem,s)} + V_{(res,s)}) \times (0,75 + 0,25 \times DIV_s)$$

where:

- (a)  $V_{(prem,s)}$  denotes the volume measure for premium risk of segment  $s$ ;
- (b)  $V_{(res,s)}$  denotes the volume measure for reserve risk of segment  $s$ ;
- (c)  $DIV_s$  denotes the factor for geographical diversification of segment  $s$ .

3 For all segments set out in Annex II, the volume measure for premium risk of a particular segment  $s$  shall be equal to the following:

$$V_{(prem,s)} = \max [P_s; P_{(last,s)}] + FP_{(existing,s)} + FP_{(future,s)}$$

where:

- (a)  $P_s$  denotes an estimate of the premiums to be earned by the insurance or reinsurance undertaking in the segment  $s$  during the following 12 months;
- (b)  $P_{(last,s)}$  denotes the premiums earned by the insurance or reinsurance undertaking in the segment  $s$  during the last 12 months;
- (c)  $FP_{(existing,s)}$  denotes the expected present value of premiums to be earned by the insurance or reinsurance undertaking in the segment  $s$  after the following 12 months for existing contracts;
- (d)  $\int^{F28} FP_{(future,s)}$  denotes the following amount with respect to contracts where the initial recognition date falls in the following 12 months:
  - (i) for all such contracts whose initial term is one year or less, the expected present value of premiums to be earned by the insurance or reinsurance undertaking in the segment  $s$ , but excluding the premiums to be earned during the 12 months after the initial recognition date;
  - (ii) for all such contracts whose initial term is more than one year, the amount equal to 30 % of the expected present value of premiums to be earned by the insurance or reinsurance undertaking in the segment  $s$  after the following 12 months.]

4 For all segments set out in Annex II, insurance and reinsurance undertakings may, as an alternative to the calculation set out in paragraph 3 of this Article, choose to calculate the volume measure for premium risk of a particular segment  $s$  in accordance with the following formula:

$$V_{(prem,s)} = P_s + FP_{(existing,s)} + FP_{(future,s)}$$

provided that the all of following conditions are met:

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- (a) the administrative, management or supervisory body of the insurance or reinsurance undertaking has decided that its earned premiums in the segment  $s$  during the following 12 months will not exceed  $P_s$ ;
- (b) the insurance or reinsurance undertaking has established effective control mechanisms to ensure that the limits on earned premiums referred to in point (a) will be met;
- (c) the insurance or reinsurance undertaking has informed its supervisory authority about the decision referred to in point (a) and the reasons for it.

For the purposes of this calculation, the terms  $P_s$ ,  $FP_{(existing,s)}$  and  $FP_{(future,s)}$  shall be denoted in accordance with points (a), (c) and (d) of paragraph 3.

5 For the purposes of the calculations set out in paragraphs 3 and 4, premiums shall be net, after deduction of premiums for reinsurance contracts. The following premiums for reinsurance contracts shall not be deducted:

- a premiums in relation to non-insurance events or settled insurance claims that are not accounted for in the cash-flows referred to in Article 41(3);
- b premiums for reinsurance contracts that do not comply with Articles 209, 210, 211 and 213.

6 For all segments set out in Annex II, the volume measure for reserve risk of a particular segment shall be equal to the best estimate of the provisions for claims outstanding for the segment, after deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles, provided that the reinsurance contracts or special purpose vehicles comply with Articles 209, 210, 211 and 213. The volume measure shall not be a negative amount.

7 For all segments set out in Annex II, the default factor for geographical diversification of a particular segment shall be either 1 or calculated in accordance with Annex III.

#### Textual Amendments

**F28** 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).

### Article 117

#### Standard deviation for non-life premium and reserve risk

1 The standard deviation for non-life premium and reserve risk shall be equal to the following:

$$\sigma_{nl} = \frac{1}{V_{nl}} \times \sqrt{\sum_{s,t} CorrS_{(s,t)} \times \sigma_s \times V_s \times \sigma_t \times V_t}$$

where:

- (a)  $V_{nl}$  denotes the volume measure for non-life premium and reserve risk;
- (b) the sum covers all possible combinations  $(s,t)$  of the segments set out in Annex II;
- (c)  $CorrS_{(s,t)}$  denotes the correlation parameter for non-life premium and reserve risk for segment  $s$  and segment  $t$  set out in Annex IV;

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- (d)  $\sigma_s$  and  $\sigma_t$  denote standard deviations for non-life premium and reserve risk of segments  $s$  and  $t$  respectively;
- (e)  $V_s$  and  $V_t$  denote volume measures for premium and reserve risk of segments  $s$  and  $t$ , referred to in Article 116, respectively.

2 For all segments set out in Annex II, the standard deviation for non-life premium and reserve risk of a particular segment  $s$  shall be equal to the following:

$$\sigma_s = \sqrt{\frac{\sigma_{(prem,s)}^2 \times V_{(prem,s)} + \sigma_{(res,s)}^2 \times V_{(res,s)}}{V_{(prem,s)} + V_{(res,s)}}}$$

where:

- (a)  $\sigma_{(prem,s)}$  denotes the standard deviation for non-life premium risk of segment  $s$  determined in accordance with paragraph 3;
- (b)  $\sigma_{(res,s)}$  denotes the standard deviation for non-life reserve risk of segment  $s$  as set out in Annex II;
- (c)  $V_{(prem,s)}$  denotes the volume measure for premium risk of segment  $s$  referred to in Article 116;
- (d)  $V_{(res,s)}$  denotes the volume measure for reserve risk of segment  $s$  referred to in Article 116.

3 For all segments set out in Annex II, the standard deviation for non-life premium risk of a particular segment shall be equal to the product of the standard deviation for non-life gross premium risk of the segment set out in Annex II and the adjustment factor for non-proportional reinsurance. For segments 1, 4 and 5 set out in Annex II the adjustment factor for non-proportional reinsurance shall be equal to 80 %. For all other segments set out in Annex the adjustment factor for non-proportional reinsurance shall be equal to 100 %.

## Article 118

### Non-life lapse risk sub-module

1 The capital requirement for the non-life lapse risk sub-module referred to in 114(1)(c) shall be equal to the loss in basic own funds of the insurance or reinsurance undertaking resulting from a combination of the following instantaneous events:

- a the discontinuance of 40 % of the insurance policies for which discontinuance would result in an increase of technical provisions without the risk margin;
- b where reinsurance contracts cover insurance or reinsurance contracts that will be written in the future, the decrease of 40 % of the number of those future insurance or reinsurance contracts used in the calculation of technical provisions.

2 The events referred to in paragraph 1 shall apply uniformly to all insurance and reinsurance contracts concerned. In relation to reinsurance contracts the event referred to in point (a) of paragraph 1 shall apply to the underlying insurance contracts.

3 For the purposes of determining the loss in basic own funds of the insurance or reinsurance undertaking under the event referred to in point (a) of paragraph 1, the undertaking shall base the calculation on the type of discontinuance which most negatively affects the basic own funds of the undertaking on a per policy basis.

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## Article 119

### Non-life catastrophe risk sub-module

1 The non-life catastrophe risk sub-module shall consist of all of the following sub-modules:

- a the natural catastrophe risk sub-module;
- b the sub-module for catastrophe risk of non-proportional property reinsurance;
- c the man-made catastrophe risk sub-module;
- d the sub-module for other non-life catastrophe risk.

2 The capital requirement for the non-life catastrophe underwriting risk module shall be equal to the following:

$$SCR_{natCAT} = \sqrt{(SCR_{natCAT} + SCR_{npproperty})^2 + SCR_2^{mmCAT} + SCR_2^{CATother}}$$

where:

- (a)  $SCR_{natCAT}$  denotes the capital requirement for natural catastrophe risk;
- (b)  $SCR_{npproperty}$  denotes the capital requirement for the catastrophe risk of non-proportional property reinsurance;
- (c)  $SCR_{mmCAT}$  denotes the capital requirement for man-made catastrophe risk;
- (d)  $SCR_{CATother}$  denotes the capital requirement for other non-life catastrophe risk.

## Article 120

### Natural catastrophe risk sub-module

1 The natural catastrophe risk sub-module shall consist of all of the following sub-modules:

- a the windstorm risk sub-module;
- b the earthquake risk sub-module;
- c the flood risk sub-module;
- d the hail risk sub-module;
- e the subsidence risk sub-module.

2 The capital requirement for natural catastrophe risk shall be equal to the following:

$$SCR_{natCAT} = \sqrt{\sum_i SCR_i^2}$$

where:

- (a) the sum includes all possible combinations of the sub-modules  $i$  set out in paragraph 1;
- (b)  $SCR_i$  denotes the capital requirement for sub-module  $i$ .

## Article 121

### Windstorm risk sub-module

1 The capital requirement for windstorm risk shall be equal to the following:

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$$SCR_{windstorm} = \sqrt{\left( \sum_{(r,s)} CorrWS_{(r,s)} \times SCR_{(windstorm,r)} \times SCR_{(windstorm,s)} \right) + SCR_2^{(windstorm,other)}}$$

where:

- (a) the sum includes all possible combinations  $(r,s)$  of the regions set out in Annex V;
- (b)  $CorrWS_{(r,s)}$  denotes the correlation coefficient for windstorm risk for region  $r$  and region  $s$  as set out in Annex V;
- (c)  $SCR_{(windstorm,r)}$  and  $SCR_{(windstorm,s)}$  denote the capital requirements for windstorm risk in region  $r$  and  $s$  respectively;
- (d)  $SCR_{(windstorm,other)}$  denotes the capital requirement for windstorm risk in regions other than those set out in Annex XIII.

2 For all regions set out in Annex V the capital requirement for windstorm risk in a particular region  $r$  shall be the larger of the following two capital requirements:

- a the capital requirement for windstorm risk in region  $r$  according to scenario A as set out in paragraph 3;
- b the capital requirement for windstorm risk in region  $r$  according to scenario B as set out in paragraph 4.

3 For all regions set out in Annex V the capital requirement for windstorm risk in a particular region  $r$  according to scenario A shall be equal to the loss in basic own funds of insurance and reinsurance undertakings that would result from the following sequence of events:

- a an instantaneous loss of an amount that, without deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles, is equal to 80 % of the specified windstorm loss in region  $r$ ;
- b a loss of an amount that, without deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles, is equal to 40 % of the specified windstorm loss in region  $r$ .

4 For all regions set out in Annex V the capital requirement for windstorm risk in a particular region  $r$  according to scenario B shall be equal to the loss in basic own funds of insurance and reinsurance undertakings that would result from the following sequence of events:

- a an instantaneous loss of an amount that, without deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles, is equal to 100 % of the specified windstorm loss in region  $r$ ;
- b a loss of an amount that, without deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles, is equal to 20 % of the specified windstorm loss in region  $r$ .

5 For all regions set out in Annex V, the specified windstorm loss in a particular region  $r$  shall be equal to the following amount:

$$L_{(windstorm,r)} = \sqrt{\sum_{(i,j)} Corr_{(windstorm,r,i,j)} \times WSI_{(windstorm,r,i)} \times WSI_{(windstorm,r,j)}}$$

]

where:

- (a) [F45 . . . . .]
- (b) the sum includes all possible combinations of risk zones  $(i,j)$  of region  $r$  set out in Annex IX;

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- (c)  $Corr_{(windstorm,r,i,j)}$  denotes the correlation coefficient for windstorm risk in risk zones  $i$  and  $j$  of region  $r$  set out in Annex XXII;
- (d)  $WSI_{(windstorm,r,i)}$  and  $WSI_{(windstorm,r,j)}$  denote the weighted sums insured for windstorm risk in risk zones  $i$  and  $j$  of region  $r$  set out in Annex IX.

6 For all regions set out in Annex V and all risk zones of those regions set out in Annex IX the weighted sum insured for windstorm risk in a particular windstorm zone  $i$  of a particular region  $r$  shall be equal to the following:

$$[^{F28}WSI_{(windstorm,r,i)} = Q_{(windstorm,r)} \cdot W_{(windstorm,r,i)} \cdot SI_{(windstorm,r,i)}]$$

where:

- a  $W_{(windstorm,r,i)}$  denotes the risk weight for windstorm risk in risk zone  $i$  of region  $r$  set out in Annex X;
- b  $SI_{(windstorm,r,i)}$  denotes the sum insured for windstorm risk in windstorm zone  $i$  of region  $r$  [^{F28},]

[^{F12}c  $Q_{(windstorm,r)}$  denotes the windstorm risk factor for region  $r$  as set out in Annex V.]

[^{F12}Where the amount determined for a particular risk zone in accordance with the first subparagraph exceeds an amount (referred to in this subparagraph as ‘the lower amount’) equal to the sum of the potential losses without deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles, that the insurance or reinsurance undertaking could suffer for windstorm risk in that risk zone, taking into account the terms and conditions of its specific policies, including any contractual payment limits, the insurance or reinsurance undertaking may, as an alternative calculation, determine the weighted sum insured for windstorm risk in that risk zone as the lower amount.]

7 For all regions set out in Annex V and all risk zones of those regions set out in Annex IX, the sum insured for windstorm risk in a particular windstorm zone  $i$  of a particular region  $r$  shall be equal to the following:

$$SI_{(windstorm,r,i)} = SI_{(property,r,i)} + SI_{(onshore-property,r,i)}$$

where:

- (a)  $SI_{(property,r,i)}$  denotes the sum insured by the insurance or reinsurance undertaking for lines of business 7 and 19 set out in Annex I in relation to contracts that cover windstorm risk and where the risk is situated in risk zone  $i$  of region  $r$ ;
- (b)  $SI_{(onshore-property,r,i)}$  denotes the sum insured by the insurance or reinsurance undertaking for lines of business 6 and 18 set out in Annex I in relation to contracts that cover onshore property damage by windstorm and where the risk is situated in risk zone  $i$  of region  $r$ .

8 The capital requirement for windstorm risk in regions other than those set out in Annex XIII shall be equal to the loss in basic own funds of insurance and reinsurance undertakings that would result from an instantaneous loss in relation to each insurance and reinsurance contract that covers any of the following insurance or reinsurance obligations:

- a obligations of lines of business 7 or 19 set out in Annex I that cover windstorm risk and where the risk is not situated in one of the regions set out in Annex XIII;
- b obligations of lines of business 6 or 18 set out in Annex I in relation to onshore property damage by windstorm and where the risk is not situated in one of the regions set out in Annex XIII.



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9 The amount of the instantaneous loss, without deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles, referred to in paragraph 8 shall be equal to the following amount:

$$L_{(windstorm, other)} = 1,75 \times (0,5 \times DIV_{windstorm} + 0,5) \times P_{windstorm}$$

where:

- (a)  $DIV_{windstorm}$  is calculated in accordance with Annex III, but based on the premiums in relation to the obligations referred to in paragraph 8 and restricted to the regions 5 to 18 set out in point (8) of Annex III;
- (b)  $P_{windstorm}$  is an estimate of the premiums to be earned by insurance and reinsurance undertakings for each contract that covers the obligations referred to in paragraph 8 during the following 12 months: for this purpose premiums shall be gross, without deduction of premiums for reinsurance contracts.

#### Textual Amendments

- F12** 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).
- F28** 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).
- F45** Deleted 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).

### Article 122

#### Earthquake risk sub-module

1 The capital requirement for earthquake risk shall be equal to the following:

$$SCR_{earthquake} = \sqrt{\left(\sum_{(r,s)} CorrEQ_{(r,s)} \times SCR_{(earthquake,r)} \times SCR_{(earthquake,s)}\right) + SCR_2^{(earthquake, other)}}$$

where:

- (a) the sum includes all possible combinations  $(r,s)$  of the regions set out in Annex VI;
- (b)  $CorrEQ_{(r,s)}$  denotes the correlation coefficient for earthquake risk for region  $r$  and region  $s$  as set out in Annex VI;
- (c)  $SCR_{(earthquake,r)}$  and  $SCR_{(earthquake,s)}$  denote the capital requirements for earthquake risk in region  $r$  and  $s$  respectively;
- (d)  $SCR_{(earthquake, other)}$  denotes the capital requirement for earthquake risk in regions other than those set out in Annex XIII.

2 <sup>[F28]</sup> For all regions set out in Annex VI, the capital requirement for earthquake risk in a particular region  $r$  shall be equal to the loss in basic own funds of insurance and reinsurance undertakings that would result from an instantaneous loss of an amount that, without deduction

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of the amounts recoverable from reinsurance contracts and special purpose vehicles, is equal to the following amount:]

[<sup>F28</sup>

$$L_{(earthquake,r)} = \sqrt{\sum_{(i,j)} Corr_{(earthquake,r,i,j)} \times WSI_{(earthquake,r,i)} \times WSI_{(earthquake,r,j)}}$$

]

where:

- (a) [<sup>F45</sup> . . . . .]
- (b) the sum includes all possible combinations of risk zones  $(i,j)$  of region  $r$  set out in Annex IX;
- (c)  $Corr_{(earthquake,r,i,j)}$  denotes the correlation coefficient for earthquake risk in risk zones  $i$  and  $j$  of region  $r$  set out in Annex XXIII;
- (d)  $WSI_{(earthquake,r,i)}$  and  $WSI_{(earthquake,r,j)}$  denote the weighted sums insured for earthquake risk in risk zones  $i$  and  $j$  of region  $r$  set out in Annex IX.

3 For all regions set out in Annex VI and all risk zones of those regions set out in Annex IX, the weighted sum insured for earthquake risk in a particular earthquake zone  $i$  of a particular region  $r$  shall be equal to the following:

$$[<sup>F28</sup> WSI_{(earthquake,r,i)} = Q_{(earthquake,r)} \cdot W_{(earthquake,r,i)} \cdot SI_{(earthquake,r,i)}]$$

where:

- a  $W_{(earthquake,r,i)}$  denotes the risk weight for earthquake risk in risk zone  $i$  of region  $r$  set out in Annex X;
- b  $SI_{(earthquake,r,i)}$  denotes the sum insured for earthquake risk in earthquake zone  $i$  of region  $r$  [<sup>F28</sup>.]
- [<sup>F12</sup> c  $Q_{(earthquake,r)}$  denotes the earthquake risk factor for region  $r$  as set out in Annex VI.]

[<sup>F12</sup> Where the amount determined for a particular risk zone in accordance with the first subparagraph exceeds an amount (referred to in this subparagraph as ‘the lower amount’) equal to the sum of the potential losses, without deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles, that the insurance or reinsurance undertaking could suffer for earthquake risk in that risk zone, taking into account the terms and conditions of its specific policies, including any contractual payment limits, the insurance or reinsurance undertaking may, as an alternative calculation, determine the weighted sum insured for earthquake risk in that risk zone as the lower amount.]

4 For all regions set out in Annex VI and all risk zones of those regions set out in Annex IX, the sum insured for earthquake risk in a particular earthquake zone  $i$  of a particular region  $r$  shall be equal to the following:

$$SI_{(earthquake,r,i)} = SI_{(property,r,i)} + SI_{(onshore-property,r,i)}$$

where:

- (a)  $SI_{(property,r,i)}$  denotes the sum insured of the insurance or reinsurance undertaking for lines of business 7 and 19 as set out in Annex I in relation to contracts that cover earthquake risk and where the risk is situated in risk zone  $i$  of region  $r$ ;
- (b)  $SI_{(onshore-property,r,i)}$  denotes the sum insured of the insurance or reinsurance undertaking for lines of business 6 and 18 as set out in Annex I in relation to contracts that cover onshore property damage by earthquake and where the risk is situated in risk zone  $i$  of region  $r$ .

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5 The capital requirement for earthquake risk in regions other than those set out in Annex XIII shall be equal to the loss in basic own funds of insurance and reinsurance undertakings that would result from an instantaneous loss in relation to each insurance and reinsurance contract that covers one or both of the following insurance or reinsurance obligations:

- a obligations of lines of business 7 or 19 as set out in Annex I that cover earthquake risk, where the risk is not situated in one of the regions set out in Annex XIII;
- b obligations of lines of business 6 or 18 as set out in Annex I in relation to onshore property damage by earthquake, where the risk is not situated in one of the regions set out in Annex XIII.

6 The amount of the instantaneous loss, without deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles, referred to in paragraph 5 shall be equal to the following amount:

$$L_{(earthquake, other)} = 1,2 \times (0,5 \times DIV_{earthquake} + 0,5) \times P_{earthquake}$$

where:

- (a)  $DIV_{earthquake}$  is calculated in accordance with Annex III, but based on the premiums in relation to the obligations referred to in points (a) and (b) of paragraph 5 and restricted to the regions 5 to 18 set out in Annex III;
- (b)  $P_{earthquake}$  is an estimate of the premiums to be earned by insurance and reinsurance undertakings for each contract that covers the obligations referred to in points (a) and (b) of paragraph 5 during the following 12 months: for this purpose premiums shall be gross, without deduction of premiums for reinsurance contracts.

#### Textual Amendments

- F12** 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).
- F28** 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).
- F45** Deleted 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).

### Article 123

#### Flood risk sub-module

1 The capital requirement for flood risk shall be equal to the following:

$$SCR_{flood} = \sqrt{\left( \sum_{(r,s)} CorrFL_{(r,s)} \times SCR_{(flood,r)} \times SCR_{(flood,s)} \right)} + SCR_2^{(flood, other)}$$

where:

- (a) the sum includes all possible combinations  $(r,s)$  of the regions set out in Annex VII;

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- (b)  $CorrFL_{(r,s)}$  denotes the correlation coefficient for flood risk for region  $r$  and region  $s$  as set out in Annex VII;
- (c)  $SCR_{(flood,r)}$  and  $SCR_{(flood,s)}$  denote the capital requirements for flood risk in region  $r$  and  $s$  respectively;
- (d)  $SCR_{(flood,other)}$  denotes the capital requirement for flood risk in regions other than those set out in Annex XIII.

2 For all regions set out in Annex VII, the capital requirement for flood risk in a particular region  $r$  shall be the larger of the following capital requirements:

- a the capital requirement for flood risk in region  $r$  according to scenario A as set out in paragraph 3;
- b the capital requirement for flood risk in region  $r$  according to scenario B as set out in paragraph 4.

3 For all regions set out in Annex VII, the capital requirement for flood risk in a particular region  $r$  according to scenario A shall be equal to the loss in basic own funds of insurance and reinsurance undertakings that would result from the following sequence of events:

- a an instantaneous loss of an amount that, without deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles, is equal to 65 % of the specified flood loss in region  $r$ ;
- b a loss of an amount that, without deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles, is equal to 45 % of the specified flood loss in region  $r$ .

4 For all regions set out in Annex VII, the capital requirement for flood risk in a particular region  $r$  according to scenario B shall be equal to the loss in basic own funds of insurance and reinsurance undertakings that would result from the following sequence of events:

- a an instantaneous loss of an amount that, without deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles, is equal to 100 % of the specified flood loss in region  $r$ ;
- b a loss of an amount that, without deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles, is equal to 10 % of the specified flood loss in region  $r$ .

5 For all regions set out in Annex VII, the specified flood loss in a particular region  $r$  shall be equal to the following amount:

[<sup>F28</sup>

$$L_{(flood,r)} = \sqrt{\sum_{(i,j)} Corr_{(flood,r,i,j)} \times WSI_{(flood,r,i)} \times WSI_{(flood,r,j)}}$$

]

where:

- (a) [<sup>F45</sup> . . . . .]
- (b) the sum includes all possible combinations of risk zones  $(i,j)$  of region  $r$  set out in Annex IX;
- (c)  $Corr_{(flood,r,i,j)}$  denotes the correlation coefficient for flood risk in flood zones  $i$  and  $j$  of region  $r$  set out in Annex XXIV;
- (d)  $WSI_{(flood,r,i)}$  and  $WSI_{(flood,r,j)}$  denote the weighted sums insured for flood risk in risk zones  $i$  and  $j$  of region  $r$  set out in Annex IX.

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6 For all regions set out in Annex VII and all risk zones of those regions set out in Annex IX, the weighted sum insured for flood risk in a particular flood zone  $i$  of a particular region  $r$  shall be equal to the following:

$$[^{F28}WSI_{(flood,r,i)} = Q_{(flood,r)} \cdot W_{(flood,r,i)} \cdot SI_{(flood,r,i)}]$$

where:

- a  $W_{(flood,r,i)}$  denotes the risk weight for flood risk in risk zone  $i$  of region  $r$  set out in Annex X;
- b  $SI_{(flood,r,i)}$  denotes the sum insured for flood risk in flood zone  $i$  of region  $r$  [^{F28};]
- [^{F12}c  $Q_{(flood,r)}$  denotes the flood risk factor for region  $r$  as set out in Annex VII.]

[^{F12}Where the amount determined for a particular risk zone in accordance with the first subparagraph exceeds an amount (referred to in this subparagraph as ‘the lower amount’) equal to the sum of the potential losses, without deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles, that the insurance or reinsurance undertaking could suffer for flood risk in that risk zone, taking into account the terms and conditions of its specific policies, including any contractual payment limits, the insurance or reinsurance undertaking may, as an alternative calculation, determine the weighted sum insured for flood risk in that risk zone as the lower amount.]

7 [^{F28}For all regions set out in Annex VII and all risk zones of those regions set out in Annex IX, the sum insured for flood risk for a particular risk zone  $i$  of a particular region  $r$  shall be equal to the following:]

$$SI_{(flood,r,i)} = SI_{(property,r,i)} + SI_{(onshore-property,r,i)} + 1,5 \times SI_{(motor,r,i)}$$

where:

- (a)  $SI_{(property,r,i)}$  denotes the sum insured by the insurance or reinsurance undertaking for lines of business 7 and 19 as set out in Annex I in relation to contracts that cover flood risk, where the risk is situated in risk zone  $i$  of region  $r$ ;
- (b)  $SI_{(onshore-property,r,i)}$  denotes the sum insured by the insurance or reinsurance undertaking for lines of business 6 and 18 as set out in Annex I in relation to contracts that cover onshore property damage by flood and where the risk is situated in risk zone  $i$  of region  $r$ ;
- (c)  $SI_{(motor,r,i)}$  denotes the sum insured by the insurance or reinsurance undertaking for lines of business 5 and 17 as set out in Annex I in relation to contracts that cover flood risk, where the risk is situated in risk zone  $i$  of region  $r$ .

8 The capital requirement for flood risk in regions other than those set out in Annex XIII, shall be equal to the loss in basic own funds of insurance and reinsurance undertakings that would result from an instantaneous loss in relation to each insurance and reinsurance contract that covers any of the following insurance or reinsurance obligations:

- a obligations of lines of business 7 or 19 as set out in Annex I that cover flood risk, where the risk is not situated in one of the regions set out in Annex XIII;
- b obligations of lines of business 6 or 18 as set out in Annex I in relation to onshore property damage by flood, where the risk is not situated in one of the regions set out in Annex XIII;
- c obligations of lines of business 5 or 17 as set out in Annex I that cover flood risk, where the risk is not situated in one of the regions set out in Annex XIII.

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9 The amount of the instantaneous loss, without deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles, referred to in paragraph 8 shall be equal to the following amount:

$$L_{(flood, other)} = 1,1 \times (0,5 \times DIV_{flood} + 0,5) \times P_{flood}$$

where:

- (a)  $DIV_{flood}$  is calculated in accordance with Annex III, but based on the premiums in relation to the obligations referred to in points (a), (b) and (c) of paragraph 8 and restricted to the regions 5 to 18 set out in point (8) of Annex III;
- (b)  $P_{flood}$  is an estimate of the premiums to be earned by the insurance or reinsurance undertaking for each contract that covers the obligations referred to in points (a), (b) and (c) of paragraph 8 during the following 12 months: for this purpose, premiums shall be gross, without deduction of premiums for reinsurance contracts.

#### Textual Amendments

- F12** 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).
- F28** 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).
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### Article 124

#### Hail risk sub-module

1 The capital requirement for hail risk shall be equal to the following:

$$SCR_{hail} = \sqrt{\left(\sum_{(r,s)} CorrHL_{(r,s)} \times SCR_{(hail,r)} \times SCR_{(hail,s)}\right)} + SCR_2^{(hail, other)}$$

where:

- (a) the sum includes all possible combinations  $(r,s)$  of the regions set out in Annex VIII;
- (b)  $CorrHL_{(r,s)}$  denotes the correlation coefficient for hail risk for region  $r$  and region  $s$  as set out in Annex VIII;
- (c)  $SCR_{(hail,r)}$  and  $SCR_{(hail,s)}$  denote the capital requirements for hail risk in regions  $r$  and  $s$  respectively;
- (d)  $SCR_{(hail, other)}$  denotes the capital requirement for hail risk in regions other than those set out in Annex XIII.

2 For all regions set out in Annex VIII, the capital requirement for hail risk in a particular region  $r$  shall be the larger of the following capital requirements:

- a the capital requirement for hail risk in region  $r$  according to scenario A;

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b the capital requirement for hail risk in region  $r$  according to scenario B.

3 For all regions set out in Annex VIII, the capital requirement for hail risk in a particular region  $r$  according to scenario A shall be equal to the loss in basic own funds of insurance and reinsurance undertakings that would result from the following sequence of events:

- a an instantaneous loss of an amount that, without deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles, is equal to 70 % of the specified hail loss in region  $r$ ;
- b a loss of an amount that, without deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles, is equal to 50 % of the specified hail loss in region  $r$ .

4 For all regions set out in Annex VIII, the capital requirement for hail risk in a particular region  $r$  according to scenario B shall be equal to the loss in basic own funds of insurance and reinsurance undertakings that would result from the following sequence of events:

- a an instantaneous loss of an amount that, without deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles, is equal to 100 % of the specified hail loss in region  $r$ ;
- b a loss of an amount that, without deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles, is equal to 20 % of the specified hail loss in region  $r$ .

5 For all regions set out in Annex VIII, the specified hail loss in a particular region  $r$  shall be equal to the following amount:

$$L_{(hail,r)}^{F28} = \sqrt{\sum_{(i,j)} Corr_{(hail,r,i,j)} \times WSI_{(hail,r,i)} \times WSI_{(hail,r,j)}}$$

where:

- (a)  $[^{F45} \dots]$
- (b) the sum includes all possible combinations of risk zones  $(i,j)$  of region  $r$  set out in Annex IX;
- (c)  $Corr_{(hail,r,i,j)}$  denotes the correlation coefficient for hail risk in risk zones  $i$  and  $j$  of region  $r$  set out in Annex XXV;
- (d)  $WSI_{(hail,r,i)}$  and  $WSI_{(hail,r,j)}$  denote the weighted sums insured for hail risk in risk zones  $i$  and  $j$  of region  $r$  set out in Annex IX.

6 For all regions set out in Annex VIII and all risk zones of those regions set out in Annex IX, the weighted sum insured for hail risk in a particular hail zone  $i$  of a particular region  $r$  shall be equal to the following:

$$[^{F28} WSI_{(hail,r,i)} = Q_{(hail,r)} \cdot W_{(hail,r,i)} \cdot SI_{(hail,r,i)}]$$

where:

- a  $W_{(hail,r,i)}$  denotes the risk weight for hail risk in risk zone  $i$  of region  $r$  set out in Annex X;
- b  $SI_{(hail,r,i)}$  denotes the sum insured for hail risk in hail zone  $i$  of region  $r$   $[^{F28};]$
- $[^{F12}$  c  $Q_{(hail,r)}$  denotes the hail risk factor for region  $r$  as set out in Annex VIII.]

$[^{F12}$  Where the amount determined for a particular risk zone in accordance with the first subparagraph exceeds an amount (referred to in this subparagraph as ‘the lower amount’) equal to the sum of the potential losses, without deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles, that the insurance

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or reinsurance undertaking could suffer for hail risk in that risk zone taking into account the terms and conditions of its specific policies, including any contractual payment limits, the insurance or reinsurance undertaking may, as an alternative calculation, determine the weighted sum insured for hail risk in that risk zone as the lower amount.]

7 For all regions set out in Annex VIII and all hail zones, the sum insured for hail risk in a particular hail zone  $i$  of a particular region  $r$  shall be equal to the following:

$$SI_{(hail,r,i)} = SI_{(property,r,i)} + SI_{(onshore-property,r,i)} + 5 \times SI_{(motor,r,i)}$$

where:

- (a)  $SI_{(property,r,i)}$  denotes the sum insured by the insurance or reinsurance undertaking for lines of business 7 and 19 as set out in Annex I in relation to contracts that cover hail risk, where the risk is situated in risk zone  $i$  of region  $r$ ;
- (b)  $SI_{(onshore-property,r,i)}$  denotes the sum insured by the insurance or reinsurance undertaking for lines of business 6 and 18 as set out in Annex I in relation to contracts that cover onshore property damage by hail, where the risk is situated in risk zone  $i$  of region  $r$ ;
- (c)  $SI_{(motor,r,i)}$  denotes the sum insured by the insurance or reinsurance undertaking for insurance or reinsurance obligations for lines of business 5 and 17 as set out in Annex I in relation to contracts that cover hail risk, where the risk is situated in risk zone  $i$  of region  $r$ .

8 The capital requirement for hail risk in regions other than those set out in Annex XIII, shall be equal to the loss in basic own funds of insurance and reinsurance undertakings that would result from an instantaneous loss in relation to each insurance and reinsurance contract that covers one or more of the following insurance or reinsurance obligations:

- a obligations of lines of business 7 or 19 as set out in Annex I that cover hail risk, where the risk is not situated in one of the regions set out in Annex XIII;
- b obligations of lines of business 6 or 18 as set out in Annex I in relation to onshore property damage by hail, where the risk is not situated in one of the regions set out in Annex XIII;
- c obligations of lines of business 5 or 17 as set out in Annex I that cover hail risk, where the risk is not situated in one of the regions set out in Annex XIII.

9 The amount of the instantaneous loss, without deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles, referred to in paragraph 8 shall be equal to the following amount:

$$L_{(hail,other)} = 0,3 \times (0,5 \times DIV_{hail} + 0,5) \times P_{hail}$$

where:

- (a)  $DIV_{hail}$  is calculated in accordance with Annex III, but based on the premiums in relation to the obligations referred to in points (a), (b) and (c) of paragraph 8 and restricted to the regions 5 to 18 set out in Annex III;
- (b)  $P_{hail}$  is an estimate of the premiums to be earned by the insurance or reinsurance undertaking for each contract that covers the obligations referred to in points (a), (b) and (c) of paragraph 8 during the following 12 months: for this purpose premiums shall be gross, without deduction of premiums for reinsurance contracts.

#### Textual Amendments

- F12** 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).

**F28** 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).

**F45** Deleted 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).

## Article 125

### Subsidence risk sub-module

1 The capital requirement for subsidence risk shall be equal to the loss in basic own funds of insurance and reinsurance undertakings that would result from an instantaneous loss of an amount that, without deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles, is equal to the following:

$$L_{(subsidence)} = \sqrt{\sum_{(i,j)} Corr_{(subsidence,i,j)} \times WSI_{(subsidence,i)} \times WSI_{(subsidence,j)}}$$

where:

- (a) the sum includes all possible combinations of risk zones  $(i,j)$  of France set out in Annex IX;
- (b)  $Corr_{(subsidence,i,j)}$  denotes the correlation coefficient for subsidence risk in risk zones  $i$  and  $j$  set out in Annex XXVI;
- (c)  $WSI_{(subsidence,i)}$  and  $WSI_{(subsidence,j)}$  denote the weighted sums insured for subsidence risk in risk zones  $i$  and  $j$  of France set out in Annex IX.

2 For all subsidence zones the weighted sum insured for subsidence risk in a particular risk zone  $i$  of France set out in the Annex IX shall be equal to the following:

$$F^{28} WSI_{(subsidence,i)} = 0,0005 \cdot W_{(subsidence,i)} \cdot SI_{(subsidence,i)}$$

where:

- a  $W_{(subsidence,i)}$  denotes the risk weight for subsidence risk in risk zone  $i$  set out in Annex X;
- b  $SI_{(subsidence,i)}$  denotes the sum insured of the insurance or reinsurance undertaking for lines of business 7 and 19 as set out in Annex I in relation to contracts that cover subsidence risk of residential buildings in subsidence zone  $i$ .

[<sup>F12</sup>Where the amount determined for a particular risk zone in accordance with the first subparagraph exceeds an amount (referred to in this subparagraph as ‘the lower amount’) equal to the sum of the potential losses, without deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles, that the insurance or reinsurance undertaking could suffer for subsidence risk in that risk zone, taking into account the terms and conditions of its specific policies, including any contractual payment limits, the insurance or reinsurance undertaking may, as an alternative calculation, determine the weighted sum insured for subsidence risk in that risk zone as the lower amount.]

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### Textual Amendments

- F12** 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).
- F28** 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).

## Article 126

### Interpretation of catastrophe scenarios

1 For the purposes of Article 121(3) and (4), Article 123(3) and (4) and Article 124(3) and (4), insurance and reinsurance undertakings shall base the calculation of the capital requirement on the following assumptions:

- a the two consecutive events referred to in those Articles are independent;
- b insurance and reinsurance undertakings do not enter into new insurance risk mitigation techniques between the two events.

2 Notwithstanding point (d) of Article 83(1), where current reinsurance contracts allow for reinstatements, insurance and reinsurance undertakings shall take into account future management actions in relation to the reinstatements between the first and the second event. The assumptions about future management actions shall be realistic, objective and verifiable.

## Article 127

### Sub-module for catastrophe risk of non-proportional property reinsurance

1 The capital requirement for catastrophe risk of non-proportional property reinsurance shall be equal to the loss in basic own funds of insurance and reinsurance undertakings that would result from an instantaneous loss in relation to each reinsurance contract that covers reinsurance obligations of line of business 28 as set out in Annex I other than non-proportional reinsurance obligations relating to insurance obligations included in lines of business 9 and 21 set out in Annex I.

2 The amount of the instantaneous loss, without deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles, referred to in paragraph 1 shall be equal to the following:

$$L_{npproperty} = 2,5 \times (0,5 \times DIV_{npproperty} + 0,5) \times P_{npproperty}$$

where:

- (a)  $DIV_{npproperty}$  is calculated in accordance with Annex III, but based on the premiums earned by the insurance and reinsurance undertaking in line of business 28 as set out in Annex I, other than non-proportional reinsurance obligations relating to insurance obligations included in lines of business 9 and 21 as set out in Annex I;
- (b)  $P_{property}$  is an estimate of the premiums to be earned by the insurance or reinsurance undertaking during the following 12 months for each contract that covers the

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reinsurance obligations of line of business 28 as set out in Annex I other than non-proportional reinsurance obligations relating to insurance obligations included in lines of business 9 and 21 as set out in Annex I: for this purpose premiums shall be gross, without deduction of premiums for reinsurance contracts.

## Article 128

### Man-made catastrophe risk sub-module

1 The man-made catastrophe risk sub-module shall consist of all of the following sub-modules:

- a the motor vehicle liability risk sub-module;
- b the marine risk sub-module;
- c the aviation risk sub-module;
- d the fire risk sub-module;
- e the liability risk sub-module;
- f the credit and suretyship risk sub-module.

2 The capital requirement for the man-made catastrophe risk shall be equal to the following:

$$SCR_{mmCAT} = \sqrt{\sum_i SCR_i^2}$$

where:

- (a) the sum includes all sub-modules set out in paragraph 1;
- (b)  $SCR_i$  denotes the capital requirements for sub-module  $i$ .

## Article 129

### Motor vehicle liability risk sub-module

1 The capital requirement for motor vehicle liability risk shall be equal to the loss in basic own funds of insurance and reinsurance undertakings that would result from an instantaneous loss that, without deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles, is equal to the following amount in euro:

$$L_{motor} = \max(6000000; 50000 \times \sqrt{N_a + 0,05 \times N_b + 0,95 \times \min(N_b; 20000)})$$

where:

- (a)  $N_a$  is the number of vehicles insured by the insurance or reinsurance undertaking in lines of business 4 and 16 as set out in Annex I with a deemed policy limit above EUR 24 000 000;
- (b)  $N_b$  is the number of vehicles insured by the insurance or reinsurance undertaking in lines of business 4 and 16 as set out in Annex I with a deemed policy limit below or equal to EUR 24 000 000.

The number of motor vehicles covered by the proportional reinsurance obligations of the insurance or reinsurance undertaking shall be weighted by the relative share of the undertaking's obligations in respect of the sum insured of the motor vehicles.

2 The deemed policy limit referred to in paragraph 1 shall be the overall limit of the motor vehicle liability insurance policy or, where no such overall limit is specified in the terms

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and conditions of the policy, the sum of the limits for damage to property and for personal injury. Where the policy limit is specified as a maximum per victim, the deemed policy limit shall be based on the assumption of ten victims.

*<sup>F28</sup>Article 130*

**Marine risk sub-module**

1 The capital requirement for marine risk shall be equal to the following:

$$SCR_{marine} = \sqrt{SCR_{vessel}^2 + SCR_{platform}^2}$$

where:

- a)  $SCR_{vessel}$  is the capital requirement for the risk of a vessel collision;
- b)  $SCR_{platform}$  is the capital requirement for the risk of a platform explosion.

2 The capital requirement for the risk of a vessel collision shall be equal to the loss in basic own funds of insurance and reinsurance undertakings that would result from an instantaneous loss of an amount equal to the following:

$$L_{vessel} = \max_v(SI_{(hull,v)} + SI_{(liab,v)} + SI_{(pollution,v)})$$

where:

- (a) the maximum relates to all sea, lake, river and canal vessels insured by the insurance or reinsurance undertaking in respect of vessel collision in lines of business 6, 18 and 27 set out in Annex I where the insured value of the vessel is at least EUR 250 000;
- (b)  $SI_{(hull,v)}$  is the sum insured by the insurance or reinsurance undertaking, after deduction of the amounts that the insurance or reinsurance undertaking can recover from reinsurance contracts and special purpose vehicles, for marine hull insurance and reinsurance in relation to vessel  $v$ ;
- (c)  $SI_{(liab,v)}$  is the sum insured by the insurance or reinsurance undertaking, after deduction of the amounts that the insurance or reinsurance undertaking can recover from reinsurance contracts and special purpose vehicles, for marine liability insurance and reinsurance in relation to vessel  $v$ ;
- (d)  $SI_{(pollution,v)}$  is the sum insured by the insurance or reinsurance undertaking, after deduction of the amounts that the insurance or reinsurance undertaking can recover from reinsurance contracts and special purpose vehicles, for oil pollution insurance and reinsurance in relation to vessel  $v$ .

For the purposes of determining  $SI_{(hull,v)}$ ,  $SI_{(liab,v)}$  and  $SI_{(pollution,v)}$ , insurance and reinsurance undertakings shall only take into account reinsurance contracts and special purpose vehicles that would pay out in the event of insurance claims related to vessel  $v$ . Reinsurance contracts and special purpose vehicles where payout is dependent on insurance claims not related to vessel  $v$  shall not be taken into account.

Where the deduction of amounts recoverable would lead to a capital requirement for the risk of a vessel collision that captures insufficiently the risk of a vessel collision that the insurance or reinsurance undertaking is exposed to, the insurance or reinsurance undertaking shall calculate  $SI_{(hull,v)}$ ,  $SI_{(liab,v)}$  or  $SI_{(pollution,v)}$  without deduction of amounts recoverable.

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3 The capital requirement for the risk of a platform explosion shall be equal to the loss in basic own funds of insurance and reinsurance undertakings that would result from an instantaneous loss of an amount equal to the following:

$$L_{platform} = \max_p(SI_p)$$

where:

- (a) the maximum relates to all oil and gas offshore platforms insured by the insurance or reinsurance undertaking in respect of platform explosion in lines of business 6, 18 and 27 set out in Annex I;
- (b)  $SI_p$  is the accumulated sum insured by the insurance or reinsurance undertaking, after deduction of the amounts that the insurance or reinsurance undertaking can recover from reinsurance contracts and special purpose vehicles, for the following insurance and reinsurance obligations in relation to platform  $p$ :
  - (i) obligations to compensate for property damage;
  - (ii) obligations to compensate for the expenses for the removal of wreckage;
  - (iii) obligations to compensate for loss of production income;
  - (iv) obligations to compensate for the expenses for capping of the well or making the well secure;
  - (v) liability insurance and reinsurance obligations.

For the purposes of determining  $SI_p$ , insurance and reinsurance undertakings shall only take into account reinsurance contracts and special purpose vehicles that would pay out in the event of insurance claims related to platform  $p$ . Reinsurance contracts and special purpose vehicles where payout is dependent on insurance claims that are not related to platform  $p$  shall not be taken into account.

Where the deduction of amounts recoverable would lead to a capital requirement for the risk of a platform explosion that captures insufficiently the risk of a platform explosion that the insurance or reinsurance undertaking is exposed to, the insurance or reinsurance undertaking shall calculate  $SI_p$  without the deduction of amounts recoverable.]

#### Textual Amendments

**F28** 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).

### Article 131

#### Aviation risk sub-module

[<sup>F28</sup>The capital requirement for aviation risk shall be equal to the loss in basic own funds of insurance and reinsurance undertakings that would result from an instantaneous loss of an amount that is equal to the following:]

$$L_{aviation} = \max_a(SI_a)$$

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where:

- (a) the maximum relates to all aircrafts insured by the insurance or reinsurance undertaking in lines of business 6, 18 and 27 set out in Annex I;
- (b)  $I^{F28}SI_a$  is the sum insured by the insurance or reinsurance undertaking, after deduction of the amounts that the insurance or reinsurance undertaking can recover from reinsurance contracts and special purpose vehicles, for aviation hull insurance and reinsurance and aviation liability insurance and reinsurance in relation to aircraft *a*.

For the purposes of this Article, insurance and reinsurance undertakings shall only take into account reinsurance contracts and special purpose vehicles that would pay out in the event of insurance claims related to aircraft *a*. Reinsurance contracts and special purpose vehicles where payout is dependent on insurance claims that are not related to aircraft *a* shall not be taken into account.

Where the deduction of amounts recoverable would lead to a capital requirement for aviation risk that captures insufficiently the aviation risk that the insurance or reinsurance undertaking is exposed to, the insurance or reinsurance undertaking shall, calculate  $SI_a$  without the deduction of amounts recoverable.]

#### Textual Amendments

- F28** 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 \(Solvency II\) \(Text with EEA relevance\).](#)

### Article 132

#### Fire risk sub-module

[<sup>F28</sup>1 The capital requirement for fire risk shall be equal to the loss in basic own funds of insurance and reinsurance undertakings that would result from an instantaneous loss of an amount equal to the sum insured by the insurance or reinsurance undertaking with respect to the largest fire risk concentration.

2 The largest fire risk concentration of an insurance or reinsurance undertaking is the set of buildings with the largest sum insured, after deduction of the amounts that the insurance or reinsurance undertaking can recover from reinsurance contracts and special purpose vehicles, that meets all of the following conditions:

- a the insurance or reinsurance undertaking has insurance or reinsurance obligations in lines of business 7 and 19 set out in Annex I, in relation to each building which cover damage due to fire or explosion, including as a result of terrorist attacks;
- b all buildings are partly or fully located within a radius of 200 meters.

In determining the sum insured for a set of buildings, insurance and reinsurance undertakings shall only take into account reinsurance contracts and special purpose vehicles that would pay out in the event of insurance claims related to that set of buildings. Reinsurance contracts and special purpose vehicles where payout is dependent on insurance claims that are not related to that set of buildings shall not be taken into account.

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Where the deduction of amounts recoverable would lead to a capital requirement for fire risk that captures insufficiently the fire risk that the insurance or reinsurance undertaking is exposed to, the insurance or reinsurance undertaking shall calculate the sum insured for a set of buildings without the deduction of amounts recoverable.]

3 For the purposes of paragraph 2, the set of buildings may be covered by one or several insurance or reinsurance contracts.

#### Textual Amendments

**F28** 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).

### Article 133

#### Liability risk sub-module

1 The capital requirement for liability risk shall be equal to the following:

$$SCR_{\text{liability}} = \sqrt{\sum_{(i,j)} Corr_{(liability,i,j)} \times SCR_{(liability,i)} \times SCR_{(liability,j)}}$$

where:

- (a) the sum includes all possible combinations of liability risk groups  $(i,j)$  as set out in Annex XI;
- (b)  $Corr_{(liability,i,j)}$  denotes the correlation coefficient for liability risk of liability risk groups  $i$  and  $j$  as set out in Annex XI;
- (c)  $SCR_{(liability,i)}$  denotes the capital requirement for liability risk of liability risk group  $i$ .

2 For all liability risk groups set out in Annex XI the capital requirement for liability risk of a particular liability risk group  $i$  shall be equal to the loss in basic own funds of insurance and reinsurance undertakings that would result from an instantaneous loss of an amount that, without deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles, is equal to the following:

$$L_{(liability,i)} = f_{(liability,i)} \times P_{(liability,i)}$$

where:

- (a)  $f_{(liability,i)}$  denotes the risk factor for liability risk group  $i$  as set out in Annex XI;
- (b)  $P_{(liability,i)}$  denotes the premiums earned by the insurance or reinsurance undertaking during the following 12 months in relation to insurance and reinsurance obligations in liability risk group  $i$ ; for this purpose premiums shall be gross, without deduction of premiums for reinsurance contracts.

3 The calculation of the loss in basic own funds referred to in paragraph 2 shall be based on the following assumptions:

- a the loss of liability risk group  $i$  is caused by  $n_i$  claims and the losses caused by these claims are representative for the business of the insurance or reinsurance undertaking in liability risk group  $i$  and sum up to the loss of liability risk group  $i$ ;
- b the number of claims  $n_i$  is equal to the lowest integer that exceeds the following amount:

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$$\frac{f_{(liability,i)} \times P_{(liability,i)}}{1,15 \times Lim_{(i,1)}}$$

where:

- (i)  $f_{(liability,i)}$  and  $P_{(liability,i)}$  are defined as in paragraph 2;
- (ii)  $Lim_{(i,1)}$  denotes the largest liability limit of indemnity provided by the insurance or reinsurance undertaking in liability risk group  $i$ ;
- c where the insurance or reinsurance undertaking provides unlimited cover in liability risk group  $i$ , the number of claims  $n_i$  is equal to one.

#### Article 134

##### Credit and suretyship risk sub-module

- 1 The capital requirement for credit and suretyship risk shall be equal to the following:

$$SCR_{credit} = \sqrt{SCR_2^{default} + SCR_2^{recession}}$$

where:

- (a)  $SCR_{default}$  is the capital requirement for the risk of a large credit default;
- (b)  $SCR_{recession}$  is the capital requirement for recession risk.

2 The capital requirement for the risk of a large credit default shall be equal to the loss in basic own funds of insurance and reinsurance undertakings that would result from an instantaneous default of the two largest exposures relating to obligations included in the lines of business 9 and 21 of an insurance or reinsurance undertaking. The calculation of the capital requirement shall be based on the assumption that the loss-given-default, without deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles, of each exposure is 10 % of the sum insured in relation to the exposure.

3 The two largest credit insurance exposures referred to in paragraph 2 shall be determined based on a comparison of the net loss-given-default of the credit insurance exposures, being the loss-given-default after deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles.

4 The capital requirement for recession risk shall be equal to the loss in basic own funds of insurance and reinsurance undertakings that would result from an instantaneous loss of an amount that, without deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles, is equal to 100 % of the premiums earned by the insurance or reinsurance undertaking during the following 12 months in lines of business 9 and 21.

#### Article 135

##### Sub-module for other non-life catastrophe risk

The capital requirement for other non-life catastrophe risk shall be equal to the loss in basic own funds of insurance and reinsurance undertakings that would result from an instantaneous loss, without deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles, that is equal to the following amount:

$$L_{other} = \sqrt{(c_1 \times P_1 + c_2 \times P_2)^2 + (c_3 \times P_3)^2 + (c_4 \times P_4)^2 + (c_5 \times P_5)^2}$$

where:



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- (a)  $P_1, P_2, P_3, P_4$  and  $P_5$  denote estimates of the gross premium, without deduction of the amounts recoverable from reinsurance contracts, expected to be earned by the insurance or reinsurance undertaking during the following 12 months in relation to the groups of insurance and reinsurance obligations 1 to 5 set out in Annex XII;
- (b)  $c_1, c_2, c_3, c_4$  and  $c_5$  denote the risk factors for the groups of insurance and reinsurance obligations 1 to 5 set out in Annex XII.

### SECTION 3

#### Life underwriting risk module

#### Article 136

#### Correlation coefficients

- 1 The life underwriting risk module shall consist of all of the following sub-modules:
  - a the mortality risk sub-module referred to in point (a) of subparagraph 2 of Article 105(3) of Directive 2009/138/EC;
  - b the longevity risk sub-module referred to in point (b) of subparagraph 2 of Article 105(3) of Directive 2009/138/EC;
  - c the disability-morbidity risk sub-module referred to in point (c) of subparagraph 2 of Article 105(3) of Directive 2009/138/EC;
  - d the life-expense risk sub-module referred to in point (d) of subparagraph 2 of Article 105(3) of Directive 2009/138/EC;
  - e the revision risk sub-module referred to in point (e) of subparagraph 2 of Article 105(3) of Directive 2009/138/EC;
  - f the lapse risk sub-module referred to in point (f) of subparagraph 2 of Article 105(3) of Directive 2009/138/EC;
  - g the life-catastrophe risk sub-module referred to in point (g) of subparagraph 2 of Article 105(3) of Directive 2009/138/EC.

- 2 The capital requirement for life underwriting risk shall be equal to the following:

$$SCR_{life} = \sqrt{\sum_{i,j} CorrNL_{(i,j)} \times SCR_i \times SCR_j}$$

where:

- (a) the sum covers all possible combinations  $(i,j)$  of the sub-modules set out in paragraph 1;
- (b)  $CorrNL_{(i,j)}$  denotes the correlation parameter for life underwriting risk for sub-modules  $i$  and  $j$ ;
- (c)  $SCR_i$  and  $SCR_j$  denote the capital requirements for risk sub-module  $i$  and  $j$  respectively.

- 3 The correlation coefficient  $Corr_{i,j}$  referred to in point 3 of Annex IV of Directive 2009/138/EC shall be equal to the item set out in row  $i$  and in column  $j$  of the following correlation matrix:

$j \ i$	Mortality	Longevity	Disability	Life expense	Revision	Lapse	Life catastrophe
Mortality	1	- 0,25	0,25	0,25	0	0	0,25

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<b>Longevity</b>	0,25	1	0	0,25	0,25	0,25	0
<b>Disability</b>	0,25	0	1	0,5	0	0	0,25
<b>Life expense</b>	0,25	0,25	0,5	1	0,5	0,5	0,25
<b>Revision</b>	0	0,25	0	0,5	1	0	0
<b>Lapse</b>	0	0,25	0	0,5	0	1	0,25
<b>Life catastrophe</b>	0,25	0	0,25	0,25	0	0,25	1

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

- C2** Art. 136(3): power to amend and revoke conferred (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), 4, [Sch. 3](#) (as amended by [S.I. 2020/1301](#), regs. 1, 3, [Sch. para. 27\(a\)](#) and [S.I. 2020/1385](#), regs. 1(2), 54(2))

### Article 137

#### Mortality risk sub-module

1 The capital requirement for mortality risk referred to in Article 105(3)(a) of Directive 2009/138/EC shall be equal to the loss in basic own funds of insurance and reinsurance undertakings that would result from an instantaneous permanent increase of 15 % in the mortality rates used for the calculation of technical provisions

2 The increase in mortality rates referred to in paragraph 1 shall only apply to those insurance policies for which an increase in mortality rates leads to an increase in technical provisions without the risk margin. The identification of insurance policies for which an increase in mortality rates leads to an increase in technical provisions without the risk margin may be based on the following assumptions:

- a multiple insurance policies in respect of the same insured person may be treated as if they were one insurance policy;
- b where the calculation of technical provisions is based on groups of policies as referred to in Article 35, the identification of the policies for which technical provisions increase under an increase of mortality rates may also be based on those groups of policies instead of single policies, provided that it yields a result which is not materially different.

3 With regard to reinsurance obligations, the identification of the policies for which technical provisions increase under an increase of mortality rates shall apply to the underlying insurance policies only and shall be carried out in accordance with paragraph 2.

### Article 138

#### Longevity risk sub-module

1 The capital requirement for longevity risk referred to in Article 105(3)(b) of Directive 2009/138/EC shall be equal to the loss in basic own funds of insurance and reinsurance undertakings that would result from an instantaneous permanent decrease of 20 % in the mortality rates used for the calculation of technical provisions.

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2 The decrease in mortality rates referred to in paragraph 1 shall only apply to those insurance policies for which a decrease in mortality rates leads to an increase in technical provisions without the risk margin. The identification of insurance policies for which a decrease in mortality rates leads to an increase in technical provisions without the risk margin may be based on the following assumptions:

- a multiple insurance policies in respect of the same insured person may be treated as if they were one insurance policy;
- b where the calculation of technical provisions is based on groups of policies as referred to in Article 35, the identification of the policies for which technical provisions increase under a decrease of mortality rates may also be based on those groups of policies instead of single policies, provided that it yields a result which is not materially different.

3 With regard to reinsurance obligations, the identification of the policies for which technical provisions increase under a decrease of mortality rates shall apply to the underlying insurance policies only and shall be carried out in accordance with paragraph 2.

#### *Article 139*

#### **Disability-morbidity risk sub-module**

The capital requirement for disability-morbidity risk referred to in Article 105(3)(c) of Directive 2009/138/EC shall be equal to the loss in basic own funds of insurance and reinsurance undertakings that would result from the combination of the following instantaneous permanent changes:

- (a) an increase of 35 % in the disability and morbidity rates which are used in the calculation of technical provisions to reflect the disability and morbidity experience in the following 12 months;
- (b) an increase of 25 % in the disability and morbidity rates which are used in the calculation of technical provisions to reflect the disability and morbidity experience for all months after the following 12 months;
- (c) a decrease of 20 % in the disability and morbidity recovery rates used in the calculation of technical provisions in respect of the following 12 months and for all years thereafter.

#### *Article 140*

#### **Life-expense risk sub-module**

The capital requirement for life-expense risk referred to in Article 105(3)(d) of Directive 2009/138/EC shall be equal to the loss in basic own funds of insurance and reinsurance undertakings that would result from the combination of the following instantaneous permanent changes:

- (a) an increase of 10 % in the amount of expenses taken into account in the calculation of technical provisions;
- (b) an increase of 1 percentage point to the expense inflation rate (expressed as a percentage) used for the calculation of technical provisions.

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With regard to reinsurance obligations, insurance and reinsurance undertakings shall apply those changes to their own expenses and, where relevant, to the expenses of the ceding undertakings.

#### *Article 141*

##### **Revision risk sub-module**

The capital requirement for revision risk referred to in Article 105(3)(e) of Directive 2009/138/EC shall be equal to the loss in basic own funds of insurance and reinsurance undertakings that would result from an instantaneous permanent increase of 3 % in the amount of annuity benefits only on annuity insurance and reinsurance obligations where the benefits payable under the underlying insurance policies could increase as a result of changes in the legal environment or in the state of health of the person insured.

#### *Article 142*

##### **Lapse risk sub-module**

1 The capital requirement for lapse risk referred to in Article 105(3)(f) of Directive 2009/138/EC shall be equal to the largest of the following capital requirements:

- a the capital requirement for the risk of a permanent increase in lapse rates;
- b the capital requirement for the risk of a permanent decrease in lapse rates;
- c the capital requirement for mass lapse risk.

2 The capital requirement for the risk of a permanent increase in lapse rates shall be equal to the loss in basic own funds of insurance and reinsurance undertakings that would result from an instantaneous permanent increase of 50 % in the option exercise rates of the relevant options set out in paragraphs 4 and 5. Nevertheless, the increased option exercise rates shall not exceed 100 % and the increase in option exercise rates shall only apply to those relevant options for which the exercise of the option would result in an increase of technical provisions without the risk margin.

3 The capital requirement for the risk of a permanent decrease in lapse rates shall be equal to the loss in basic own funds of insurance and reinsurance undertakings that would result from an instantaneous permanent decrease of 50 % in the option exercise rates of the relevant options set out in paragraph 4 and 5. Nevertheless, the decrease in option exercise rates shall not exceed 20 percentage points and the decrease in option exercise rates shall only apply to those relevant options for which the exercise of the option would result in a decrease of technical provisions without the risk margin.

4 The relevant options for the purposes of paragraphs 2 and 3 shall be the following:

- a all legal or contractual policyholder rights to fully or partly terminate, surrender, decrease, restrict or suspend insurance cover or permit the insurance policy to lapse;
- b all legal or contractual policyholder rights to fully or partially establish, renew, increase, extend or resume the insurance or reinsurance cover.

For the purposes of point (b), the change in the option exercise rate referred to in paragraphs 2 and 3 shall be applied to the rate reflecting that the relevant option is not exercised.

5 In relation to reinsurance contracts the relevant options for the purposes of paragraph 2 and 3 shall be the following:

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- a the rights referred to in paragraph 4 of the policy holders of the reinsurance contracts;
- b the rights referred to in paragraph 4 of the policy holders of the insurance contracts underlying the reinsurance contracts;
- c where the reinsurance contracts covers insurance or reinsurance contracts that will be written in the future, the right of the potential policy holders not to conclude those insurance or reinsurance contracts.

6 The capital requirement for mass lapse risk shall be equal to the loss in basic own funds of insurance and reinsurance undertakings that would result from a combination of the following instantaneous events:

- a the discontinuance of 70 % of the insurance policies falling within the scope of operations referred to with Article 2(3)(b)(iii) and (iv) of Directive 2009/138/EC, for which discontinuance would result in an increase of technical provisions without the risk margin and where one of the following conditions are met:
  - (i) the policyholder is not a natural person and discontinuance of the policy is not subject to approval by the beneficiaries of the pension fund;
  - (ii) the policyholder is a natural person acting for the benefit of the beneficiaries of the policy, except where there is a family relationship between that natural person and the beneficiaries, or where the policy is effected for private estate planning or inheritance purposes and the number of beneficiaries under the policy does not exceed 20;
- b the discontinuance of 40 % of the insurance policies other than those falling within point (a) for which discontinuance would result in an increase of technical provisions without the risk margin;
- c where reinsurance contracts cover insurance or reinsurance contracts that will be written in the future, the decrease of 40 % of the number of those future insurance or reinsurance contracts used in the calculation of technical provisions.

The events referred to in the first subparagraph shall apply uniformly to all insurance and reinsurance contracts concerned. In relation to reinsurance contracts, the event referred to in point (a) shall apply to the underlying insurance contracts.

For the purposes of determining the loss in basic own funds of the insurance or reinsurance undertaking under the events referred to in points (a) and (b) the undertaking shall base the calculation on the type of discontinuance which most negatively affects the basic own funds of the undertaking on a per policy basis.

7 Where the largest of the capital requirements referred to in points (a), (b) and (c) of paragraph 1 of this Article and the largest of the corresponding capital requirements calculated in accordance with Article 206(2) of this Regulation are not based on the same scenario, the capital requirement for lapse risk referred to in Article 105(3)(f) of Directive 2009/138/EC shall be the capital requirement referred to in points (a), (b) and (c) of paragraph 1 of this Article for which the underlying scenario results in the largest corresponding capital requirement calculated in accordance with Article 206(2) of this Regulations.

#### Article 143

#### Life-catastrophe risk sub-module

1 The capital requirement for life-catastrophe risk referred to in Article 105(3)(g) of Directive 2009/138/EC shall be equal to the loss in basic own funds of insurance and reinsurance

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undertakings that would result from an instantaneous increase of 0.15 percentage points to the mortality rates (expressed as percentages) which are used in the calculation of technical provisions to reflect the mortality experience in the following 12 months.

2 The increase in mortality rates referred to in paragraph 1 shall only apply to those insurance policies for which an increase in mortality rates which are used to reflect the mortality experience in the following 12 months leads to an increase in technical provisions. The identification of insurance policies for which an increase in mortality rates leads to an increase in technical provisions without the risk margin may be based on the following assumptions:

- a multiple insurance policies in respect of the same insured person may be treated as if they were one insurance policy;
- b where the calculation of technical provisions is based on groups of policies as referred to in Article 35, the identification of the policies for which technical provisions increase under an increase of mortality rates may also be based on those groups of policies instead of single policies, provided that it yields a result which is not materially different.

3 With regard to reinsurance policies, the identification of the policies for which technical provisions increase under an increase of mortality rates shall apply to the underlying insurance policies only and shall be carried out in accordance with paragraph 2.

#### SECTION 4

##### **Health underwriting risk module**

##### *Article 144*

##### **Health underwriting risk module**

1 The health underwriting risk module shall consist of all of the following sub-modules:

- a the NSLT health insurance underwriting risk sub-module;
- b the SLT health insurance underwriting risk sub-module;
- c the health catastrophe risk sub-module.

2 The capital requirement for health underwriting risk shall be equal to the following:

$$SCR_{\text{health}} = \sqrt{\sum_{i,j} CorrH_{(i,j)} \times SCR_i \times SCR_j}$$

where:

- (a) the sum covers all possible combinations  $(i,j)$  of the sub-modules set out in paragraph 1;
- (b)  $CorrH_{(i,j)}$  denotes the correlation parameter for health underwriting risk for sub-modules  $i$  and  $j$ ;
- (c)  $SCR_i$  and  $SCR_j$  denote the capital requirements for risk sub-module  $i$  and  $j$  respectively.

3 The correlation coefficient  $CorrH_{(i,j)}$  referred to in paragraph 2 denotes the item set out in row  $i$  and in column  $j$  of the following correlation matrix:

$j \ i$	NSLT health underwriting	SLT health underwriting	Health catastrophe
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**Changes to legislation:** Commission Delegated Regulation (EU) 2015/35 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

<b>NSLT health underwriting</b>	1	0,5	0,25
<b>SLT health underwriting</b>	0,5	1	0,25
<b>Health catastrophe</b>	0,25	0,25	1

- 4 Insurance and reinsurance undertakings shall apply:
- a the NSLT health underwriting risk sub-module to health insurance and reinsurance obligations included in lines of business 1, 2, 3, 13, 14, 15 and 25 as set out in Annex I;
  - b the SLT health underwriting risk sub-module to health insurance and reinsurance obligations included in lines of business 29, 33 and 35 as set out in Annex I;
  - c the health catastrophe risk sub-module to health insurance and reinsurance obligations.

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

**C3** Art. 144(3): power to amend and revoke conferred (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), 4, [Sch. 3](#) (as amended by [S.I. 2020/1301](#), regs. 1, 3, [Sch. para. 27\(a\)](#) and [S.I. 2020/1385](#), regs. 1(2), 54(2))

*Article 145*

**NSLT health underwriting risk sub-module**

1 The NSLT health underwriting risk sub-module shall consist of the following sub-modules:

- a the NSLT health premium and reserve risk sub-module;
- b the NSLT health lapse risk sub-module.

2 The capital requirement for NSLT health underwriting risk shall be equal to the following:

$$SCR_{NSLT} = \sqrt{SCR_2^{(NSLT_{Th,pr})} + SCR_2^{(NSLT_{Th,lapse})}}$$

where:

- (a)  $SCR_{(NSLT_{Th,pr})}$  denotes the capital requirement for NSLT health premium and reserve risk;
- (b)  $SCR_{(NSLT_{Th,lapse})}$  denotes the capital requirement for NSLT health lapse risk.

*Article 146*

**NSLT health premium and reserve risk sub-module**

The capital requirement for NSLT health premium and reserve risk shall be equal to the following:

$$SCR_{(NSLT_{Th,pr})} = 3 \times \sigma_{NSLT_{Th}} \times V_{NSLT_{Th}}$$

where:

- (a)  $\sigma_{NSLT_{Th}}$  denotes the standard deviation for NSLT health premium and reserve risk determined in accordance with Article 148;

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- (b)  $V_{NSLT_h}$  denotes the volume measure for NSLT health premium and reserve risk determined in accordance with Article 147.

### Article 147

#### Volume measure for NSLT health premium and reserve risk

1 The volume measure for NSLT health premium and reserve risk shall be equal to the sum of the volume measures for premium and reserve risk of the segments set out in Annex XIV.

2 For all segments set out in Annex XIV, the volume measure of a particular segment  $s$  shall be equal to the following:

$$V_s = (V_{(prem,s)} + V_{(res,s)}) \times (0,75 + 0,25 \times DIV_s)$$

where:

- (a)  $V_{(prem,s)}$  denotes the volume measure for premium risk of segment  $s$ ;
- (b)  $V_{(res,s)}$  denotes the volume measure for reserve risk of segment  $s$ ;
- (c)  $DIV_s$  denotes the factor for geographical diversification of segment  $s$ .

3 For all segments set out in Annex XIV, the volume measure for premium risk of a particular segment  $s$  shall be equal to the following:

$$V_{(prem,s)} = \max(P_s; P_{(last,s)}) + FP_{(existing,s)} + FP_{(future,s)}$$

where:

- (a)  $P_s$  denotes an estimate of the premiums to be earned by the insurance or reinsurance undertaking in the segment  $s$  during the following 12 months;
- (b)  $P_{(last,s)}$  denotes the premiums earned by the insurance and reinsurance undertaking in the segment  $s$  during the last 12 months;
- (c)  $FP_{(existing,s)}$  denotes the expected present value of premiums to be earned by the insurance and reinsurance undertaking in the segment  $s$  after the following 12 months for existing contracts;
- (d)  $\int^{F28} FP_{(future,s)}$  denotes the following amount with respect to contracts where the initial recognition date falls in the following 12 months:
  - (i) for all such contracts whose initial term is one year or less, the expected present value of premiums to be earned by the insurance or reinsurance undertaking in the segment  $s$ , but excluding the premiums to be earned during the 12 months after the initial recognition date;
  - (ii) for all such contracts whose initial term is more than one year, the amount equal to 30 % of the expected present value of premiums to be earned by the insurance or reinsurance undertaking in the segment  $s$  after the following 12 months.]

4 For all segments set out in Annex XIV, insurance and reinsurance undertakings may, as an alternative to the calculation set out in paragraph 3, choose to calculate the volume measure for premium risk of a particular segment  $s$  in accordance with the following formula:

$$V_{(prem,s)} = P_s + FP_{(existing,s)} + FP_{(future,s)}$$

provided that all of the following conditions are met:



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- (a) the administrative, management or supervisory body of the insurance or reinsurance undertaking has decided that its earned premiums in the segment  $s$  during the following 12 months will not exceed  $P_s$ ;
- (b) the insurance or reinsurance undertaking has established effective control mechanisms to ensure that the limits on earned premiums referred to in point (a) will be met;
- (c) the insurance or reinsurance undertaking has informed its supervisory authority about the decision referred to in point (a) and the reasons for it.

For the purposes of this paragraph, the terms  $P_s$ ,  $FP_{(existing,s)}$  and  $FP_{(future,s)}$  shall be denoted in accordance with points (a), (c) and (d) of paragraph 3.

5 For the purposes of the calculations set out in paragraphs 3 and 4, premiums shall be net, after deduction of premiums for reinsurance contracts. The following premiums for reinsurance contracts shall not be deducted:

- a premiums in relation to non-insurance events or settled insurance claims that are not accounted for in the cash-flows referred to in Article 41(3);
- b premiums for reinsurance contracts that do not comply with Articles 209, 210, 211 and 213.

6 For all segments set out in Annex XIV, the volume measure for reserve risk of a particular segment shall be equal to the best estimate for the provision for claims outstanding for the segment, after deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles, provided that the reinsurance contracts or special purpose vehicles comply with Articles 209, 210, 211 and 213. The volume measure shall not be a negative amount.

7 For all segments set out in Annex XIV, the default factor for geographical diversification shall be either equal to 1 or calculated in accordance with Annex III.

#### Textual Amendments

**F28** 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).

### Article 148

#### Standard deviation for NSLT health premium and reserve risk

1 The standard deviation for NSLT health premium and reserve risk shall be equal to the following:

$$\sigma_{NSLT_h} = \frac{1}{V_{NSLT_h}} \times \sqrt{\sum_{s,t} CorrHS_{(s,t)} \times \sigma_s \times V_s \times \sigma_t \times V_t}$$

where:

- (a)  $V_{NSLT_h}$  denotes the volume measure for NSLT health premium and reserve risk;
- (b) the sum covers all possible combinations  $(s,t)$  of the segments set out in Annex XIV;
- (c)  $CorrHS_{(s,t)}$  denotes the correlation coefficient for NSLT health premium and reserve risk for segment  $s$  and segment  $t$  set out in Annex XV;

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- (d)  $\sigma_s$  and  $\sigma_t$  denote standard deviations for NSLT health premium and reserve risk of segments  $s$  and  $t$  respectively;
- (e)  $V_s$  and  $V_t$  denote volume measures for premium and reserve risk of segments  $s$  and  $t$ , referred to in Annex XIV, respectively.

2 For all segments set out in Annex XIV, the standard deviation for NSLT health premium and reserve risk of a particular segment  $s$  shall be equal to the following:

$$\sigma_s = \frac{\sqrt{\sigma_{(prem,s)}^2 \times V_{(prem,s)} + \sigma_{(res,s)}^2 \times V_{(res,s)}}}{V_{(prem,s)} + V_{(res,s)}}$$

where:

- (a)  $\sigma_{(prem,s)}$  denotes the standard deviation for NSLT health premium risk of segment  $s$  determined in accordance with paragraph 3;
- (b)  $\sigma_{(res,s)}$  denotes the standard deviation for NSLT health reserve risk of segment  $s$  as set out in Annex XIV;
- (c)  $V_{(prem,s)}$  denotes the volume measure for premium risk of segment  $s$  referred to in Article 147;
- (d)  $V_{(res,s)}$  denotes the volume measure for reserve risk of segment  $s$  referred to in Article 147.

3 For all segments set out in Annex XIV, the standard deviation for NSLT health premium risk of a particular segment shall be equal to the product of the standard deviation for NSLT health gross premium risk of the segment set out in Annex XIV and the adjustment factor for non-proportional reinsurance. For all segments set out in Annex XIV the adjustment factor for non-proportional reinsurance shall be equal to 100 %.

## Article 149

### Health risk equalisation systems

1 For the purposes of [F46 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;

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- B. an estimate of the representative standard deviation of an insurance undertaking's combined ratio, being the ratio of the following annual amounts:
  - 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 [F47technical 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

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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:

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

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 [F48 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.

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$V_{(res,s,nHRES)}$  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 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>F49</sup>....

#### Textual Amendments

- F46** 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)
- F47** 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)
- F48** 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)
- F49** 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)

### Article 150

#### NSLT health lapse risk sub-module

1 The capital requirement for NSLT health lapse risk referred to in Article 145(1)(b) shall be equal to the loss in basic own funds of insurance and reinsurance undertakings that would result from the combination of the following instantaneous events:

- a the discontinuance of 40 % of the insurance policies for which discontinuance would result in an increase of technical provisions without the risk margin;
- b where reinsurance contracts cover insurance or reinsurance contracts that will be written in the future, the decrease of 40 % of the number of those future insurance or reinsurance contracts used in the calculation of technical provisions.

2 The events referred to in paragraph 1 shall apply uniformly to all insurance and reinsurance contracts concerned. In relation to reinsurance contracts the event referred to in point (a) of paragraph 1 shall apply to the underlying insurance contracts.

3 For the purposes of determining the loss in basic own funds of the insurance or reinsurance undertaking under the event referred to in point (a) of paragraph 1, the undertaking shall base the calculation on the type of discontinuance which most negatively affects the basic own funds of the undertaking on a per policy basis.

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## Article 151

### SLT health underwriting risk sub-module

1 The SLT health underwriting risk module shall consist of all of the following sub-modules:

- a the health mortality risk sub-module;
- b the health longevity risk sub-module;
- c the health disability-morbidity risk sub-module;
- d the health expense risk sub-module;
- e the health revision risk sub-module;
- f the SLT health lapse risk sub-module.

2 The capital requirement for SLT health underwriting risk shall be equal to the following:

$$SCR_{SLTH} = \sqrt{\sum_{i,j} CorrSLTH_{(i,j)} \times SCR_i \times SCR_j}$$

where:

- (a) the sum denotes all possible combinations  $(i,j)$  of the sub-modules set out in paragraph 1;
- (b)  $CorrSLTH_{(i,j)}$  denotes the correlation parameter for SLT health underwriting risk for sub-modules  $i$  and  $j$ ;
- (c)  $SCR_i$  and  $SCR_j$  denote the capital requirements for risk sub-module  $i$  and  $j$  respectively.

3 The correlation coefficient  $CorrSLTH_{(i,j)}$  referred to in paragraph 2 shall be equal to the item set out in row  $i$  and in column  $j$  of the following correlation matrix:

$j \ i$	Health mortality	Health longevity	Health disability-morbidity	Health expense	Health revision	SLT health lapse
Health mortality	1	- 0,25	0,25	0,25	0	0
Health longevity	- 0,25	1	0	0,25	0,25	0,25
Health disability-morbidity	0,25	0	1	0,5	0	0
Health expense	0,25	0,25	0,5	1	0,5	0,5
Health revision	0	0,25	0	0,5	1	0
SLT health lapse	0	0,25	0	0,5	0	1

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

- C4** Art. 151(3): power to amend and revoke conferred (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), 4, **Sch. 3** (as amended by [S.I. 2020/1301](#), regs. 1, 3, [Sch. para. 27\(a\)](#) and [S.I. 2020/1385](#), regs. 1(2), 54(2))

*Article 152*

**Health mortality risk sub-module**

1 The capital requirement for health mortality risk shall be equal to the loss in basic own funds of insurance and reinsurance undertakings that would result from an instantaneous permanent increase of 15 % in the mortality rates used for the calculation of technical provisions.

2 The increase in mortality rates referred to in paragraph 1 shall only apply to those insurance policies for which an increase in mortality rates leads to an increase in technical provisions without the risk margin. The identification of insurance policies for which an increase in mortality rates leads to an increase in technical provisions without the risk margin may be based on the following:

- a multiple insurance policies in respect of the same insured person may be treated as if they were one insurance policy;
- b where the calculation of technical provisions is based on groups of policies as referred to in Article 35, the identification of the policies for which technical provisions increase under an increase of mortality rates may also be based on those groups of policies instead of single policies, provided that it yields a result which is not materially different.

3 With regard to reinsurance obligations, the identification of the policies for which technical provisions increase under an increase of mortality rates shall apply to the underlying insurance policies only and shall be carried out in accordance with paragraph 2.

*Article 153*

**Health longevity risk sub-module**

1 The capital requirement for health longevity risk shall be equal to the loss in basic own funds of insurance and reinsurance undertakings that would result from an instantaneous permanent decrease of 20 % in the mortality rates used for the calculation of technical provisions.

2 The decrease in mortality rates referred to in paragraph 1 shall only apply to those insurance policies for which a decrease in mortality rates leads to an increase in technical provisions without the risk margin. The identification of insurance policies for which a decrease in mortality rates leads to an increase in technical provisions without the risk margin may be based on the following assumptions:

- a multiple insurance policies in respect of the same insured person may be treated as if they were one insurance policy;
- b where the calculation of technical provisions is based on groups of policies as referred to in Article 35, the identification of the policies for which technical provisions increase under an decrease of mortality rates may also be based on those groups of policies

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instead of single policies, provided that it yields a result which is not materially different.

3 With regard to reinsurance obligations, the identification of the policies for which technical provisions increase under an decrease of mortality rates shall apply only to the underlying insurance policies and shall be carried out in accordance with paragraph 2.

#### Article 154

##### Health disability-morbidity risk sub-module

1 The capital requirement for health disability-morbidity risk shall be equal to the sum of the following:

- a the capital requirement for medical expense disability-morbidity risk;
- b the capital requirement for income protection disability-morbidity risk.

2 Insurance and reinsurance undertakings shall apply:

- a the scenarios underlying the calculation of the capital requirement for medical expense disability-morbidity risk only to medical expense insurance and reinsurance obligations where the underlying business is pursued on a similar technical basis to that of life insurance;
- b the scenarios underlying the calculation of the capital requirement for income protection disability-morbidity risk only to income protection insurance and reinsurance obligations where the underlying business is pursued on a similar technical basis to that of life insurance.

#### Article 155

##### Capital requirement for medical expense disability-morbidity risk

1 The capital requirement for medical expense disability-morbidity risk shall be equal to the larger of the following capital requirements:

- a the capital requirement for the increase of medical payments;
- b the capital requirement for the decrease of medical payments.

2 The capital requirement for the increase of medical payments shall be equal to the loss in basic own funds of insurance and reinsurance undertakings that would result from the following combination of instantaneous permanent changes:

- a an increase of 5 % in the amount of medical payments taken into account in the calculation of technical provisions;
- b an increase by 1 percentage point to the inflation rate of medical payments (expressed as a percentage) used for the calculation of technical provisions.

3 The capital requirement for the decrease of medical payments shall be equal to the loss in basic own funds of insurance and reinsurance undertakings that would result from the following combination of instantaneous permanent changes:

- a a decrease of 5 % in the amount of medical payments taken into account in the calculation of technical provisions;
- b a decrease by 1 percentage point from the inflation rate of medical payments (expressed as a percentage) used for the calculation of technical provisions.



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## Article 156

### Capital requirement for income protection disability-morbidity risk

The capital requirement for income protection disability-morbidity risk shall be equal to the loss in basic own funds of insurance and reinsurance undertakings that would result from the following combination of instantaneous permanent changes:

- (a) an increase of 35 % in the disability and morbidity rates which are used in the calculation of technical provisions to reflect the disability and morbidity in the following 12 months;
- (b) an increase of 25 % in the disability and morbidity rates which are used in the calculation of technical provisions to reflect the disability and morbidity in the years after the following 12 months;
- (c) where the disability and morbidity recovery rates used in the calculation of technical provisions are lower than 50 %, a decrease of 20 % in those rates;
- (d) where the disability and morbidity persistency rates used in the calculation of technical provisions are equal or lower than 50 %, an increase of 20 % in those rates.

## Article 157

### Health expense risk sub-module

The capital requirement for health expense risk shall be equal to the loss in basic own funds of insurance and reinsurance undertakings that would result from the following combination of instantaneous permanent changes:

- (a) an increase of 10 % in the amount of expenses taken into account in the calculation of technical provisions;
- (b) an increase by 1 percentage point to the expense inflation rate (expressed as a percentage) used for the calculation of technical provisions.

With regard to reinsurance obligations, insurance and reinsurance undertakings shall apply those changes to their own expenses and, where relevant, to the expenses of the ceding undertakings.

## Article 158

### Health revision risk sub-module

The capital requirement for health revision risk shall be equal to the loss in basic own funds of insurance and reinsurance undertakings that would result from an instantaneous permanent increase of 4 % in the amount of annuity benefits, only on annuity insurance and reinsurance obligations where the benefits payable under the underlying insurance policies could increase as a result of changes in inflation, the legal environment or the state of health of the person insured.

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## Article 159

### SLT health lapse risk sub-module

1 The capital requirement for SLT health lapse risk referred to in Article 151(1)(f) shall be equal to the largest of the following capital requirements:

- a capital requirement for the risk of a permanent increase in SLT health lapse rates;
- b capital requirement for the risk of a permanent decrease in SLT health lapse rates;
- c capital requirement for SLT health mass lapse risk.

2 The capital requirement for the risk of a permanent increase in SLT health lapse rates shall be equal to the loss in basic own funds of insurance and reinsurance undertakings that would result from an instantaneous permanent increase of 50 % in the exercise rates of the relevant options set out in paragraph 4 and 5. Nevertheless, the increased option exercise rates shall not exceed 100 % and the increase in option exercise rates shall only apply to those relevant options for which the exercise would result in an increase of technical provisions without the risk margin.

3 The capital requirement for the risk of a permanent decrease in SLT health lapse rates shall be equal to the loss in basic own funds of insurance and reinsurance undertakings that would result from an instantaneous permanent decrease of 50 % in the option exercise rates of the relevant options set out in paragraph 4 and 5. Nevertheless, the decrease in option exercise rates shall not exceed 20 percentage points and the decrease in option exercise rates shall only apply to those relevant options for which the exercise would result in a decrease of technical provisions without the risk margin.

4 The relevant options for the purposes of paragraphs 2 and 3 shall be the following:

- a all legal or contractual policyholder rights to fully or partly terminate, surrender, decrease, restrict or suspend the insurance or reinsurance cover or permit the insurance policy to lapse;
- b all legal or contractual policyholder rights to fully or partially establish, renew, increase, extend or resume the insurance or reinsurance cover.

For the purposes of point (b), the change in the option exercise rate referred to in paragraphs 2 and 3 should be applied to the rate reflecting that the relevant option is not exercised.

5 In relation to reinsurance contracts, the relevant options for the purposes of paragraphs 2 and 3 shall be the following:

- a the rights referred to in paragraph 4 of the policy holders of the reinsurance contracts;
- b the rights set out in paragraph 4 of the policy holders of the insurance contracts underlying the reinsurance contracts;
- c where reinsurance contracts cover insurance or reinsurance contracts that will be written in the future, the right of the potential policy holders not to conclude those insurance or reinsurance contracts.

6 The capital requirement for SLT health mass lapse risk shall be equal to the loss in basic own funds of insurance and reinsurance undertakings that would result from a combination of the following instantaneous events:

- a the discontinuance of 40 % of the insurance policies for which discontinuance would result in an increase of technical provisions without the risk margin;

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- b where reinsurance contract covers insurance or reinsurance contracts that will be written in the future, the decrease of 40 % of the number of those future insurance or reinsurance contracts used in the calculation of the technical provisions.

The events referred to in the first subparagraph shall apply uniformly to all insurance and reinsurance contracts concerned. In relation to reinsurance contracts the event referred to in point (a) shall apply to the underlying insurance contracts.

For the purposes of determining the loss in basic own funds of the insurance or reinsurance undertaking under the event referred to in point (a), the undertaking shall base the calculation on the type of discontinuance which most negatively affects the basic own funds of the undertaking on a per policy basis.

7 Where the largest of the capital requirements referred to in points (a) (b), and (c) of paragraph 1 of this Article and the largest of the corresponding capital requirements calculated in accordance with Article 206(2) of this Regulation are not based on the same scenario, the capital requirement for lapse risk referred to in Article 105(3)(f) of Directive 2009/138/EC shall be the capital requirement referred to in points (a), (b) or (c) of paragraph 1 of this Article for which the underlying scenario results in the largest corresponding capital requirement calculated in accordance with Article 206(2) of this Regulation.

## Article 160

### Health catastrophe risk sub-module

1 The capital requirement for the health catastrophe risk sub-module shall be equal to the following:

$$SCR_{\text{healthCAT}} = \sqrt{SCR_{ma}^2 + SCR_{ac}^2 + SCR_p^2}$$

where:

- (a)  $SCR_{ma}$  denotes the capital requirement of the mass accident risk sub-module;
  - (b)  $SCR_{ac}$  denotes the capital requirement of the accident concentration risk sub-module;
  - (c)  $SCR_p$  denotes the capital requirement of the pandemic risk sub-module.
- 2 Insurance and reinsurance undertakings shall apply:
- a the mass accident risk sub-module to health insurance and reinsurance obligations other than workers' compensation insurance and reinsurance obligations;
  - b the accident concentration risk sub-module to workers' compensation insurance and reinsurance obligations and to group income protection insurance and reinsurance obligations;
  - c the pandemic risk sub-module to health insurance and reinsurance obligations other than workers' compensation insurance and reinsurance obligations.

## Article 161

### Mass accident risk sub-module

1 The capital requirement for the mass accident risk sub-module shall be equal to the following:

$$SCR_{ma} = \sqrt{\sum_s SCR_{2s}^{(ma,s)}}$$

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where:

- (a) the sum includes all countries set out in Annex XVI;
- (b)  $SCR_{(ma,s)}$  denotes the capital requirement for mass accident risk of country  $s$ .

2 For all countries set out in Annex XVI, the capital requirement for mass accident risk of a particular country  $s$  shall be equal to the loss in basic own funds of insurance and reinsurance undertakings that would result from an instantaneous loss of an amount that, without deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles is calculated as follows:

$$L_{(ma,s)} = r_s \times \sum_e x_e \times E_{(e,s)}$$

where:

- (a)  $r_s$  denotes the ratio of persons affected by the mass accident in country  $s$  as set out in Annex XVI;
- (b) the sum includes the event types  $e$  set out in Annex XVI;
- (c)  $x_e$  denotes the ratio of persons who will receive benefits of event type  $e$  as a result of the accident as set out in Annex XVI;
- (d)  $E_{(e,s)}$  denotes the total value of benefits payable by insurance and reinsurance undertakings for event type  $e$  in country  $s$ .

3 For all event types set out in Annex XVI and all countries set out in Annex XVI, the sum insured of an insurance or reinsurance undertaking for a particular event type  $e$  in a particular country  $s$  shall be equal to the following:

$$E_{(e,s)} = \sum_i SI_{(e,i)}$$

where:

- (a) the sum includes all insured persons  $i$  of the insurance or reinsurance undertaking who are insured against event type  $e$  and are inhabitants of country  $s$ ;
- (b)  $SI_{(e,i)}$  denotes the value of the benefits payable by the insurance or reinsurance undertaking for the insured person  $i$  in case of event type  $e$ .

The value of the benefits shall be the sum insured or where the insurance contract provides for recurring benefit payments the best estimate of the benefit payments in case of event type  $e$ . Where the benefits of an insurance contract depend on the nature or extent of any injury resulting from event  $e$ , the calculation of the value of the benefits shall be based on the maximum benefits obtainable under the contract which are consistent with the event. For medical expense insurance and reinsurance obligations the value of the benefits shall be based on an estimate of the average amounts paid in case of event  $e$ , assuming the insured person is disabled for the duration specified and taking into account the specific guarantees the obligations include.

4 Where Article 88 is complied with, insurance or reinsurance undertakings may calculate the value of benefits payable to insured person referred to in paragraph 3 based on homogenous risk groups, provided that the grouping of policies complies with Article 35.

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## Article 162

### Accident concentration risk sub-module

1 The capital requirement for the accident concentration risk sub-module shall be equal to the following:

$$SCR_{ac} = \sqrt{\sum_c SCR_2^{(ac,c)}}$$

where:

- (a) the sum includes all countries  $c$ ;
- (b)  $SCR_{(ac,c)}$  denotes the capital requirement for accident concentration risk of country  $c$ .

2 For all countries the capital requirement for accident concentration risk of country  $c$  shall be equal to the loss in basic own funds of insurance and reinsurance undertakings that would result from an instantaneous loss of an amount that, without deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles, is calculated as follows:

$$L_{(ac,c)} = C_c \times \sum_e x_e \times CE_{(e,c)}$$

where:

- (a)  $C_c$  denotes the largest accident risk concentration of insurance and reinsurance undertakings in country  $c$ ;
- (b) the sum includes the event types  $e$  set out in Annex XVI;
- (c)  $x_e$  denotes the ratio of persons which will receive benefits of event type  $e$  as a result of the accident as set out in Annex XVI;
- (d)  $CE_{(e,c)}$  denotes the average value of benefits payable by insurance and reinsurance undertakings for event type  $e$  for the largest accident risk concentration in country  $c$ .

3 For all countries, the largest accident risk concentration of an insurance or reinsurance undertaking in a country  $c$  shall be equal to the largest number of persons for which all of the following conditions are met:

- a the insurance or reinsurance undertaking has a workers' compensation insurance or reinsurance obligation or an group income protection insurance or reinsurance obligation in relation to each of the persons;
- b the obligations in relation to each of the persons cover at least one of the events set out in Annex XVI;
- c the persons are working in the same building which is situated in country  $c$ .

4 For all event types and countries, the average sum insured of an insurance or reinsurance undertaking for event type  $e$  for the largest accident risk concentration in country  $c$  shall be equal to the following:

$$CE_{(e,c)} = \frac{1}{N_e} \sum_{i=1}^{N_e} SI_{(e,i)}$$

where:

- (a)  $N_e$  denotes the number of insured persons of the insurance or reinsurance undertaking which are insured against event type  $e$  and which belong to the largest accident risk concentration of the insurance or reinsurance undertaking in country  $c$ ;
- (b) the sum includes all the insured persons referred to in point (a);

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- (c)  $SI_{(e,i)}$  denotes the value of the benefits payable by the insurance or reinsurance undertaking for the insured person  $i$  in case of event type  $e$ .

The value of the benefits referred to in point (c) shall be the sum insured or where the contract provides for recurring benefit payments the best estimate of the benefit payments in case of event type  $e$ . Where the benefits of an insurance policy depend on the nature or extent of the injury resulting from event  $e$ , the calculation of the value of the benefits shall be based on the maximum benefits obtainable under the policy, which are consistent with the event. For medical expense insurance and reinsurance obligations the value of the benefits shall be based on an estimate of the average amounts paid in case of event  $e$ , assuming the insured person is disabled for the duration specified and taking into account the specific guarantees the obligations include.

5 Where Article 88 is complied with, insurance or reinsurance undertakings may calculate the value of the benefits payable by the insurance or reinsurance undertaking for the insured person referred to in paragraph 4 based on homogenous risk groups, provided that the grouping of policies complies with the requirements set out in Article 35.

### Article 163

#### Pandemic risk sub-module

1 The capital requirement for the pandemic risk sub-module shall be equal to the loss in basic own funds of insurance and reinsurance undertakings that would result from an instantaneous loss of an amount that, without deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles, is calculated as follows:

$$L_p = 0,000075 \times E + 0,4 \times \sum_c N_c \times M_c$$

where:

- (a)  $E$  denotes the income protection pandemic exposure of insurance and reinsurance undertakings;
- (b) the sum includes all countries  $c$ ;
- (c)  $N_c$  denotes the number of insured persons of insurance and reinsurance undertakings which meet all of the following conditions:
  - (i) the insured persons are inhabitants of country  $c$ ,
  - (ii) the insured persons are covered by medical expense insurance or reinsurance obligations, other than workers' compensation insurance or reinsurance obligations, that cover medical expenses resulting from an infectious disease;
- (d)  $M_c$  denotes the expected average amount payable by insurance or reinsurance undertakings per insured person of country  $c$  in case of a pandemic.

2 The income protection pandemic exposure of an insurance or reinsurance undertaking shall be equal to the following:

$$E = \sum_i E_i$$

where:

- (a) the sum includes all insured persons  $i$  covered by the income protection insurance or reinsurance obligations other than workers' compensation insurance or reinsurance obligations;

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- (b)  $E_i$  denotes the value of the benefits payable by the insurance or reinsurance undertaking, for the insured person  $i$  in case of a permanent work disability caused by an infectious disease. The value of the benefits shall be the sum insured or where the contract provides for recurring benefit payments the best estimate of the benefit payments assuming that the insured person is permanently disabled and will not recover.

3 For all countries, the expected average amount payable by insurance or reinsurance undertakings per insured person of a particular country  $c$  in case of a pandemic shall be equal to the following:

$$M_c = \sum_h H_h \times CH_{(h,c)}$$

where:

- (a) the sum includes the types of healthcare utilisation  $h$  set out in Annex XVI;
- (b)  $H_h$  denotes the ratio of insured persons with clinical symptoms utilising healthcare  $h$  as set out in Annex XVI;
- (c)  $CH_{(h,c)}$  denotes the best estimate of the amounts payable by insurance and reinsurance undertakings for an insured person in country  $c$  in relation to medical expense insurance or reinsurance obligations, other than workers' compensation insurance or reinsurance obligations, for healthcare utilisation  $h$  in the event of a pandemic.

## SECTION 5

### Market risk module

#### Subsection 1

#### Correlation coefficients

##### Article 164

- 1 The market risk module shall consist of all of the following sub-modules:
- the interest rate risk sub-module referred to in point (a) of subparagraph 2 of Article 105(5) of Directive 2009/138/EC;
  - the equity risk sub-module referred to in point (b) of subparagraph 2 of Article 105(5) of Directive 2009/138/EC;
  - the property risk sub-module referred to in point (c) of subparagraph 2 of Article 105(5) of Directive 2009/138/EC;
  - the spread risk sub-module referred to in point (d) of subparagraph 2 of Article 105(5) of Directive 2009/138/EC;
  - the currency risk sub-module referred to in point (e) of subparagraph 2 of Article 105(5) of Directive 2009/138/EC;
  - the market risk concentrations sub-module referred to in point (f) of subparagraph 2 of Article 105(5) of Directive 2009/138/EC.

2 The capital requirement for market risk referred to in Article 105(5) of Directive 2009/138/EC shall be equal to the following:

$$SCR_{\text{market}} = \sqrt{\sum_{i,j} \text{Corr}_{(i,j)} \times SCR_i \times SCR_j}$$

where:

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- (a) the sum covers all possible combinations  $i, j$  of sub-modules of the market risk module;
- (b)  $\text{Corr}(i, j)$  denotes the correlation parameter for market risk for sub-modules  $i$  and  $j$ ;
- (c)  $\text{SCR}_i$  and  $\text{SCR}_j$  denote the capital requirements for sub-modules  $i$  and  $j$  respectively.

3 The correlation parameter  $\text{Corr}_{(i, j)}$  referred to in paragraph 2 shall be equal to the item set out in row  $i$  and in column  $j$  of the following correlation matrix:

$j \ i$	Interest rate	Equity	Property	Spread	Concentration	Currency
Interest rate	1	A	A	A	0	0,25
Equity	A	1	0,75	0,75	0	0,25
Property	A	0,75	1	0,5	0	0,25
Spread	A	0,75	0,5	1	0	0,25
Concentration	0	0	0	0	1	0
Currency	0,25	0,25	0,25	0,25	0	1

The parameter A shall be equal to 0 where the capital requirement for interest rate risk set out in Article 165 is the capital requirement referred to in point (a) of that Article. In all other cases, the parameter A shall be equal to 0,5.

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

- C5 Art. 164(3): power to amend and revoke conferred (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), 4, [Sch. 3](#) (as amended by [S.I. 2020/1301](#), regs. 1, 3, [Sch. para. 27\(a\)](#) and [S.I. 2020/1385](#), regs. 1(2), 54(2))

*[<sup>F50</sup>Subsection 1a*

### ***Qualifying infrastructure investments***

*Article 164a*

### **Qualifying infrastructure investments**

[<sup>F10</sup>1 For the purposes of this Regulation, qualifying infrastructure investment shall include investment in an infrastructure entity that meets the following criteria:

- a the cash flows generated by the infrastructure assets allow for all financial obligations to be met under sustained stresses that are relevant for the risks of the project;
- b the cash flows that the infrastructure entity generates for debt providers and equity investors are predictable;
- c the infrastructure assets and infrastructure entity are governed by a regulatory or contractual framework that provides debt providers and equity investors with a high degree of protection including the following:



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- (a) the contractual framework shall include provisions that effectively protect debt providers and equity investors against losses resulting from the termination of the project by the party which agrees to purchase the goods or services provided by the infrastructure project, unless one of the following conditions is met:
  - (i) the revenues of the infrastructure entity are funded by payments from a large number of users; or
  - (ii) the revenues are subject to a rate-of-return regulation;
- (b) the infrastructure entity has sufficient reserve funds or other financial arrangements to cover the contingency funding and working capital requirements of the project;

Where investments are in bonds or loans, this contractual framework shall also include the following:

- (i) debt providers have security or the benefit of security to the extent permitted by applicable law in all assets and contracts that are critical to the operation of the project;
- (ii) the use of net operating cash flows after mandatory payments from the project for purposes other than servicing debt obligations is restricted;
- (iii) restrictions on activities that may be detrimental to debt providers, including that new debt cannot be issued without the consent of existing debt providers in the form agreed with them, unless such new debt issuance is permitted under the documentation for the existing debt;

Notwithstanding point (i) of the second subparagraph, for investments in bonds or loans, where undertakings can demonstrate that security in all assets and contracts is not essential for debt providers to effectively protect or recover the vast majority of their investment, other security mechanisms may be used. In that case, the other security mechanisms shall comprise at least one of the following:

- (i) pledge of shares;
  - (ii) step-in rights;
  - (iii) lien over bank accounts;
  - (iv) control over cash flows;
  - (v) provisions for assignment of contracts;
- d where investments are in bonds or loans, the insurance or reinsurance undertaking can demonstrate to the supervisor that it is able to hold the investment to maturity;
  - e where investments are in bonds or loans for which a credit assessment by a nominated ECAI is not available, the investment instrument and other pari passu instruments are senior to all other claims other than statutory claims and claims from liquidity facility providers, trustees and derivatives counterparties;
  - f where investments are in equities, or bonds or loans for which a credit assessment by a nominated ECAI is not available, the following criteria are met:
    - (i) the infrastructure assets and infrastructure entity are located <sup>F51</sup>... in the OECD;

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- (ii) where the infrastructure project is in the construction phase the following criteria shall be fulfilled by the equity investor, or where there is more than one equity investor, the following criteria shall be fulfilled by a group of equity investors as a whole:
  - the equity investors have a history of successfully overseeing infrastructure projects and the relevant expertise,
  - the equity investors have a low risk of default, or there is a low risk of material losses for the infrastructure entity as a result of the their default,
  - the equity investors are incentivised to protect the interests of investors;
- (iii) where there are construction risks, safeguards to ensure completion of the project according to the agreed specification, budget or completion date;
- (iv) where operating risks are material, they are properly managed;
- (v) the infrastructure entity uses tested technology and design;
- (vi) the capital structure of the infrastructure entity allows it to service its debt;
- (vii) the refinancing risk for the infrastructure entity is low;
- (viii) the infrastructure entity uses derivatives only for risk-mitigation purposes.]

2 For the purposes of paragraph 1(b), the cash flows generated for debt providers and equity investors shall not be considered predictable unless all except an immaterial part of the revenues satisfies the following conditions:

- a one of the following criteria is met:
  - (i) the revenues are availability-based;
  - (ii) the revenues are subject to a rate-of-return regulation;
  - (iii) the revenues are subject to a take-or-pay contract;
  - (iv) the level of output or the usage and the price shall independently meet one of the following criteria:
    - it is regulated,
    - it is contractually fixed,
    - it is sufficiently predictable as a result of low demand risk;
- b where the revenues of the infrastructure project entity are not funded by payments from a large number of users, the party which agrees to purchase the goods or services provided by the infrastructure project entity shall be one of the following:
  - (i) an entity listed in Article 180(2) of this Regulation;
  - (ii) a regional government or local authority listed in the Regulation adopted pursuant to Article 109a(2)(a) of Directive 2009/138/EC;
  - (iii) an entity with an ECAI rating with a credit quality step of at least 3;
  - (iv) an entity that is replaceable without a significant change in the level and timing of revenues.

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#### Textual Amendments

- F10** Substituted by [Commission Delegated Regulation \(EU\) 2017/1542 of 8 June 2017 amending Delegated Regulation \(EU\) 2015/35 concerning the calculation of regulatory capital requirements for certain categories of assets held by insurance and reinsurance undertakings \(infrastructure corporates\)](#) (Text with EEA relevance).
- F51** Words in [Art. 164a\(1\)\(f\)\(i\)](#) 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(16)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)

### <sup>F52</sup> *Article 164b*

#### Qualifying infrastructure corporate investments

For the purpose of this Regulation, qualifying infrastructure corporate investment shall include investment in an infrastructure entity that meets the following criteria:

- (1) The substantial majority of the infrastructure entity's revenues is derived from owning, financing, developing or operating infrastructure assets located in <sup>F53</sup>... the OECD;
- (2) The revenues generated by the infrastructure assets satisfy one of the criteria set out in Article 164a(2)(a);
- (3) Where the revenues of the infrastructure entity are not funded by payments from a large number of users, the party which agrees to purchase the goods or services provided by the infrastructure entity shall be one of the entities listed in Article 164a(2)(b);
- (4) The revenues shall be diversified in terms of activities, location, or payers, unless the revenues are subject to a rate-of-return regulation in accordance with Article 164a(1)(c)(a)(ii) or a take-or-pay contract or the revenues are availability based;
- (5) Where investments are in bonds or loans, the insurance or reinsurance undertaking can demonstrate to the supervisor that it is able to hold the investment to maturity;
- (6) Where no credit assessment from a nominated ECAI is available for the infrastructure entity:
  - (a) the capital structure of the infrastructure corporate shall allow it to service all its debt under conservative assumptions based on an analysis of the relevant financial ratios;
  - (b) the infrastructure entity shall have been active for at least three years or, in the case of an acquired business, it shall have been in operation for at least three years;
- (7) Where a credit assessment from a nominated ECAI is available for the infrastructure entity, such credit assessment has a credit quality step between 0 and 3.]]

#### Textual Amendments

- F52** Inserted by [Commission Delegated Regulation \(EU\) 2017/1542 of 8 June 2017 amending Delegated Regulation \(EU\) 2015/35 concerning the calculation of regulatory capital requirements for certain](#)

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categories of assets held by insurance and reinsurance undertakings (infrastructure corporates) (Text with EEA relevance).

**F53** Words in Art. 164b(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), 11(17) (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)

## Subsection 2

### Interest rate risk sub-module

#### Article 165

#### General provisions

1 The capital requirement for interest rate risk referred to in point (a) of the second subparagraph Article 105(5) of Directive 2009/138/EC shall be equal to the larger of the following:

- a the sum, over all currencies, of the capital requirements for the risk of an increase in the term structure of interest rates as set out in Article 166 of this Regulation;
- b the sum, over all currencies, of the capital requirements for the risk of a decrease in the term structure of interest rates as set out in Article 167 of this Regulation.

2 Where the larger of the capital requirements referred to in points (a) and (b) of paragraph 1 and the larger of the corresponding capital requirements calculated in accordance with Article 206(2) are not based on the same scenario, the capital requirement for interest rate risk shall be the capital requirement referred to in points (a) or (b) of paragraph 1 for which the underlying scenario results in the largest corresponding capital requirement calculated in accordance with Article 206(2).

#### Article 166

#### Increase in the term structure of interest rates

1 The capital requirement for the risk of an increase in the term structure of interest rates for a given currency shall be equal to the loss in the basic own funds that would result from an instantaneous increase in basic risk-free interest rates for that currency at different maturities in accordance with the following table:

Maturity(in years)	Increase
1	70 %
2	70 %
3	64 %
4	59 %
5	55 %
6	52 %
7	49 %

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

8	47 %
9	44 %
10	42 %
11	39 %
12	37 %
13	35 %
14	34 %
15	33 %
16	31 %
17	30 %
18	29 %
19	27 %
20	26 %
90	20 %

For maturities not specified in the table above, the value of the increase shall be linearly interpolated. For maturities shorter than 1 year, the increase shall be 70 %. For maturities longer than 90 years, the increase shall be 20 %.

2 In any case, the increase of basic-risk-free interest rates at any maturity shall be at least one percentage point.

3 The impact of the increase in the term structure of basic risk-free interest rates on the value of participations as referred to in [F54 Article 68(6) of this Regulation] in financial and credit institutions shall be considered only on the value of the participations that are not deducted from own funds pursuant to Article 68 of this Regulation. The part deducted from own funds shall be considered only to the extent that such impact increases the basic own funds.

#### Textual Amendments

**F54** Words in [Art. 166\(3\)](#) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(18)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)

### Article 167

#### Decrease in the term structure of interest rates

1 The capital requirement for the risk of a decrease in the term structure of interest rates for a given currency shall be equal to the loss in the basic own funds that would result from an instantaneous decrease in basic risk-free interest rates for that currency at different maturities in accordance with the following table:

Maturity(in years)	Decrease
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**Changes to legislation:** Commission Delegated Regulation (EU) 2015/35 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

1	75 %
2	65 %
3	56 %
4	50 %
5	46 %
6	42 %
7	39 %
8	36 %
9	33 %
10	31 %
11	30 %
12	29 %
13	28 %
14	28 %
15	27 %
16	28 %
17	28 %
18	28 %
19	29 %
20	29 %
90	20 %

For maturities not specified in the table above, the value of the decrease shall be linearly interpolated. For maturities shorter than 1 year, the decrease shall be 75 %. For maturities longer than 90 years, the decrease shall be 20 %.

2 Notwithstanding paragraph 1, for negative basic risk-free interest rates the decrease shall be nil.

3 The impact on the value of participations as referred to in [<sup>F55</sup>Article 68(6) of this Regulation] in financial and credit institutions of the decrease in the term structure of basic risk-free interest rates shall be considered only on the value of the participations that are not deducted from own funds pursuant to Article 68 of this Regulation. The part deducted from own funds shall be considered only to the extent that such impact increases the basic own funds.

#### Textual Amendments

**F55** Words in [Art. 167\(3\)](#) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(19)** (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:** Commission Delegated Regulation (EU) 2015/35 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

### Subsection 3

#### Equity risk sub-module

#### Article 168

#### General provisions

[<sup>F23</sup>[<sup>F10</sup>1 The equity risk sub-module referred to in point (b) of the second subparagraph of Article 105(5) of Directive 2009/138/EC shall include a risk sub-module for type 1 equities, a risk sub-module for type 2 equities, a risk sub-module for qualifying infrastructure equities and a risk sub-module for qualifying infrastructure corporate equities.]

2 Type 1 equities shall comprise equities listed in regulated markets in countries which are members of <sup>F56</sup>... the Organisation for Economic Cooperation and Development (OECD), or traded on multilateral trading facilities, as referred to in Article 4(1)(22) of Directive 2014/65/EU, whose registered office or head office is in EU Member States.

3 Type 2 equities shall comprise equities other than those referred to in paragraph 2, commodities and other alternative investments. They shall also comprise all assets other than those covered in the interest rate risk sub-module, the property risk sub-module or the spread risk sub-module, including the assets and indirect exposures referred to in Article 84(1) and (2) where a look-through approach is not possible and the insurance or reinsurance undertaking does not make use of the provisions in Article 84(3).]

[<sup>F50</sup>3a Qualifying infrastructure equities shall comprise equity investments in infrastructure project entities that meet the criteria set out in Article 164a.]

[<sup>F52</sup>3b Qualifying infrastructure corporate equities shall comprise equity investments in infrastructure entities that meet the criteria set out in Article 164b.]

[<sup>F10</sup>4 The capital requirement for equity risk shall be equal to the following:

[<sup>x2</sup>

$$SCR_{equity} = SCR_{2equ1} + 2 \times 0.75 \times SCR_{equ1} \times SCR_{equ2} + SCR_{quinf} + SCR_{quinc}$$

]

where:

- (a)  $SCR_{equ1}$  denotes the capital requirement for type 1 equities;
- (b)  $SCR_{equ2}$  denotes the capital requirement for type 2 equities;
- (c)  $SCR_{quinf}$  denotes the capital requirement for qualifying infrastructure equities;
- (d)  $SCR_{quinc}$  denotes the capital requirement for qualifying infrastructure corporate equities.]

5 The impact of the instantaneous decreases set out in Articles 169 and 170 on the value of participations as referred to in [<sup>F57</sup>Article 68(6) of this Regulation] in financial and credit institutions shall be considered only on the value of the participations that are not deducted from own funds pursuant to Article 68 of this Regulation.

6 The following equities shall in any case be considered as type 1:

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- [<sup>F10</sup>a equities, other than qualifying infrastructure equities or qualifying infrastructure corporate equities, held within collective investment undertakings which are qualifying social entrepreneurship funds as referred to in Article 3(b) of Regulation (EU) No 346/2013 of the European Parliament and of the Council <sup>(9)</sup> where the look-through approach set out in Article 84 of this Regulation is possible for all exposures within the collective investment undertaking, or units or shares of those funds where the look through approach is not possible for all exposures within the collective investment undertaking;
- b equities, other than qualifying infrastructure equities or qualifying infrastructure corporate equities, held within collective investment undertakings which are qualifying venture capital funds as referred to in Article 3(b) of Regulation (EU) No 345/2013 of the European Parliament and of the Council <sup>(10)</sup> where the look-through approach set out in Article 84 of this Regulation is possible for all exposures within the collective investment undertaking, or units or shares of those funds where the look through approach is not possible for all exposures within the collective investment undertaking;]
- c [<sup>F28</sup>as regards closed-ended alternative investment funds which are established in the [<sup>F58</sup>United Kingdom] or, if they are not established in the [<sup>F58</sup>United Kingdom], which are marketed in the [<sup>F58</sup>United Kingdom] in accordance with Article 35 or 40 of Directive 2011/61/EU and which, in either case, have no leverage in accordance with the commitment method set out in Article 8 of Commission Delegated Regulation (EU) No 231/2013<sup>(11)</sup>.]
- (i) [<sup>F10</sup>equities, other than qualifying infrastructure equities or qualifying infrastructure corporate equities, held within such funds where the look-through approach set out in Article 84 of this Regulation is possible for all exposures within the alternative investment fund;]
- (ii) units or shares of such funds where the look-through approach is not possible for all exposures within the alternative investment fund[<sup>F23</sup>.]
- [<sup>F10</sup>d equities, other than qualifying infrastructure equities or qualifying infrastructure corporate equities, held within collective investment undertakings which are authorised as [<sup>F59</sup>United Kingdom long-term investment funds] pursuant to Regulation (EU) 2015/760 where the look through approach set out in Article 84 of this Regulation is possible for all exposures within the collective investment undertaking, or units or shares of those funds where the look through approach is not possible for all exposures within the collective investment undertaking [<sup>F28</sup>.]]
- [<sup>F12</sup>e qualifying unlisted equity portfolios as defined in Article 168a.]

#### Editorial Information

- X2** Substituted by [Corrigendum to Commission Delegated Regulation \(EU\) 2017/1542 of 8 June 2017 amending Delegated Regulation \(EU\) 2015/35 concerning the calculation of regulatory capital requirements for certain categories of assets held by insurance and reinsurance undertakings \(infrastructure corporates\)](#) (Official Journal of the European Union L 236 of 14 September 2017).

#### Textual Amendments

- F10** Substituted by [Commission Delegated Regulation \(EU\) 2017/1542 of 8 June 2017 amending Delegated Regulation \(EU\) 2015/35 concerning the calculation of regulatory capital requirements for certain categories of assets held by insurance and reinsurance undertakings \(infrastructure corporates\)](#) (Text with EEA relevance).
- F12** 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](#)



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

- Council on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (Text with EEA relevance).
- F23** Substituted by Commission Delegated Regulation (EU) 2016/467 of 30 September 2015 amending Commission Delegated Regulation (EU) 2015/35 concerning the calculation of regulatory capital requirements for several categories of assets held by insurance and reinsurance undertakings (Text with EEA relevance).
- F28** 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).
- F50** Inserted by Commission Delegated Regulation (EU) 2016/467 of 30 September 2015 amending Commission Delegated Regulation (EU) 2015/35 concerning the calculation of regulatory capital requirements for several categories of assets held by insurance and reinsurance undertakings (Text with EEA relevance).
- F52** Inserted by Commission Delegated Regulation (EU) 2017/1542 of 8 June 2017 amending Delegated Regulation (EU) 2015/35 concerning the calculation of regulatory capital requirements for certain categories of assets held by insurance and reinsurance undertakings (infrastructure corporates) (Text with EEA relevance).
- F56** Words in Art. 168(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), **11(20)(a)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F57** Words in Art. 168(5) substituted (31.12.2020) by The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), **11(20)(b)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F58** Words in Art. 168(6)(c) substituted (31.12.2020) by The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), **11(20)(c)(i)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F59** Words in Art. 168(6)(d) substituted (31.12.2020) by The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), **11(20)(c)(ii)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)

## *[<sup>F12</sup> Article 168a*

### **Qualifying unlisted equity portfolios**

1 For the purposes of point (e) of Article 168(6), a qualifying unlisted equity portfolio is a set of equity investments that meets all of the following requirements:

- a the set of investments consists solely of investments in the ordinary shares of companies;
- b the ordinary shares of each of the companies concerned are not listed in any regulated market;
- c each company has its head office in [<sup>F60</sup>the United Kingdom];
- d more than 50 % of the annual revenue of each company is denominated in currencies of countries which are members of <sup>F61</sup>... the OECD;
- e more than 50 % of the staff employed by each company have their principal place of work in [<sup>F62</sup>the United Kingdom];
- f each company fulfils at least one of the following conditions for each of the last three financial years ending prior to the date on which the Solvency Capital Requirement is being calculated:
  - (i) the annual turnover of the company exceeds EUR 10 000 000 ;

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- (ii) the balance sheet total of the company exceeds EUR 10 000 000 ;
- (iii) the number of staff employed by the company exceeds 50;
- g the value of the investment in each company represents no more than 10 % of the total value of the set of investments;
- h none of the companies is an insurance or reinsurance undertaking, a credit institution, an investment firm, a financial institution, an alternative investment fund manager, a UCITS management company, an institution for occupational retirement provision or a non-regulated undertaking carrying out financial activities;
- i the beta of the set of investments does not exceed 0,796.

2 For the purposes of paragraph 1(i), the beta of a set of investments is the average of the betas for each of the investments in that set of investments, weighted by the book values of those investments. The beta of an investment in a company shall be determined as follows:

$$\beta = 0,9478 - 0,0034 \times GM + 0,0139 \times DebtCFO - 0,0015 \times ROCE$$

where:

- (a)  $\beta$  is the beta of the equity investment in the company;
- (b)  $GM$  is the average gross margin for the company over the last five financial years ending prior to the date on which the Solvency Capital Requirement is being calculated;
- (c)  $Debt$  is the total debt of the company at the end of the most recent financial year for which figures are available;
- (d)  $CFO$  is the average net cash-flow for the company from operations over the last five financial years ending prior to the date on which the Solvency Capital Requirement is being calculated;
- (e)  $ROCE$  is the average return on common equity for the company over the last five financial years ending prior to the date on which the Solvency Capital Requirement is being calculated. Common equity shall be understood as capital and reserves as referred to in <sup>F63</sup>the United Kingdom law which implemented Annex III to Directive 2013/34/EU of the European Parliament and of the Council <sup>(12)</sup> excluding preference shares and the related share premium account.]

#### Textual Amendments

- F12** 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).
- F60** Words in Art. 168a(1)(c) substituted (31.12.2020) by The Risk Transformation and Solvency 2 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1233), regs. 1(4), **6(5)(a)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F61** Words in Art. 168a(1)(d) omitted (31.12.2020) by virtue of The Risk Transformation and Solvency 2 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1233), regs. 1(4), **6(5)(a)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F62** Words in Art. 168a(1)(e) substituted (31.12.2020) by The Risk Transformation and Solvency 2 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1233), regs. 1(4), **6(5)(a)(iii)**; 2020 c. 1, Sch. 5 para. 1(1)

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**F63** Words in Art. 168a(2)(e) inserted (31.12.2020) by [The Risk Transformation and Solvency 2 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1233\)](#), regs. 1(4), **6(5)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

## *f<sup>F28</sup>* Article 169

### Standard equity risk sub-module

1 The capital requirement for type 1 equities referred to in Article 168 of this Regulation shall be equal to the loss in the basic own funds that would result from the following instantaneous decreases:

- a an instantaneous decrease equal to 22 % in the value of type 1 equity investments in related undertakings within the meaning of Article 212(1)(b) and 212(2) of Directive 2009/138/EC where these investments are of a strategic nature;
- b an instantaneous decrease equal to 22 % in the value of type 1 equity investments that are treated as long-term equity investments in accordance with Article 171a;
- c an instantaneous decrease equal to the sum of 39 % and the symmetric adjustment as referred to in Article 172 of this Regulation, in the value of type 1 equities other than those referred to in points (a) and (b).

2 The capital requirement for type 2 equities referred to in Article 168 of this Regulation shall be equal to the loss in the basic own funds that would result from the following instantaneous decreases:

- a an instantaneous decrease equal to 22 % in the value of type 2 equity investments in related undertakings within the meaning of Article 212(1)(b) and 212(2) of Directive 2009/138/EC where these investments are of a strategic nature;
- b an instantaneous decrease equal to 22 % in the value of type 2 equity investments that are treated as long-term equity investments in accordance with Article 171a;
- c an instantaneous decrease equal to the sum of 49 % and the symmetric adjustment as referred to in Article 172 of this Regulation, in the value of type 2 equities other than those referred to in points (a) and (b).

3 The capital requirement for qualifying infrastructure equities referred to in Article 168 of this Regulation shall be equal to the loss in the basic own funds that would result from the following instantaneous decreases:

- a an instantaneous decrease equal to 22 % in the value of qualifying infrastructure equity investments in related undertakings within the meaning of point (b) of Article 212(1) and Article 212(2) of Directive 2009/138/EC, where those investments are of a strategic nature;
- b an instantaneous decrease equal to 22 % in the value of qualifying infrastructure equity investments that are treated as long-term equity investments in accordance with Article 171a;
- c an instantaneous decrease equal to the sum of 30 % and 77 % of the symmetric adjustment as referred to in Article 172 of this Regulation, in the value of qualifying infrastructure equity investments other than those referred to in points (a) and (b).

4 The capital requirement for qualifying infrastructure corporate equities referred to in Article 168 of this Regulation shall be equal to the loss in the basic own funds that would result from the following instantaneous decreases:

- a an instantaneous decrease equal to 22 % in the value of qualifying infrastructure corporate equity investments in related undertakings within the meaning of point (b) of

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Article 212(1) and Article 212(2) of Directive 2009/138/EC where those investments are of a strategic nature;

- b an instantaneous decrease equal to 22 % in the value of qualifying infrastructure corporate equity investments that are treated as long-term equity investments in accordance with Article 171a;
- c an instantaneous decrease equal to the sum of 36 % and 92 % of the symmetric adjustment as referred to in Article 172 of this Regulation, in the value of qualifying infrastructure corporate equities other than those referred to in points (a) and (b).]

#### Textual Amendments

**F28** 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 \(Solvency II\) \(Text with EEA relevance\).](#)

### Article 170

#### Duration-based equity risk sub-module

1 Where an insurance or reinsurance undertaking has received supervisory approval to apply [<sup>F64</sup>a duration-based equity risk sub-module], the capital requirement for type 1 equities shall be equal to the loss in the basic own funds that would result from the following instantaneous decreases:

- [<sup>F23</sup>a an instantaneous decrease equal to 22 % in the value of the type 1 equities corresponding to the business referred to in point (i) of Article 304(1) of Directive 2009/138/EC;]
- b an instantaneous decrease equal to 22 % in the value of type 1 equity investments in related undertakings within the meaning of Article 212(1)(b) and 212(2) of Directive 2009/138/EC where these investments are of a strategic nature;
- c an instantaneous decrease equal to the sum of 39 % and the symmetric adjustment as referred to in Article 172 of this Regulation, in the value of type 1 equities, other than those referred to in points (a) or (b).

2 Where an insurance or reinsurance undertaking has received supervisory approval to apply [<sup>F65</sup>a duration-based equity risk sub-module], the capital requirement for type 2 equities shall be equal to the loss in the basic own funds that would result from an instantaneous decrease:

- [<sup>F23</sup>a equal to 22 % in the value of the type 2 equities corresponding to the business referred to in point (i) of Article 304(1) of Directive 2009/138/EC;]
- b equal to 22 % in the value of type 2 equity investments in related undertakings within the meaning of Article 212(1)(b) and (2) of Directive 2009/138/EC, where these investments are of a strategic nature;
- c equal to the sum of 49 % and the symmetric adjustment as referred to in Article 172 of this Regulation, in the value of type 2 equities, other than those referred to in points (a) or (b).

[<sup>F50</sup>3 Where an insurance or reinsurance undertaking has received supervisory approval to apply the provisions set out in Article 304 of Directive 2009/138/EC, the capital requirement for qualifying infrastructure equities shall be equal to the loss in the basic own funds that would result from an instantaneous decrease:

- a equal to 22 % in the value of the qualifying infrastructure equity corresponding to the business referred to in point (i) of Article 304(1) of Directive 2009/138/EC;

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- b equal to 22 % in the value of qualifying infrastructure equity investments in related undertakings within the meaning of Article 212(1)(b) and (2) of Directive 2009/138/EC, where these investments are of a strategic nature;
- c equal to the sum of 30 % and 77 % of the symmetric adjustment as referred to in Article 172 of this Regulation in the value of qualifying infrastructure equities other than those referred to in points (a) or (b).]

[<sup>F524</sup> Where an insurance or reinsurance undertaking has received supervisory approval to apply the provisions set out in Article 304 of Directive 2009/138/EC, the capital requirement for qualifying infrastructure corporate equities shall be equal to the loss in the basic own funds that would result from an instantaneous decrease:

- a equal to 22 % in the value of the qualifying infrastructure corporate equity corresponding to the business referred to in point (i) of Article 304(1)(b) of Directive 2009/138/EC;
- b equal to 22 % in the value of qualifying infrastructure corporate equity investments in related undertakings within the meaning of Article 212(1)(b) and (2) of Directive 2009/138/EC, where these investments are of a strategic nature;
- c equal to the sum of 36 % and 92 % of the symmetric adjustment as referred to in Article 172 of this Regulation in the value of qualifying infrastructure corporate equities other than those referred to in points (a) or (b).]

#### Textual Amendments

- F23** Substituted by Commission Delegated Regulation (EU) 2016/467 of 30 September 2015 amending Commission Delegated Regulation (EU) 2015/35 concerning the calculation of regulatory capital requirements for several categories of assets held by insurance and reinsurance undertakings (Text with EEA relevance).
- F50** Inserted by Commission Delegated Regulation (EU) 2016/467 of 30 September 2015 amending Commission Delegated Regulation (EU) 2015/35 concerning the calculation of regulatory capital requirements for several categories of assets held by insurance and reinsurance undertakings (Text with EEA relevance).
- F52** Inserted by Commission Delegated Regulation (EU) 2017/1542 of 8 June 2017 amending Delegated Regulation (EU) 2015/35 concerning the calculation of regulatory capital requirements for certain categories of assets held by insurance and reinsurance undertakings (infrastructure corporates) (Text with EEA relevance).
- F64** Words in Art. 170(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(21)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F65** Words in Art. 170(2) substituted (31.12.2020) by The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), **11(21)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)

### Article 171

#### Strategic equity investments

[<sup>F10</sup> For the purposes of Article 169(1)(a), (2)(a), (3)(a) and (4)(a) and of Article 170(1)(b), (2)(b), (3)(b) and (4)(b), equity investments of a strategic nature shall mean equity investments for which the participating insurance or reinsurance undertaking demonstrates the following:]



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

- (a) that the value of the equity investment is likely to be materially less volatile for the following 12 months than the value of other equities over the same period as a result of both the nature of the investment and the influence exercised by the participating undertaking in the related undertaking;
- (b) that the nature of the investment is strategic, taking into account all relevant factors, including:
  - (i) the existence of a clear decisive strategy to continue holding the participation for long period;
  - (ii) the consistency of the strategy referred to in point (a) with the main policies guiding or limiting the actions of the undertaking;
  - (iii) the participating undertaking's ability to continue holding the participation in the related undertaking;
  - (iv) the existence of a durable link;
  - (v) where the insurance or reinsurance participating company is part of a group, the consistency of such strategy with the main policies guiding or limiting the actions of the group.

#### Textual Amendments

**F10** Substituted by [Commission Delegated Regulation \(EU\) 2017/1542 of 8 June 2017 amending Delegated Regulation \(EU\) 2015/35 concerning the calculation of regulatory capital requirements for certain categories of assets held by insurance and reinsurance undertakings \(infrastructure corporates\) \(Text with EEA relevance\).](#)

### <sup>F12</sup> Article 171a

#### Long-term equity investments

1 For the purpose of this Regulation, a sub-set of equity investments may be treated as long-term equity investments if the insurance or reinsurance undertaking demonstrates, to the satisfaction of the supervisory authority, that all of the following conditions are met:

- a the sub-set of equity investments as well as the holding period of each equity investment within the sub-set are clearly identified;
- b the sub-set of equity investment is included within a portfolio of assets which is assigned to cover the best estimate of a portfolio of insurance or reinsurance obligations corresponding to one or several clearly identified businesses, and the undertaking maintains that assignment over the lifetime of the obligations;
- c the portfolio of insurance or reinsurance obligations, and the assigned portfolio of assets referred to in point (b) are identified, managed and organised separately from the other activities of the undertaking, and the assigned portfolio of assets cannot be used to cover losses arising from other activities of the undertaking;
- d the technical provisions within the portfolio of insurance or reinsurance obligations referred to in point (b) only represent a part of the total technical provisions of the insurance or reinsurance undertaking;
- e the average holding period of equity investments in the sub-set exceeds 5 years, or where the average holding period of the sub-set is lower than 5 years, the insurance or

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- reinsurance undertaking does not sell any equity investments within the sub-set until the average holding period exceeds 5 years;
- f the sub-set of equity investments consists only of equities that are listed in the [<sup>F66</sup>United Kingdom] or of unlisted equities of companies that have their head offices in [<sup>F67</sup>the United Kingdom];
  - g the solvency and liquidity position of the insurance or reinsurance undertaking, as well as its strategies, processes and reporting procedures with respect to asset-liability management, are such as to ensure, on an ongoing basis and under stressed conditions, that it is able to avoid forced sales of each equity investments within the sub-set for at least 10 years;
  - h the risk management, asset-liability management and investment policies of the insurance or reinsurance undertaking reflects the undertaking's intention to hold the sub-set of equity investments for a period that is compatible with the requirement of point (e) and its ability to meet the requirement of point (g).
- 2 Where equities are held within collective investment undertakings or within alternative investment funds referred to in points (a) to (d) of Article 168(6), the conditions set out in paragraph 1 of this Article may be assessed at the level of the funds and not of the underlying assets held within those funds.
- 3 Insurance or reinsurance undertakings that treat a sub-set of equity investments as long-term equity investments in accordance with paragraph 1 shall not revert back to an approach that does not include long-term equity investments. Where an insurance or reinsurance undertaking that treats a sub-set of equity investments as long-term equity investments is no longer able to comply with the conditions set out in paragraph 1, it shall immediately inform the supervisory authority and shall cease to apply Article 169(1)(b), (2)(b), (3)(b) and (4)(b) to any of its equity investments for a period of 36 months.]

#### Textual Amendments

- F12** 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 \(Solvency II\) \(Text with EEA relevance\)](#).
- F66** Words in Art. 171a(1)(f) substituted (31.12.2020) by [The Risk Transformation and Solvency 2 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1233\)](#), regs. 1(4), **6(6)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F67** Words in Art. 171a(1)(f) substituted (31.12.2020) by [The Risk Transformation and Solvency 2 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1233\)](#), regs. 1(4), **6(6)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

### Article 172

#### Symmetric adjustment of the equity capital charge

- 1 The equity index [<sup>F68</sup>upon which the symmetric adjustment to the standard equity capital charge is to be based] shall comply with all of the following requirements:
- a the equity index measures the market price of a diversified portfolio of equities which is representative of the nature of equities typically held by insurance and reinsurance undertakings;
  - b the level of the equity index is publicly available;

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- c the frequency of published levels of the equity index is sufficient to enable the current level of the index and its average value over the last 36 months to be determined.
- 2 Subject to paragraph 4, the symmetric adjustment shall be equal to the following:
- $$SA = \frac{1}{2} \times \left( \frac{CI - AI}{AI} - 8\% \right)$$
- where:
- (a) CI denotes the current level of the equity index;
- (b) AI denotes the weighted average of the daily levels of the equity index over the last 36 months.
- 3 For the purposes of calculating the weighted average of the daily levels of the equity index, the weights for all daily levels shall be equal. The days during the last 36 months in respect of which the index was not determined shall not be included in the average.
- 4 The symmetric adjustment shall not be lower than – 10 % or higher than 10 %.

#### Textual Amendments

**F68** Words in [Art. 172\(1\)](#) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(22)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)

#### <sup>F23</sup> Article 173

#### Criteria for the use of transitional measure for standard equity risk

- 1 The transitional measure for standard equity risk set out in Article 308b(13) of Directive 2009/138/EC shall only apply to equities that were purchased on or before 1 January 2016 and which are not subject to the duration-based equity risk [<sup>F69</sup>sub-module].
- 2 Where equities are held within an collective investment undertaking or other investments packaged as funds, and where the look-through approach is not possible, the transitional measure set out in Article 308b(13) of Directive 2009/138/EC shall be applied to the proportion of equities held within the collective investment undertaking or investment packaged as funds in accordance with the target underlying asset allocation on 1 January 2016, provided the target allocation is available to the undertaking. The proportion of equities to which the transitional is applied shall be reduced annually in proportion to the asset turnover ratio of the collective investment undertaking or investment packaged as funds. Where the target allocation for equity investments of the collective investment undertaking or investment packaged as funds increases, the proportion of equities the transitional is applied to shall not increase.]

#### Textual Amendments

- F23** Substituted by [Commission Delegated Regulation \(EU\) 2016/467 of 30 September 2015 amending Commission Delegated Regulation \(EU\) 2015/35 concerning the calculation of regulatory capital requirements for several categories of assets held by insurance and reinsurance undertakings \(Text with EEA relevance\)](#).
- F69** Word in [Art. 173\(1\)](#) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(23)** (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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## Subsection 4

### Property risk sub-module

#### Article 174

The capital requirement for property risk referred to in point (c) of the second subparagraph of Article 105(5) of Directive 2009/138/EC shall be equal to the loss in the basic own funds that would result from an instantaneous decrease of 25 % in the value of immovable property.

## Subsection 5

### Spread risk sub-module

#### Article 175

#### Scope of the spread risk sub-module

The capital requirement for spread risk referred to in point (d) of the second subparagraph of Article 105(5) of Directive 2009/138/EC shall be equal to the following:

$$SCR_{spread} = SCR_{bonds} + SCR_{securitisation} + SCR_{cd}$$

where

- (a)  $SCR_{bonds}$  denotes the capital requirement for spread risk on bonds and loans;
- (b)  $SCR_{securitisation}$  denotes the capital requirement for spread risk on securitisation positions;
- (c)  $SCR_{cd}$  denotes the capital requirement for spread risk on credit derivatives.

#### Article 176

#### Spread risk on bonds and loans

1 The capital requirement for spread risk on bonds and loans  $SCR_{bonds}$  shall be equal to the loss in the basic own funds that would result from an instantaneous relative decrease of  $stress_i$  in the value of each bond or loan  $i$  other than mortgage loans that meet the requirements in Article 191, including bank deposits other than cash at bank referred to in Article 189(2)(b).

2 The risk factor  $stress_i$  shall depend on the modified duration of the bond or loan  $i$  denominated in years ( $dur_i$ ).  $dur_i$  shall never be lower than 1. For variable interest rate bonds or loans,  $dur_i$  shall be equivalent to the modified duration of a fixed interest rate bond or loan of the same maturity and with coupon payments equal to the forward interest rate.

[<sup>F23</sup>3] Bonds or loans for which a credit assessment by a nominated ECAI is available shall be assigned a risk factor  $stress_i$  depending on the credit quality step and the modified duration  $dur_i$  of the bond or loan  $i$  according to the following table.

Credit quality step	0	1	2	3	4	5 and 6

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Duration ( $dur_i$ )	$stress_i$	$a_i$	$b_i$	$a_i$	$b_i$	$a_i$	$b_i$	$a_i$	$b_i$	$a_i$	$b_i$	$a_i$	$b_i$
up to 5	$b_i \cdot dur_i$	—	0,9 %	—	1,1 %	—	1,4 %	—	2,5 %	—	4,5 %	—	7,5 %
More than 5 and up to 10	$a_i + b_i \cdot (dur_i - 5)$	4,5 %	0,5 %	5,5 %	0,6 %	7,0 %	0,7 %	12,5 %	1,5 %	22,5 %	2,5 %	37,5 %	4,2 %
More than 10 and up to 15	$a_i + b_i \cdot (dur_i - 10)$	7,0 %	0,5 %	8,5 %	0,5 %	10,5 %	0,5 %	20,0 %	1,0 %	35,0 %	1,8 %	58,5 %	0,5 %
More than 15 and up to 20	$a_i + b_i \cdot (dur_i - 15)$	9,5 %	0,5 %	11 %	0,5 %	13,0 %	0,5 %	25,0 %	1,0 %	44,0 %	0,5 %	61,0 %	0,5 %
More than 20	$\min[a_i + b_i \cdot (dur_i - 20); 1]$	12,0 %	0,5 %	13,5 %	0,5 %	15,5 %	0,5 %	30,0 %	0,5 %	46,6 %	0,5 %	63,5 %	0,5 %

[<sup>F23</sup>4 Bonds and loans for which a credit assessment by a nominated ECAI is not available and for which debtors have not posted collateral that meets the criteria set out in Article 214 shall be assigned a risk factor  $stress_i$  depending on the duration  $dur_i$  of the bond or loan  $i$  according to the following table:

Duration ( $dur_i$ )	$stress_i$
up to 5	$3 \% \cdot dur_i$
More than 5 and up to 10	$15 \% + 1,7 \% \cdot (dur_i - 5)$
More than 10 and up to 20	$23,5 \% + 1,2 \% \cdot (dur_i - 10)$
More than 20	$\min(35,5 \% + 0,5 \% \cdot (dur_i - 20); 1)]$

[<sup>F12</sup>4a Notwithstanding paragraph 4, bonds and loans that are assigned to a credit quality step in accordance with paragraph 1 or 2 of Article 176a or paragraph 1 of Article 176c shall be assigned a risk factor  $stress_i$  depending on the credit quality step and the modified duration

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$dur_i$  of the bond or loan  $i$  assigned in accordance with the table set out in paragraph 3 of this Article.]

5 Bonds and loans for which a credit assessment by a nominated ECAI is not available and for which debtors have posted collateral, where the collateral of those bonds and loans meet the criteria set out in Article 214, shall be assigned a risk factor  $stress_i$  according to the following:

- a where the risk-adjusted value of collateral is higher than or equal to the value of the bond or loan  $i$ ,  $stress_i$  shall be equal to half of the risk factor that would be determined in accordance with paragraph 4;
- b where the risk-adjusted value of collateral is lower than the value of the bond or loan  $i$ , and where the risk factor determined in accordance with paragraph 4 would result in a value of the bond or loan  $i$  that is lower than the risk-adjusted value of the collateral,  $stress_i$  shall be equal to the average of the following:
  - (i) the risk factor determined in accordance with paragraph 4;
  - (ii) the difference between the value of the bond or loan  $i$  and the risk-adjusted value of the collateral, divided by the value of the bond or loan  $i$ ;
- c where the risk-adjusted value of collateral is lower than the value of the bond or loan  $i$ , and where the risk factor determined in accordance with paragraph 4 would result in a value of the bond or loan  $i$  that is higher than or equal to the risk-adjusted value of the collateral,  $stress_i$  shall be determined in accordance with paragraph 4.

The risk-adjusted value of the collateral shall be calculated in accordance with Articles 112, 197, 198.

6 The impact of the instantaneous decrease in the value of participations, as referred to in [F70 Article 68(6) of this Regulation], in financial and credit institutions shall be considered only on the value of the participations that are not deducted from own funds pursuant to Article 68 of this Regulation.

#### Textual Amendments

- F12** 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 \(Solvency II\) \(Text with EEA relevance\)](#).
- F23** Substituted by [Commission Delegated Regulation \(EU\) 2016/467 of 30 September 2015 amending Commission Delegated Regulation \(EU\) 2015/35 concerning the calculation of regulatory capital requirements for several categories of assets held by insurance and reinsurance undertakings \(Text with EEA relevance\)](#).
- F70** Words in Art. 176(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(24)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)

### *[F12 Article 176a*

#### **Internal assessment of credit quality steps of bonds and loans**

1 A bond or loan for which a credit assessment by a nominated ECAI is not available and for which debtors have not posted collateral that meets the criteria set out in Article 214 may be assigned to credit quality step 2 if all of the criteria set out in paragraphs 3 and 4 are met with respect to the bond or loan.

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2 A bond or loan for which a credit assessment by a nominated ECAI is not available and for which debtors have not posted collateral that meets the criteria set out in Article 214, other than a bond or loan assigned to credit quality step 2 under paragraph 1, may be assigned to credit quality step 3 if all of the criteria set out in paragraphs 3 and 5 are met with respect to the bond or loan.

3 The criteria in this paragraph are as follows:

- a the insurance or reinsurance undertaking's own internal credit assessment of the bond or loan meets the requirements listed in Article 176b;
- b the bond or loan is issued by a company which does not belong to the same corporate group as the insurance or reinsurance undertaking;
- c the bond or loan is not issued by a company which is an insurance or reinsurance undertaking, an infrastructure entity, a credit institution, an investment firm, a financial institution, an AIFM, a UCITS investment management company, an institution for occupational retirement provision or a non-regulated undertaking carrying out financial activities;
- d no claims on the issuing company of the bond or loan rank senior to the bond or loan, except for the following claims:
  - (i) statutory claims and claims from liquidity facility providers provided that those statutory claims and claims from liquidity facility providers are in aggregate not material relative to the overall senior debt of the issuing company;
  - (ii) claims from trustees;
  - (iii) claims from derivatives counterparties;
- e the bond or loan provides a fixed redemption payment on or before the date of maturity, in addition to regular fixed or floating rate interest payments;
- f the contractual terms and conditions of the bond or loan provide for the following:
  - (i) the borrower is obliged to provide audited financial data to the lender at least annually;
  - (ii) the borrower is obliged to notify the lender of any events that could materially affect the credit risk of the bond or loan;
  - (iii) the borrower is not entitled to change the terms and conditions of the bond or loan unilaterally, nor to make other changes to its business that would materially affect the credit risk of the bond or loan;
  - (iv) the issuer is prohibited from issuing new debt without the prior agreement of the insurance or reinsurance undertaking;
  - (v) what constitutes a default event is defined in a way that is specific to the issue and the issuer;
  - (vi) what is to happen on a change of control;
- g the bond or loan is issued by a company that meets all of the following criteria:
  - (i) the company is a limited liability company;
  - (ii) the company has its head office in [<sup>F71</sup>the United Kingdom];
  - (iii) more than 50 % of the annual revenue of the company is denominated in currencies of countries which are members of <sup>F72</sup>... the OECD;

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- (iv) the company has operated without any credit event over at least the last 10 years;
- (v) at least one of the following conditions is fulfilled with respect to each of the last three financial years ending prior to the date on which the Solvency Capital Requirement is being calculated:
  - the annual turnover of the company exceeds EUR 10 000 000 ;
  - the balance sheet total of the company exceeds EUR 10 000 000 ;
  - the number of staff employed by the company exceeds 50;
- (vi) the sum of the company's annual earnings before interest, tax, depreciation and amortisation ( ' EBITDA ' ) over the last five financial years is larger than 0;
- (vii) the total debt of the company at the end of the most recent financial year for which figures are available is no higher than 6,5 times the average of the company's annual free cash flows over the last five financial years;
- (viii) the average of the company's EBITDA over the last five financial years is no lower than 6,5 times the company's interest expense for the most recent financial year for which figures are available;
- (ix) the net debt of the company at the end of the most recent financial year for which figures are available is no higher than 1,5 times the company's total equity at the end of that financial year.

4 The yield on the bond or loan, and the yield on any bonds and loans with similar contractual terms and conditions issued by the same company in the previous three financial years, is no higher than the higher of the following values:

- a the average of the yields on the two indices determined in accordance with paragraph 6;
- b the sum of 0,5 % and the yield on the index that meets the requirement in point (d) of that paragraph.

5 The yield on the bond or loan, and the yield on bonds and loans with similar contractual terms and conditions issued by the same company in the previous three financial years, is no higher than the higher of the following values:

- a the average of the yields on the two indices determined in accordance with paragraph 7;
- b the sum of 0,5 % and the yield on the index that meets the requirement in point (b) of that paragraph.

6 For the purposes of paragraph 4, the insurance or reinsurance undertaking shall determine, for the bond or loan referred to in paragraph 1, the yield, as at the time of issuance of that bond or loan, on two indices that meet all of the following requirements:

- a both indices are broad indexes of traded bonds for which an external credit assessment is available;
- b the constituent traded bonds in the two indices are denominated in the same currency as the bond or loan;
- c the constituent traded bonds in the two indices have a similar maturity date as the bond or loan;
- d one of the two indices consists of traded bonds of credit quality step 2;
- e one of the two indices consists of traded bonds of credit quality step 4.

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7 For the purposes of paragraph 5, the insurance or reinsurance undertaking shall determine, for the bond or loan referred to in paragraph 2, the yield, as at the time of issuance of that bond or loan, on two indices that meet all of the following requirements:

- a both indices meet the requirements set out in points (a), (b) and (c) of paragraph 6;
- b one of the two indices consists of traded bonds of credit quality step 3;
- c one of the two indices consists of traded bonds of credit quality step 4.

8 For the purposes of paragraph 4, where the bond or loan referred to in paragraph 1 has features, other than those related to credit risk or illiquidity, which materially differ from the features of the constituent traded bonds in the two indices determined in accordance with paragraph 6, the insurance or reinsurance undertaking shall adjust the yield on the bond or loan to reflect those differences.

9 For the purposes of paragraph 5, where the bond or loan referred to in paragraph 2 has features, other than those related to credit risk or illiquidity, which materially differ from the features of the constituent traded bonds in the two indices determined in accordance with paragraph 7, the insurance or reinsurance undertaking shall adjust the yield on the bond or loan to reflect those differences.

#### Textual Amendments

- F12** 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 \(Solvency II\) \(Text with EEA relevance\)](#).
- F71** Words in [Art. 176a\(3\)\(g\)\(ii\)](#) substituted (31.12.2020) by [The Risk Transformation and Solvency 2 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1233\)](#), regs. 1(4), **6(7)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F72** Words in [Art. 176a\(3\)\(g\)\(iii\)](#) omitted (31.12.2020) by virtue of [The Risk Transformation and Solvency 2 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1233\)](#), regs. 1(4), **6(7)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

#### Article 176b

#### Requirements for an undertaking's own internal credit assessment of bonds and loans

The requirements to be met for the purposes of point (a) of Article 176a(3) by an insurance or reinsurance undertaking's own internal credit assessment of a bond or loan shall be as follows:

- (b) the bond or loan is allocated a credit quality step on the basis of the own internal credit assessment;
- (c) the insurance or reinsurance undertaking is able to demonstrate to the supervisory authority's satisfaction that the own internal credit assessment, and the allocation of a credit quality step to the bond or loan on the basis of that assessment, are reliable and properly reflect the spread risk of the bond or loan contained in the sub-module specified in point (d) of the second subparagraph of Article 105(5) of Directive 2009/138/EC;
- (d) the own internal credit assessment takes into account all factors which could have a material effect on the credit risk associated with the bond or loan, including the following factors:

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- (i) the competitive position of the issuer;
- (ii) the quality of the issuer's management;
- (iii) the financial policies of the issuer;
- (iv) country risk;
- (v) the effect of any covenants that are in place;
- (vi) the issuer's financial performance history, including the number of years that it has been operating;
- (vii) the issuer's size and the level of diversity in its activities;
- (viii) the quantitative impact on the issuer's risk profile and financial ratios of its having issued the bond or loan;
- (ix) the issuer's ownership structure;
- (x) the complexity of the issuer's business model;
- (e) the own internal credit assessment uses all relevant quantitative and qualitative information;
- (f) the own internal credit assessment, the allocation of a credit quality step on the basis of that assessment and the information used to support the own internal credit assessment is documented;
- (g) the own internal credit assessment takes into account the characteristics of comparable assets for which a credit assessment by a nominated ECAI is available;
- (h) the own internal credit assessment takes into account trends in the issuer's financial performance;
- (i) the own internal credit assessment is procedurally independent from the decision to underwrite;
- (j) the insurance or reinsurance undertaking regularly reviews the own internal credit assessment.

#### Textual Amendments

**F12** 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 \(Solvency II\) \(Text with EEA relevance\)](#).

#### Article 176c

#### Assessment of credit quality steps of bonds and loans based on an approved internal model

- 1 This Article shall apply in the following circumstances:
  - a an insurance or reinsurance undertaking has concluded an agreement ( ' co-investment agreement ' ) to invest in bonds and loans jointly with another entity;

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- b that other entity ( ‘ the co-investor ’ ) is one or other of the following:
    - (i) an institution as defined in point (3) of Article 4(1) of Regulation (EU) No 575/2013 which uses the Internal Ratings Based Approach referred to in Article 143(1) of that Regulation;
    - (ii) an insurance or reinsurance undertaking which uses an internal model [<sup>F73</sup>to calculate its Solvency Capital Requirement];
  - c pursuant to the co-investment agreement, the insurance or reinsurance undertaking and the co-investor invest jointly in bonds and loans for which a credit assessment by a nominated ECAI is not available and for which debtors have not posted collateral that meets the criteria set out in Article 214;
  - d the co-investment agreement provides that the co-investor shares with the insurance or reinsurance undertaking the probabilities of default produced by its Internal Ratings Based Approach or, as applicable, the credit quality steps produced by its internal model for the bonds or loans referred to in point (c) for the purpose of using that information for the calculation of the Solvency Capital Requirement of the insurance or reinsurance undertaking.
- 2 If all of the criteria set out in paragraphs 3 to 6 are met, the bonds and loans referred to in point (c) of paragraph 1 shall be assigned to credit quality steps determined as follows:
- a in a case where the co-investor falls within point (i) of paragraph 1(b), credit quality steps shall be determined on the basis of the most recent probabilities of default that the Internal Ratings Based Approach has produced;
  - b in a case where the co-investor falls within point (ii) of paragraph 1(b), credit quality steps shall be the credit quality steps produced by the internal model.
- 3 The criteria in this paragraph are as follows:
- a the issuer of each bond or loan does not belong to the same corporate group as the insurance or reinsurance undertaking;
  - b the issuer is not an insurance or reinsurance undertaking, an infrastructure entity, a credit institution, an investment firm, a financial institution, an AIFM, a UCITS investment management company, an institution for occupational retirement provision or a non-regulated undertaking carrying out financial activities;
  - c the issuer has its head office in [<sup>F74</sup>the United Kingdom];
  - d more than 50 % of the issuer's annual revenue is denominated in currencies of countries which are members of <sup>F75</sup>... the OECD;
  - e at least one of the following conditions is met for each of the last three financial years ending prior to the date on which the Solvency Capital Requirement is being calculated:
    - the annual turnover of the issuer exceeds EUR 10 000 000 ;
    - the balance sheet total of the issuer exceeds EUR 10 000 000 ;
    - the number of staff employed by the issuer exceeds 50.
- 4 The criteria in this paragraph are as follows:
- a the co-investment agreement defines the types of bonds and loans to be underwritten, and the applicable assessment criteria;
  - b the co-investor provides the insurance or reinsurance undertaking with sufficient details of the underwriting process, including the criteria used, the organisational structure of the co-investor and the controls conducted by the co-investor;
  - c the co-investor provides the insurance or reinsurance undertaking with data on all applications for bonds and loans to be underwritten;



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- d the co-investor provides the insurance or reinsurance undertaking with details of all decisions to approve or reject applications for bonds and loans to be underwritten;
  - e the co-investor retains an exposure of at least 20 % of the nominal value of each bond and loan;
  - f the underwriting process is the same as the underwriting process followed by the co-investor for its other investments in comparable bonds and loans;
  - g the insurance or reinsurance undertaking invests in all bonds and loans of the types referred to in point (a) for which the co-investor decides to approve the bond or loan application;
  - h the co-investor provides the insurance or reinsurance undertaking with information that allows the undertaking to understand the Internal Ratings Based Approach or, as applicable, internal model and its limitations, as well as its adequacy and appropriateness, in particular:
    - (i) a description of the Internal Ratings Based Approach or, as applicable, internal model, including the inputs and risk factors, the quantification of risk parameters and the underlying methods, and the general methodology applied;
    - (ii) a description of the scope of the use of the Internal Ratings Based Approach or, as applicable, internal model;
    - (iii) a description of the model validation process and of other processes which allow the model's performance to be monitored, the appropriateness of its specification to be reviewed over time, and the results of the Internal Ratings Based Approach or, as applicable, internal model to be tested against experience.
- 5 In a case where the co-investor falls within point (i) of paragraph 1(b):
- a the insurance or reinsurance undertaking clearly documents to which credit quality step the probability of default produced by the institution's Internal Ratings Based Approach corresponds;
  - b the mapping of probabilities of default to credit quality steps carried out by the insurance or reinsurance undertaking ensures that, for the bond or loan in question, the resulting level of capital requirement for the spread risk sub-module referred to in point (d) of the second subparagraph of Article 105(5) of Directive 2009/138/EC is appropriate;
  - c the mapping is based on Table 1 in Annex I to Commission Implementing Regulation (EU) 2016/1799 <sup>(13)</sup> ;
  - d adjustments are made in a prudent manner to the probabilities of default before the mapping is carried out, taking into account the qualitative factors set out in Article 7 of Implementing Regulation (EU) 2016/1799;
  - e an adjustment to the probabilities of default is made in either of the following situations:
    - (i) the time horizon covered by the Internal Ratings Based Approach deviates significantly from the 3-year time horizon set out in Article 4(2) of Implementing Regulation (EU) 2016/1799;
    - (ii) the definition of default used in the Internal Ratings Based Approach deviates significantly from the one set out in Article 4(4) of that Implementing Regulation.
- 6 In a case where the co-investor falls within point (ii) of paragraph 1(b), the internal model ensures that, for the bond or loan in question, the resulting level of capital requirement for the spread risk sub-module referred to in point (d) of the second subparagraph of Article 105(5) of Directive 2009/138/EC is appropriate.]

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

#### Textual Amendments

- F12** 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).
- F73** Words in Art. 176c(1)(b)(ii) substituted (31.12.2020) by The Risk Transformation and Solvency 2 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1233), regs. 1(4), **6(8)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F74** Words in Art. 176c(3)(c) substituted (31.12.2020) by The Risk Transformation and Solvency 2 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1233), regs. 1(4), **6(8)(b)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F75** Words in Art. 176c(3)(d) omitted (31.12.2020) by virtue of The Risk Transformation and Solvency 2 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1233), regs. 1(4), **6(8)(b)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

#### <sup>F76</sup>Article 177

#### [<sup>F76</sup>Spread risk on securitisation positions: general provisions]

#### Textual Amendments

- F76** Deleted by Commission Delegated Regulation (EU) 2018/1221 of 1 June 2018 amending Delegated Regulation (EU) 2015/35 as regards the calculation of regulatory capital requirements for securitisations and simple, transparent and standardised securitisations held by insurance and reinsurance undertakings (Text with EEA relevance).

#### <sup>F5</sup>Article 178

#### Spread risk on securitisation positions: calculation of the capital requirement

1 The capital requirement  $SCR_{securitisation}$  for spread risk on securitisation positions shall be equal to the loss in the basic own funds that would result from an instantaneous relative decrease of  $stress_i$  in the value of each securitisation position  $i$ .

2 The risk factor  $stress_i$  shall depend on the modified duration denominated in years ( $dur_i$ ).  $dur_i$  shall not be lower than 1 year.

3 Senior STS securitisation positions which fulfil the requirements set out in Article 243 of Regulation (EU) No 575/2013 and for which a credit assessment by a nominated ECAI is available shall be assigned a risk factor  $stress_i$  depending on the credit quality step and the modified duration of the securitisation position  $i$ , as set out in the following table:

Credit quality step	0	1	2	3	4	5 and 6
Duration ( $dur_i$ )	$a_i$	$b_i$	$a_i$	$b_i$	$a_i$	$b_i$

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up to 5	$b_i \cdot dur_i$	—	1,0 %	—	1,2 %	—	1,6 %	—	2,8 %	—	5,6 %	—	9,4 %
More than 5 and up to 10	$a_i + b_i \cdot (dur_i - 5)$	5,0 %	0,6 %	6,0 %	0,7 %	8,0 %	0,8 %	14,0 %	1,7 %	28,0 %	3,1 %	47,0 %	5,3 %
More than 10 and up to 15	$a_i + b_i \cdot (dur_i - 10)$	8,0 %	0,6 %	9,5 %	0,5 %	12,0 %	0,6 %	22,5 %	1,1 %	43,5 %	2,2 %	73,5 %	0,6 %
More than 15 and up to 20	$a_i + b_i \cdot (dur_i - 15)$	11,0 %	0,6 %	12,0 %	0,5 %	15,0 %	0,6 %	28,0 %	1,1 %	54,5 %	0,6 %	76,5 %	0,6 %
More than 20	$\min[a_i + b_i \cdot (dur_i - 20); 1]$	14,0 %	0,6 %	14,5 %	0,5 %	18,0 %	0,6 %	33,5 %	0,6 %	57,5 %	0,6 %	79,5 %	0,6 %

4 Non-senior STS securitisation positions which fulfil the requirements set out in Article 243 of Regulation (EU) No 575/2013 and for which a credit assessment by a nominated ECAI is available shall be assigned a risk factor  $stress_i$  depending on the credit quality step and the modified duration of the securitisation position  $i$ , as set out in the following table:

Credit quality step	Duration (dur <sub>i</sub> )	0		1		2		3		4		5 and 6	
		$a_i$	$b_i$	$a_i$	$b_i$	$a_i$	$b_i$	$a_i$	$b_i$	$a_i$	$b_i$	$a_i$	$b_i$
up to 5	$\min[b_i \cdot dur_i; 1]$	—	2,8 %	—	3,4 %	—	4,6 %	—	7,9 %	—	15,8 %	—	26,7 %
More than 5 and up to 10	$\min[a_i + b_i \cdot (dur_i - 5); 1]$	14,0 %	1,6 %	17,0 %	1,9 %	23,0 %	2,3 %	39,5 %	4,7 %	79,0 %	8,8 %	100,0 %	0,0 %
More than 10 and up to 15	$a_i + b_i \cdot (dur_i - 10)$	22,0 %	1,6 %	26,5 %	1,5 %	34,5 %	1,6 %	63,0 %	3,2 %	100,0 %	0,0 %	100,0 %	0,0 %

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

More than 15 and up to 20	$a_i + b_i \cdot (dur_i - 15)$	30,0 %	1,6 %	34,0 %	1,5 %	42,5 %	1,6 %	79,0 %	3,2 %	100,0 %	0,0 %	100,0 %	0,0 %
More than 20	$\min[a_i + b_i \cdot (dur_i - 20); 1]$	38,0 %	1,6 %	41,5 %	1,5 %	50,5 %	1,6 %	95,0 %	1,6 %	100,0 %	0,0 %	100,0 %	0,0 %

5 Senior STS securitisation positions which fulfil the criteria set out in Article 243 of Regulation (EU) No 575/2013 and for which no credit assessment by a nominated ECAI is available shall be assigned a risk factor  $stress_i$  depending on the modified duration of the securitisation position  $i$ , as set out in the following table:

Duration ( $dur_i$ )	$stress_i$	$a_i$	$b_i$
up to 5	$b_i \cdot dur_i$	—	4,6 %
More than 5 and up to 10	$a_i + b_i \cdot (dur_i - 5)$	23 %	2,5 %
More than 10 and up to 15	$a_i + b_i \cdot (dur_i - 10)$	35,5 %	1,8 %
More than 15 and up to 20	$a_i + b_i \cdot (dur_i - 15)$	44,5 %	0,5 %
More than 20	$\min[a_i + b_i \cdot (dur_i - 20); 1]$	47 %	0,5 %

6 Non-senior STS securitisation positions which fulfil the criteria set out in Article 243 of Regulation (EU) No 575/2013 and for which no credit assessment by a nominated ECAI is available shall be assigned a risk factor  $stress_i$  equivalent to credit quality step 5 and depending on the modified duration of the exposure, as set out in the table in paragraph 3.

7 Re-securitisation positions for which a credit assessment by a nominated ECAI is available shall be assigned a risk factor  $stress_i$  equal to the following formula:

$$stress_i = \min(b_i \cdot dur_i; 1)$$

where  $b_i$  shall be assigned depending on the credit quality step of re-securitisation position  $i$ , as set out in the following table:

Credit quality step	0	1	2	3	4	5	6
$b_i$	33 %	40 %	51 %	91 %	100 %	100 %	100 %

8 Securitisation positions not covered by paragraphs 3 to 7, for which a credit assessment by a nominated ECAI is available shall be assigned a risk factor  $stress_i$  equal to the following formula:

$$stress_i = \min(b_i \cdot dur_i; 1)$$

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where  $b_i$  shall be assigned depending on the credit quality step of securitisation position  $i$ , as set out in the following table:

Credit quality step	0	1	2	3	4	5	6
$b_i$	12,5 %	13,4 %	16,6 %	19,7 %	82 %	100 %	100 %

9 Securitisation positions not covered by paragraphs 3 to 8, shall be assigned a risk factor  $stress_i$  of 100 %.]

#### Textual Amendments

**F5** Substituted by Commission Delegated Regulation (EU) 2018/1221 of 1 June 2018 amending Delegated Regulation (EU) 2015/35 as regards the calculation of regulatory capital requirements for securitisations and simple, transparent and standardised securitisations held by insurance and reinsurance undertakings (Text with EEA relevance).

[<sup>F2</sup> Article 178a

### Spread risk on securitisation positions: transitional provisions

1 Notwithstanding Article 178(3), securitisations issued before 1 January 2019 that qualify as type 1 securitisations in accordance with Article 177(2) in the version in force on 31 December 2018 shall be assigned a risk factor  $stress_i$  in accordance with Article 178(3) even where those securitisations are not STS securitisations which fulfil the requirements set out in Article 243 of Regulation (EU) No 575/2013.

2 Paragraph 1 shall apply only in circumstances where no new underlying exposures were added or substituted after 31 December 2018 .

3 Notwithstanding Article 178(3), securitisations issued before 18 January 2015 that qualify as type 1 securitisations in accordance with Article 177(4) in the version in force on 31 December 2018 shall be assigned a risk factor  $stress_i$  in accordance with Articles 177 and 178 in the version in force on 31 December 2018 .

4 Notwithstanding Article 178(3), securitisations issued before 1 January 2019 that qualify as type 1 securitisations in accordance with Article 177(5) in the version in force on 31 December 2018 shall, until 31 December 2025 , be assigned a risk factor  $stress_i$  in accordance with Articles 177 and 178 in the version in force on 31 December 2018 .

[<sup>F76</sup> For the purposes of paragraphs 3 and 4, Article 177 (in the version of this Regulation which was in force on 31 December 2018) continues to have effect notwithstanding its deletion by Article 1(3) of Commission Delegated Regulation (EU) 2018/1221, and has effect for those purposes with the following modifications—

a paragraph 2 is to be read as if—

- i) a reference to Regulation (EU) No 575/2013 were a reference to the version of that Regulation which was in force on 31 December 2018;
- ii) in point (b) “the EEA or” were omitted;
- iii) in point (h)(i)—

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- aa) for “national law of the Member State where the loans were originated” there were substituted “loans were originated in the United Kingdom and the law of the United Kingdom”;
  - bb) “, and that Member State has notified this law to the Commission and EIOPA” were omitted;
- iv) point (h)(ii) were omitted;
- v) in point (h)(iv) for the words from “agricultural” to “tracked” there were substituted “tractors as defined in point (8) of Article 3 of Regulation (EU) No 167/2013 of the European Parliament and of the Council (as it had effect immediately before IP completion day), powered two-wheelers or powered tricycles as defined in points (68) and (69) of Article 3 of Regulation (EU) No 168/2013 of the European Parliament and of the Council (as it had effect immediately before IP completion day) or tracked”;
- vi) in points (r) and (s) for the words “countries that are not members of the Union”, both times it occurs, substitute “a country other than the United Kingdom”;
- vii) in point (t)—
  - aa) the words from “and discloses information” to “stress tests” were omitted;
  - bb) for “Union”, in both places it occurs, there were substituted “United Kingdom”;
- b paragraph 4 is to be read as if for “the entry into force of this Regulation” there were substituted “18 January 2015”; and
- c paragraph 5 is to be read as if, in points (a) and (c), for “the date of entry into force of this Regulation” there were substituted “18 January 2015”.[]

#### Textual Amendments

- F2** Inserted by [Commission Delegated Regulation \(EU\) 2018/1221 of 1 June 2018 amending Delegated Regulation \(EU\) 2015/35 as regards the calculation of regulatory capital requirements for securitisations and simple, transparent and standardised securitisations held by insurance and reinsurance undertakings \(Text with EEA relevance\).](#)
- F77** Art. 178a(5) inserted (31.12.2020) by [The Financial Services \(Miscellaneous\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/710\)](#), regs. 1(4), **28(2)** (as amended by [S.I. 2020/1301](#), regs. 1, 3, Sch. para. 43(f)); 2020 c. 1, Sch. 5 para. 1(1)

### Article 179

#### Spread risk on credit derivatives

1 [F23The capital requirement  $SCR_{cd}$  for spread risk on credit derivatives other than those referred to in paragraph 3 shall be equal to the higher of the following capital requirements:]

- [F23a the loss in the basic own funds that would result from an instantaneous increase in absolute terms of the credit spread of the instruments underlying the credit derivatives;]
- b the loss in the basic own funds that would result from an instantaneous relative decrease of the credit spread of the instruments underlying the credit derivatives by 75 %.

For the purposes of point (a), the instantaneous increase of the credit spread of the instruments underlying the credit derivatives for which a credit assessment by a nominated ECAI is available shall be calculated according to the following table.

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

Credit quality step	0	1	2	3	4	5	6
Instantaneous increase in spread (in percentage points)	0,3	1,5	2,6	4,5	8,4	16,20	16,20

2 For the purposes of point (a) of paragraph 1, the instantaneous increase of the credit spread of the instruments underlying the credit derivatives for which a credit assessment by a nominated ECAI is not available shall be 5 percentage points.

3 Credit derivatives which are part of the undertaking's risk mitigation policy shall not be subject to a capital requirement for spread risk, as long as the undertaking holds either the instruments underlying the credit derivative or another exposure with respect to which the basis risk between that exposure and the instruments underlying the credit derivative is not material in any circumstances.

4 Where the larger of the capital requirements referred to in points (a) and (b) of paragraph 1 and the larger of the corresponding capital requirements calculated in accordance with Article 206(2) are not based on the same scenario, the capital requirement for spread risk on credit derivatives shall be the capital requirement referred to in paragraph 1 for which the underlying scenario results in the largest corresponding capital requirement calculated in accordance with Article 206(2).

#### Textual Amendments

**F23** Substituted by [Commission Delegated Regulation \(EU\) 2016/467 of 30 September 2015 amending Commission Delegated Regulation \(EU\) 2015/35 concerning the calculation of regulatory capital requirements for several categories of assets held by insurance and reinsurance undertakings \(Text with EEA relevance\)](#).

### Article 180

#### Specific exposures

1 Exposures in the form of bonds referred to Article 52(4) of Directive 2009/65/EC (covered bonds) which have been assigned to credit quality step 0 or 1 shall be assigned a risk factor  $stress_i$  according to the following table.

Credit quality step	0	1
Duration ( $dur_i$ ) up to 5	0,7 % . $dur_i$	0,9 % . $dur_i$
More than 5 years	$\min (3,5\% + 0,5\% \times (dur_i - 5); 1)$	$\min (4,5\% + 0,5\% \times (dur_i - 5); 1)$

2 Exposures in the form of bonds and loans to the following shall be assigned a risk factor  $stress_i$  of 0 %:

<sup>F78</sup><sub>a</sub> .....

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- [<sup>F79</sup>b United Kingdom central government and Bank of England denominated and funded in pounds sterling;]
- c multilateral development banks referred to in paragraph 2 of Article 117 of Regulation (EU) No 575/2013;
- d international organisations referred to in Article 118 of Regulation (EU) No 575/2013;

Exposures in the form of bonds and loans that are fully, unconditionally and irrevocably guaranteed by one of the counterparties mentioned in points (a) to (d), where the guarantee meets the requirements set out in Article 215, shall also be assigned a risk factor  $stress_i$  of 0 %.

[<sup>F12</sup>For the purposes of point (b) of the first subparagraph, exposures in the form of bonds and loans that are fully, unconditionally and irrevocably guaranteed by regional governments and local authorities listed in Article 1 of Commission Implementing Regulation (EU) 2015/2011 (<sup>14</sup>), where the guarantee meets the requirements set out in Article 215 of this Regulation, shall be treated as exposures to the central government.]

3 Exposures in the form of bonds and loans to central governments and central banks other than those referred to in point (b) of paragraph 2, denominated and funded in the domestic currency of that central government and central bank, and for which a credit assessment by a nominated ECAI is available shall be assigned a risk factor  $stress_i$  depending on the credit quality step and the duration of the exposure according to the following table:

Credit quality step		0 and 1		2		3		4		5 and 6	
Duration ( $dur_i$ )		$a_i$	$b_i$	$a_i$	$b_i$	$a_i$	$b_i$	$a_i$	$b_i$	$a_i$	$b_i$
up to 5	$b_i \times dur_i$	—	0,0 %	—	1,1 %	—	1,4 %	—	2,5 %	—	4,5 %
More than 5 and up to 10	$a_i + b_i \times (dur_i - 5)$	0,0 %	0,0 %	5,5 %	0,6 %	7,0 %	0,7 %	12,5 %	1,5 %	22,5 %	2,5 %
More than 10 and up to 15	$a_i + b_i \times (dur_i - 10)$	0,0 %	0,0 %	8,4 %	0,5 %	10,5 %	0,5 %	20,0 %	1,0 %	35,0 %	1,8 %
More than 15 and up to 20	$a_i + b_i \times (dur_i - 15)$	0,0 %	0,0 %	10,9 %	0,5 %	13,0 %	0,5 %	25,0 %	1,0 %	44,0 %	0,5 %
More than 20	$\min [a_i + b_i \times (dur_i - 20); 1]$	0,0 %	0,0 %	13,4 %	0,5 %	15,5 %	0,5 %	30,0 %	0,5 %	46,5 %	0,5 %

[<sup>F12</sup>3a Exposures in the form of bonds and loans to [<sup>F80</sup>the United Kingdom's] regional governments and local authorities not listed in Article 1 of Implementing Regulation (EU) 2015/2011 (\*) shall be assigned a risk factor  $stress_i$  from the table in paragraph 3 corresponding to credit quality step 2.



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3b Exposures in the form of bonds and loans that are fully, unconditionally and irrevocably guaranteed by [<sup>F81</sup>the United Kingdom's] regional government or local authority that are not listed in Article 1 of Implementing Regulation (EU) 2015/2011, where the guarantee meets the requirements set out in Article 215 of this Regulation, shall be assigned a risk factor  $stress_i$  from the table in paragraph 3 corresponding to credit quality step 2.]

4 Exposures in the form of bonds and loans to an insurance or reinsurance undertaking for which a credit assessment by a nominated ECAI is not available and where this undertaking meets its Minimum Capital Requirement, shall be assigned a risk factor  $stress_i$  from the table in Article 176(3) depending on the undertaking's solvency ratio, using the following mapping between solvency ratios and credit quality steps:

Solvency ratio	196 %	175 %	122 %	95 %	75 %	75 %
Credit quality step	1	2	3	4	5	6

Where the solvency ratio falls in between the solvency ratios set out in the table above, the value of  $stress_i$  shall be linearly interpolated from the closest values of  $stress_i$  corresponding to the closest solvency ratios set out in the table above. Where the solvency ratio is lower than 75 %,  $stress_i$  shall be equal to the factor corresponding to the credit quality steps 5 and 6. Where the solvency ratio is higher than 196 %,  $stress_i$  shall be the same as the factor corresponding to the credit quality step 1.

For the purposes of this paragraph, 'solvency ratio' denotes the ratio of the eligible amount of own funds to cover the Solvency Capital Requirement and the Solvency Capital Requirement, using the latest available values.

5 Exposures in the form of bonds and loans to an insurance or reinsurance undertaking which does not meet its Minimum Capital Requirement shall be assigned a risk factor  $stress_i$  according to the following table:

Duration ( $dur_i$ )	risk factor $stress_i$
up to 5	7,5 % . $dur_i$
More than 5 and up to 10	37,50 % + 4,20 % . ( $dur_i - 5$ )
More than 10 and up to 15	58,50 % + 0,50 % . ( $dur_i - 10$ )
More than 15 and up to 20	61 % + 0,50 % . ( $dur_i - 15$ )
More than 20	$\min(63,5\% + 0,5\% \times (dur_i - 20); 1)$

6 Paragraphs 4 and 5 of this Article shall only apply as of the first date of public disclosure, by the undertaking corresponding to the exposure, of the report on its solvency and financial condition referred to in Article 51 of Directive 2009/138/EC. Before that date, if a credit assessment by a nominated ECAI is available for the exposures, Article 176 of this Regulation shall apply, otherwise, the exposures shall be assigned the same risk factor as the ones that would result from the application of paragraph 4 of this Article to exposures to an insurance or reinsurance undertaking whose solvency ratio is 100 %.

7 Exposures in the form of bonds and loans to a third country insurance or reinsurance undertaking for which a credit assessment by a nominated ECAI is not available, situated in

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a country whose solvency regime is deemed equivalent <sup>F82</sup>... in accordance with [<sup>F83</sup>Article 379A of this Regulation], and which complies with the solvency requirements of that third-country, shall be assigned the same risk factor as the ones that would result from the application of paragraph 4 of this Article to exposures to an insurance or reinsurance undertaking whose solvency ratio is 100 %.

8 Exposures in the form of bonds and loans to credit institutions and financial institutions within the meaning of points (1) and (26) of Article 4(1) of Regulation (EU) No 575/2013 which comply with the solvency requirements set out in Directive 2013/36/EU and Regulation (EU) No 575/2013, for which a credit assessment by a nominated ECAI is not available, shall be assigned the same risk factor as the ones that would result from the application of paragraph 4 of this Article to exposures to an insurance or reinsurance undertaking whose solvency ratio is 100 %.

9 The capital requirement for spread risk on credit derivatives where the underlying financial instrument is a bond or a loan to any exposure listed in paragraph 2 shall be nil.

<sup>F84</sup> 10 .....

<sup>F85</sup> 10a .....

[<sup>F50</sup>11 Exposures in the form of bonds and loans that fulfil the criteria set out in paragraph 12 shall be assigned a risk factor  $stress_i$  depending on the credit quality step and the duration of the exposure according to the following table:

Credit quality step		0		1		2		3	
Duration ( $dur_i$ )	$stress_i$	$a_i$	$b_i$	$a_i$	$b_i$	$a_i$	$b_i$	$a_i$	$b_i$
up to 5	$b_i \cdot dur_i$	—	0,64 %	—	0,78 %	—	1,0 %	—	1,67 %
More than 5 and up to 10	$a_i + b_i \cdot (dur_i - 5)$	3,2 %	0,36 %	3,9 %	0,43 %	5,0 %	0,5 %	8,35 %	1,0 %
More than 10 and up to 15	$a_i + b_i \cdot (dur_i - 10)$	5,0 %	0,36 %	6,05 %	0,36 %	7,5 %	0,36 %	13,35 %	0,67 %
More than 15 and up to 20	$a_i + b_i \cdot (dur_i - 15)$	6,8 %	0,36 %	7,85 %	0,36 %	9,3 %	0,36 %	16,7 %	0,67 %
More than 20	$\min[a_i + b_i \cdot (dur_i - 20); 1]$	8,6 %	0,36 %	9,65 %	0,36 %	11,1 %	0,36 %	20,05 %	0,36 %

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

12 The criteria for exposures that are assigned a risk factor in accordance with paragraph 11 shall be:

- a the exposure relates to a qualifying infrastructure investment that meets the criteria set out in Article 164a;
- b the exposure is not an asset that fulfils the following conditions:
  - it is assigned to a matching adjustment portfolio in accordance with Article 77b(2) of Directive 2009/138/EC,
  - it has been assigned a credit quality step between 0 and 2;
- c a credit assessment by a nominated ECAI is available for the exposure;
- d the exposure has been assigned a credit quality step between 0 and 3.

13 Exposures in the form of bonds and loans that meet the criteria set out in paragraph 12(a) and (b), but do not meet the criteria set out in paragraph 12(c), shall be assigned a risk factor  $stress_i$  equivalent to credit quality step 3 and the duration of the exposure in accordance with the table set out in paragraph 11.]

[<sup>F52</sup>14 Exposures in the form of bonds and loans that fulfil the criteria set out in paragraph 15 shall be assigned a risk factor  $stress_i$  depending on the credit quality step and the duration of the exposure according to the following table:

Credit quality step		0		1		2		3	
Duration	$stress_i$	$a_i$	$b_i$	$a_i$	$b_i$	$a_i$	$b_i$	$a_i$	$b_i$
up to 5	$b_i \cdot \frac{dur_i}{5}$	—	0,68 %	—	0,83 %	—	1,05 %	—	1,88 %
More than 5 and up to 10	$a_i + b_i \cdot (\frac{dur_i}{5} - 1)$	3,38 %	0,38 %	4,13 %	0,45 %	5,25 %	0,53 %	9,38 %	1,13 %
More than 10 and up to 15	$a_i + b_i \cdot (\frac{dur_i}{10} - 1)$	5,25 %	0,38 %	6,38 %	0,38 %	7,88 %	0,38 %	15,0 %	0,75 %
More than 15 and up to 20	$a_i + b_i \cdot (\frac{dur_i}{15} - 1)$	7,13 %	0,38 %	8,25 %	0,38 %	9,75 %	0,38 %	18,75 %	0,75 %
More than 20	$\min[a_i + b_i \cdot (\frac{dur_i}{20} - 1), 1]$	9,0 %	0,38 %	10,13 %	0,38 %	11,63 %	0,38 %	22,50 %	0,38 %

15 The criteria for exposures that are assigned a risk factor in accordance with paragraph 14 shall be:

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

- a the exposure relates to a qualifying infrastructure corporate investment that meets the criteria set out in Article 164b;
- b the exposure is not an asset that fulfils the following conditions:
  - it is assigned to a matching adjustment portfolio in accordance with Article 77b(2) of Directive 2009/138/EC,
  - it has been assigned a credit quality step between 0 and 2;
- c a credit assessment by a nominated ECAI is available for the infrastructure entity.
- d the exposure has been assigned a credit quality step between 0 and 3.

16 Exposures in the form of bonds and loans that meet the criteria set out in paragraph 15(a) and (b), but do not meet the criteria set out in paragraph 15(c), shall be assigned a risk factor *stress<sub>i</sub>* equivalent to credit quality step 3 and the duration of the exposure in accordance with the table set out in paragraph 14.]

#### Textual Amendments

- F12** 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).
- F50** Inserted by Commission Delegated Regulation (EU) 2016/467 of 30 September 2015 amending Commission Delegated Regulation (EU) 2015/35 concerning the calculation of regulatory capital requirements for several categories of assets held by insurance and reinsurance undertakings (Text with EEA relevance).
- F52** Inserted by Commission Delegated Regulation (EU) 2017/1542 of 8 June 2017 amending Delegated Regulation (EU) 2015/35 concerning the calculation of regulatory capital requirements for certain categories of assets held by insurance and reinsurance undertakings (infrastructure corporates) (Text with EEA relevance).
- F78** Art. 180(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), **11(26)(a)(i)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F79** Art. 180(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(26)(a)(ii)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F80** Words in Art. 180(3a) substituted (31.12.2020) by The Risk Transformation and Solvency 2 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1233), regs. 1(4), **6(9)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F81** Words in Art. 180(3b) substituted (31.12.2020) by The Risk Transformation and Solvency 2 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1233), regs. 1(4), **6(9)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F82** Words in Art. 180(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), **11(26)(b)(i)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F83** Words in Art. 180(7) substituted (31.12.2020) by The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), **11(26)(b)(ii)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F84** Art. 180(10) 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(26)(c)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F85** Art. 180(10a) omitted (31.12.2020) by virtue of The Financial Services (Miscellaneous) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/710), regs. 1(4), **28(3)**; 2020 c. 1, Sch. 5 para. 1(1)

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

## Article 181

### Application of the spread risk scenarios to matching adjustment portfolios

Where insurance undertakings apply the matching adjustment referred to in Article 77b of Directive 2009/138/EC, they shall carry out the scenario based calculation for spread risk as follows:

- (a) the assets in the assigned portfolio shall be subject to the instantaneous decrease in value for spread risk set out in Articles 176, 178 and 180 of this Regulation;
- (b) the technical provisions shall be recalculated to take into account the impact on the amount of the matching adjustment of the instantaneous decrease in value of the assigned portfolio of assets. In particular, the fundamental spread shall increase, by an absolute amount that is calculated as the product of the following:
  - (i) the absolute increase in spread that, multiplied by the modified duration of the relevant asset, would result in the relevant risk factor  $stress_i$ , referred to in Articles 176, 178 and 180 of this Regulation;
  - (ii) a reduction factor, depending on the credit quality as set out in the following table:

Credit quality step	0	1	2	3	4	5	6
Reduction factor	45 %	50 %	60 %	75 %	100 %	100 %	100 %

[<sup>F10</sup>For assets in the assigned portfolio for which no credit assessment by a nominated ECAI is available, and for qualifying infrastructure assets and for qualifying infrastructure corporate assets that have been assigned credit quality step 3, the reduction factor shall be 100 %.]

#### Textual Amendments

**F10** Substituted by [Commission Delegated Regulation \(EU\) 2017/1542 of 8 June 2017 amending Delegated Regulation \(EU\) 2015/35 concerning the calculation of regulatory capital requirements for certain categories of assets held by insurance and reinsurance undertakings \(infrastructure corporates\)](#) (Text with EEA relevance).

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

### Subsection 6

#### Market risk concentrations sub-module

#### Article 182

#### Single name exposure

1 The capital requirement for market risk concentration shall be calculated on the basis of single name exposures. For this purpose exposures to undertakings which belong to the same corporate group shall be treated as a single name exposure. Similarly, immovable properties which are located in the same building shall be considered as a single immovable property.

2 The exposure at default to a counterparty shall be the sum of the exposures to this counterparty.

3 The exposure at default to a single name exposure shall be the sum of the exposures at default to all counterparties that belong to the single name exposure.

4 The weighted average credit quality step on a single name exposure shall be equal to the rounded-up average of the credit quality steps of all exposures to all counterparties that belong to the single name exposure, weighted by the value of each exposure.

5 For the purposes of paragraph 4, exposures for which a credit assessment by a nominated ECAI is available, shall be assigned a credit quality step in accordance with Chapter 1 Section 2 of this Title. [F45Exposures for which a credit assessment by a nominated ECAI is not available shall be assigned to credit quality step 5.]

[F126 For the purposes of paragraph 4, exposures to an insurance or reinsurance undertaking for which a credit assessment by a nominated ECAI is not available and where the undertaking meets its Minimum Capital Requirement shall be assigned to a credit quality step depending on the undertaking's solvency ratio using the following mapping between solvency ratios and credit quality steps:

<b>Solvency Ratio</b>	<b>196 %</b>	<b>175 %</b>	<b>122 %</b>	<b>100 %</b>	<b>95 %</b>
Credit quality step	1	2	3	3,82	5

Where the solvency ratio falls in between the solvency ratios set out in the table above, the credit quality step shall be linearly interpolated from the closest credit quality steps corresponding to the closest solvency ratios set out in the table above. Where the solvency ratio is lower than 95 %, the credit quality step shall be 5. Where the solvency ratio is higher than 196 %, the credit quality step shall be 1.

For the purposes of this paragraph, ' solvency ratio ' denotes the ratio of the eligible amount of own funds to cover the Solvency Capital Requirement and the Solvency Capital Requirement, using the latest available values.

7 For the purposes of paragraph 4, exposures to an insurance or reinsurance undertaking for which a credit assessment by a nominated ECAI is not available and where the undertaking does not meet its Minimum Capital Requirement shall be assigned to credit quality step 6.

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

8 Paragraphs 6 and 7 of this Article shall only apply as of the first date of public disclosure, by the undertaking corresponding to the exposure, of the report on its solvency and financial condition [<sup>F86</sup>report]. Before that date, the exposures shall be assigned to credit quality step 3,82.

9 For the purposes of paragraph 4, exposures to a third country insurance or reinsurance undertaking for which a credit assessment by a nominated ECAI is not available, situated in a country whose solvency regime is [<sup>F87</sup>determined to be equivalent] in accordance with [<sup>F88</sup>Article 379A of this Regulation], and which complies with the solvency requirements of that third country, shall be assigned to credit quality step 3,82.

10 For the purposes of paragraph 4, exposures to credit institutions and financial institutions, within the meaning of points (1) and (26) of Article 4(1) of Regulation (EU) No 575/2013 which comply with the solvency requirements set out in Directive 2013/36/EU and Regulation (EU) No 575/2013, for which a credit assessment by a nominated ECAI is not available, shall be assigned to credit quality step 3,82.

11 Exposures other than those to which a credit quality step is assigned under paragraphs 5 to 10 shall, for the purpose of paragraph 4, be assigned to credit quality step 5.]

#### Textual Amendments

- F12** 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).
- F45** Deleted 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).
- F86** Word in Art. 182(8) substituted (31.12.2020) by The Risk Transformation and Solvency 2 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1233), regs. 1(4), **6(10)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F87** Words in Art. 182(9) substituted (31.12.2020) by The Risk Transformation and Solvency 2 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1233), regs. 1(4), **6(10)(b)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F88** Words in Art. 182(9) substituted (31.12.2020) by The Risk Transformation and Solvency 2 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1233), regs. 1(4), **6(10)(b)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

### Article 183

#### Calculation of the capital requirement for market risk concentration

1 The capital requirement for market risk concentration shall be equal to the following:

$$SCR_{conc} = \sqrt{\sum_i Conc_i^2}$$

where:

- (a) the sum covers all single name exposures  $i$ ;
- (b)  $Conc_i$  denotes the capital requirement for market risk concentration on a single name exposure  $i$ .

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2 For each single name exposure  $i$ , the capital requirement for market risk concentration  $Conc_i$  shall be equal to the loss in the basic own funds that would result from an instantaneous decrease in the value of the assets corresponding to the single name exposure  $i$  equal to the following:

$$XS_i \times g_i$$

where:

- (a)  $XS_i$  is the excess exposure referred to in Article 184;
- (b)  $g_i$  is the risk factor for market risk concentration referred to in Articles 186 and 187;

#### Article 184

#### Excess exposure

1 The excess exposure on a single name exposure  $i$  shall be equal to the following:

$$XS_i = \text{Max}(0; E_i - CT_i \times \text{Assets})$$

where:

- (a)  $E_i$  denotes the exposure at default to single name exposure  $i$  that is included in the calculation base of the market risk concentrations sub-module;
- (b)  $\text{Assets}$  denotes the calculation base of the market risk concentrations sub-module;
- (c)  $CT_i$  denotes the relative excess exposure threshold referred to in Article 185.

2 The calculation base of the market risk concentration sub-module  $\text{Assets}$  shall be equal to the value of all assets held by an insurance or reinsurance undertaking, excluding the following:

- a assets held in respect of life insurance contracts where the investment risk is fully borne by the policy holders;
- b exposures to a counterparty which belongs to the same group as the insurance or reinsurance undertaking, provided that all of the following conditions are met:
  - (i) the counterparty is an insurance or reinsurance undertaking, an insurance holding company, a mixed financial holding company or an ancillary services undertaking;
  - (ii) the counterparty is fully consolidated in accordance with Article 335(1)(a);
  - (iii) the counterparty is subject to the same risk evaluation, measurement and control procedures as the insurance or reinsurance undertaking;
  - (iv) the counterparty is established in the [F89United Kingdom];
  - (v) there is no current or foreseen material practical or legal impediment to the prompt transfer of own funds or repayment of liabilities from the counterparty to the insurance or reinsurance undertaking;
- c the value of the participations as referred to in [F90Article 68(6) of this Regulation] in financial and credit institutions that is deducted from own funds pursuant to Article 68 of this Regulation;
- d exposures included in the scope of the counterparty default risk module;
- e deferred tax assets;
- f intangible assets.



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[<sup>F283</sup> The exposure at default on a single name exposure  $i$  shall be reduced by the amount of the exposure at default to counterparties belonging to that single name exposure and for which the risk factor for market risk concentration referred to in Articles 186 and 187 is 0 %.]

#### Textual Amendments

- F28** 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 \(Solvency II\) \(Text with EEA relevance\).](#)
- F89** Words in [Art. 184\(2\)\(b\)\(iv\)](#) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(27)(a)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)
- F90** Words in [Art. 184\(2\)\(c\)](#) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(27)(b)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)

### Article 185

#### Relative excess exposure thresholds

Each single name exposure  $i$  shall be assigned, in accordance with the following table, a relative excess exposure threshold depending on the weighted average credit quality step of the single name exposure  $i$ , calculated in accordance with Article 182(4).

Weighted 0 average credit quality step of single name exposure $i$	0	1	2	3	4	5	6
Relative excess exposure threshold $CT_i$	3 %	3 %	3 %	1,5 %	1,5 %	1,5 %	1,5 %

### Article 186

#### Risk factor for market risk concentration

1 Each single name exposure  $i$  shall be assigned, in accordance with the following table, a risk factor  $g_i$  for market risk concentration depending on the weighted average credit quality step of the single name exposure  $i$ , calculated in accordance with Article 182(4).

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

Weighted average credit quality step of single name exposure $i$	0	1	2	3	4	5	6
Risk factor $g_i$	12 %	12 %	21 %	27 %	73 %	73 %	73 %

F45 <sup>2</sup>	.....
F45 <sup>3</sup>	.....
F45 <sup>4</sup>	.....
F45 <sup>5</sup>	.....
F45 <sup>6</sup>	.....

#### Textual Amendments

**F45** Deleted 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 \(Solvency II\) \(Text with EEA relevance\).](#)

### Article 187

#### Specific exposures

1 Exposures in the form of bonds as referred to Article 52(4) of Directive 2009/65/EC (covered bonds) shall be assigned a relative excess exposure threshold  $CT_i$  of 15 %, provided that the corresponding exposures in the form of covered bonds have been assigned to credit quality step 0 or 1. Exposures in the form of covered bonds shall be considered as single name exposures, regardless of other exposures to the same counterparty as the issuer of the covered bonds, which constitute a distinct single name exposure.

2 Exposures to a single immovable property shall be assigned a relative excess exposure threshold  $CT_i$  of 10 % and a risk factor  $g_i$  for market risk concentration of 12 %.

3 Exposures to the following shall be assigned a risk factor  $g_i$  for market risk concentration of 0 %:

<sup>F91</sup>a .....

[<sup>F92</sup>b the United Kingdom central government and Bank of England denominated and funded in pounds sterling;]

c multilateral development banks referred to in Article 117(2) of Regulation (EU) No 575/2013;

d international organisations referred to in Article 118 of Regulation (EU) No 575/2013.

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

Exposures that are fully, unconditionally and irrevocably guaranteed by one of the counterparties mentioned in points (a) to (d), where the guarantee meets the requirements set out in Article 215, shall also be assigned a risk factor  $g_i$  for market risk concentration of 0 %.

[<sup>F12</sup>For the purposes of point (b), exposures that are fully, unconditionally and irrevocably guaranteed by regional governments and local authorities listed in Article 1 of Implementing Regulation (EU) 2015/2011, where the guarantee meets the requirements set out in Article 215 of this Regulation, shall be treated as exposures to the central government.]

4 Exposures to central governments and central banks other than those referred to in point (b) of paragraph 3, denominated and funded in the domestic currency of that central government and central bank, shall be assigned a risk factor  $g_i$  for market risk concentration depending on their weighted average credit quality steps, in accordance with the following table.

Weighted average credit quality step of single name exposure $i$	0	1	2	3	4	5	6
Risk factor $g_i$	0 %	0 %	12 %	21 %	27 %	73 %	73 %

[<sup>F12</sup>4a Exposures to [<sup>F93</sup>the United Kingdom's] regional governments and local authorities not listed in Article 1 of Implementing Regulation (EU) 2015/2011 shall be assigned a risk factor  $g_i$  for market risk concentration corresponding to weighted average credit quality step 2 in accordance with paragraph 4.

4b Exposures that are fully, unconditionally and irrevocably guaranteed by [<sup>F94</sup>the United Kingdom's] regional government or local authority that is not listed in Article 1 of Implementing Regulation (EU) 2015/2011, where the guarantee meets the requirements set out in Article 215 of this Regulation, shall be assigned a risk factor  $g_i$  for market risk concentration corresponding to weighted average credit quality step 2 in accordance with paragraph 4.]

5 Exposures in the form of bank deposits shall be assigned a risk factor  $g_i$  for market risk concentration of 0 %, provided they meet all of the following requirements:

- a the full value of the exposure is covered by a government guarantee scheme in the [<sup>F95</sup>United Kingdom];
- b the guarantee covers the insurance or reinsurance undertaking without any restriction;
- c there is no double counting of such guarantee in the calculation of the Solvency Capital Requirement.

#### Textual Amendments

**F12** 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 \(Solvency II\) \(Text with EEA relevance\).](#)

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

- F91** Art. 187(3)(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), **11(29)(a)(i)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F92** Art. 187(3)(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(29)(a)(ii)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F93** Words in Art. 187(4a) substituted (31.12.2020) by [The Risk Transformation and Solvency 2 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1233\)](#), regs. 1(4), **6(11)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F94** Words in Art. 187(4b) substituted (31.12.2020) by [The Risk Transformation and Solvency 2 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1233\)](#), regs. 1(4), **6(11)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F95** Words in Art. 187(5)(a) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(29)(b)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)

### Subsection 7

### Currency risk sub-module

#### Article 188

1 The capital requirement for currency risk referred to in point (e) of the second subparagraph of Article 105(5) of Directive 2009/138/EC shall be equal to the sum of the capital requirements for currency risk for each foreign currency. Investments in type 1 equities referred to in Article 168(2) and type 2 equities referred to in Article 168(3) which are listed in stock exchanges operating with different currencies shall be assumed to be sensitive to the currency of its main listing. Type 2 equities referred to in Article 168(3) which are not listed shall be assumed to be sensitive to the currency of the country in which the issuer has its main operations. Immovable property shall be assumed to be sensitive to the currency of the country in which it is located.

For the purposes of this Article, foreign currencies shall be currencies other than the currency used for the preparation of the insurance or reinsurance undertaking's financial statements ('the local currency').

2 For each foreign currency, the capital requirement for currency risk shall be equal to the larger of the following capital requirements:

- a the capital requirement for the risk of an increase in value of the foreign currency against the local currency;
- b the capital requirement for the risk of a decrease in value of the foreign currency against the local currency.

3 The capital requirement for the risk of an increase in value of a foreign currency against the local currency shall be equal to the loss in the basic own funds that would result from an instantaneous increase of 25 % in the value of the foreign currency against the local currency.

4 The capital requirement for the risk of a decrease in value of a foreign currency against the local currency shall be equal to the loss in the basic own funds that would result from an instantaneous decrease of 25 % in the value of the foreign currency against the local currency.

5 For currencies which are pegged to the euro, the 25 % factor referred to in paragraphs 3 and 4 of this Article may be adjusted in accordance with <sup>F96</sup>Commission Implementing

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Regulation (EU) 2015/2017 of 11 November 2015 laying down implementing technical standards with regard to the adjusted factors to calculate the capital requirement for currency risk for currencies pegged to the euro in accordance with Directive 2009/138/EC of the European Parliament and of the Council], provided that all of the following conditions are met:

- a the pegging arrangement shall ensure that the relative changes in the exchange rate over a one-year period do not exceed the relative adjustments to the 25 % factor, in the event of extreme market events, that correspond to the confidence level set out in Article 101(3) of Directive 2009/138/EC;
- b one of the following criteria is complied with:
  - (i) participation of the currency in the European Exchange Rate Mechanism (ERM II);
  - (ii) existence of a decision from the Council which recognises pegging arrangements between this currency and the euro;
  - (iii) establishment of the pegging arrangement by the law of country establishing the country's currency.

For the purposes of point (a), the financial resources of the parties that guarantee the pegging shall be taken into account.

6 The impact of an increase or a decrease in the value of a foreign currency against the local currency on the value of participations as defined in [<sup>F97</sup>Article 68(6) of this Regulation] in financial and credit institutions, shall be considered only on the value of the participations that are not deducted from own funds pursuant to Article 68 of this Regulation. The part deducted from own funds shall be considered only to the extent such impact increases the basic own funds.

7 Where the larger of the capital requirements referred to in points (a) and (b) of paragraph 2 and the largest of the corresponding capital requirements calculated in accordance with Article 206(2) are not based on the same scenario, the capital requirement for currency risk on a given currency shall be the capital requirement referred to in points (a) or (b) of paragraph 2 for which the underlying scenario results in the largest corresponding capital requirement calculated in accordance with Article 206(2).

#### Textual Amendments

- F96** Words in Art. 188(5) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/407), regs. 1(2), **11(30)(a)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)
- F97** Words in Art. 188(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(30)(b)** (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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## 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>F28</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>(15)</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 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>F28</sup>];]
- [<sup>F12</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:

- a Receivables from intermediaries;
- b Policyholder debtors;
- c mortgage loans which meet the requirements in Article 191(2) to (13);
- d Deposits with ceding undertakings, where the number of single name exposures exceeds 15;

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- e 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:
- a the credit risk transferred by a credit derivative;
  - b the credit risk on debt issuance by special purpose vehicles, <sup>F98</sup> ...;
  - c 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;
  - d the credit risk on mortgage loans which do not meet the requirements in Article 191(2) to (9) [<sup>F28</sup>];
  - [<sup>F12</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

- F12** 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 \(Solvency II\) \(Text with EEA relevance\)](#).
- F28** 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 \(Solvency II\) \(Text with EEA relevance\)](#).
- F98** 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)

### Article 190

#### Single name exposures

- 1 The capital requirement for counterparty default risk shall be calculated on the basis of single name exposures. For that purpose exposures to undertakings which belong to the same corporate group shall be treated as a single name exposure.
- 2 The insurance or reinsurance undertaking may consider exposures which belong to different members of the same legal or contractual pooling arrangement as different single



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name exposures where the probability of default of the single name exposure is calculated in accordance with Article 199 and the loss-given-default is calculated in accordance with Article 193 if it is a pool exposure of type A, in accordance with Article 194 if it is a pool exposure of type B and in accordance with Article 195 if it is a pool exposure of type C. Alternatively exposures to the undertakings which belong to the same pooling arrangement shall be treated as a single name exposure.

### Article 191

#### Mortgage loans

1 Retail loans secured by mortgages on residential property (mortgage loans) shall be treated as type 2 exposures under the counterparty default risk provided the requirements in paragraphs 2 to 13 are met.

2 The exposure shall be either to a natural person or persons or to a small or medium sized enterprise.

3 The exposure shall be one of a significant number of exposures with similar characteristics such that the risks associated with such lending are substantially reduced.

4 The total amount owed to the insurance or reinsurance undertaking and, where relevant, to all related undertakings within the meaning of Article 212(1)(b) and (2) of Directive 2009/138/EC, including any exposure in default, by the counterparty or other connected third party, shall not, to the knowledge of the insurance or reinsurance undertaking, exceed EUR 1 million. The insurance or reinsurance undertaking shall take reasonable steps to acquire this knowledge.

5 The residential property is or will be occupied or let by the owner.

6 The value of the property does not materially depend upon the credit quality of the borrower.

7 The risk of the borrower does not materially depend upon the performance of the underlying property, but on the underlying capacity of the borrower to repay the debt from other sources, and as a consequence, the repayment of the facility does not materially depend on any cash flow generated by the underlying property serving as collateral. For those other sources, the insurance or reinsurance undertaking shall determine maximum loan-to-income ratio as part of its lending policy and obtain suitable evidence of the relevant income when granting the loan.

8 All of the following requirements on legal certainty shall be met:

- a a mortgage or charge is enforceable in all jurisdictions which are relevant at the time of the conclusion of the credit agreement and shall be properly filed on a timely basis;
- b all legal requirements for establishing the pledge have been fulfilled;
- c the protection agreement and the legal process underpinning it enable the insurance or reinsurance undertaking to realise the value of the protection within a reasonable timeframe.

9 All of the following requirements on the monitoring of property values and on property valuation shall be met:

- a the insurance or reinsurance undertaking monitors the value of the property on a frequent basis and at a minimum once every three years. The insurance or reinsurance undertaking carries out more frequent monitoring where the market is subject to significant changes in conditions;



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- b the property valuation is reviewed when information available to the insurance or reinsurance undertaking indicates that the value of the property may have declined materially relative to general market prices and that review is external and independent and carried out by a valuer who possesses the necessary qualifications, ability and experience to execute a valuation and who is independent from the credit decision process.

10 For the purposes of paragraph 9, insurance or reinsurance undertakings may use statistical methods to monitor the value of the property and to identify property that needs revaluation.

11 The insurance or reinsurance undertaking shall clearly document the types of residential property they accept as collateral and their lending policies in this regard. The insurance or reinsurance undertaking shall require the independent valuer of the market value of the property, as referred to in Article 198(2), to document that market value in a transparent and clear manner.

12 The insurance or reinsurance undertaking shall have in place procedures to monitor that the property taken as credit protection is adequately insured against the risk of damage.

13 The insurance or reinsurance undertaking shall report all of the following data on losses stemming from mortgage loans to the supervisory authority:

- a losses stemming from loans that has been classified as type 2 exposures according with Article 189(3) in any given year;
- b overall losses in any given year.

<sup>F99</sup>14 .....

#### Textual Amendments

**F99** Art. 191(14) 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(31)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)

### Article 192

#### Loss-given-default

1 The loss-given-default on a single name exposure shall be equal to the sum of the loss-given-default on each of the exposures to counterparties belonging to the single name exposure. The loss-given-default shall be net of the liabilities towards counterparties belonging to the single name exposure provided that those liabilities and exposures are set off in the case of default of the counterparties and provided that Articles 209 and 210 are complied with in relation to that right of set-off. No offsetting shall be allowed for if the liabilities are expected to be met before the credit exposure is cleared.

[<sup>F12</sup>Where insurance and reinsurance undertakings have concluded contractual netting agreements covering several derivatives that represent credit exposure to the same counterparty, they may calculate the loss-given-default on those derivatives, as set out in paragraphs 3 to 3c, on the basis of the combined economic effect of all of those derivatives that are covered by the same contractual netting agreement, provided that Articles 209 and 210 are complied with in relation to the netting.]

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2 The loss-given-default on a reinsurance arrangement or insurance securitisation shall be equal to the following:

$$LGD = \max[50\% \times (REcoverables + 50\% \times RM_{re}) - F \times Collateral; 0]$$

where:

- (a) *Recoverables* denotes the best estimate of amounts recoverable from the reinsurance arrangement or insurance securitisation and the corresponding debtors;
- (b)  $RM_{re}$  denotes the risk mitigating effect on underwriting risk of the reinsurance arrangement or securitisation;
- (c) *Collateral* denotes the risk-adjusted value of collateral in relation to the reinsurance arrangement or securitisation;
- (d)  $F$  denotes a factor to take into account the economic effect of the collateral arrangement in relation to the reinsurance arrangement or securitisation in case of any credit event related to the counterparty.

Where the reinsurance arrangement is with an insurance or reinsurance undertaking or a third country insurance or reinsurance undertaking and 60 % or more of that counterparty's assets are subject to collateral arrangements, the loss-given-default shall be equal to the following:

$$LGD = \max(90\% \times (Recoverables + 50\% \times RM_{re}) - F' \times Collateral; 0)$$

where:

$F'$  denotes a factor to take into account the economic effect of the collateral arrangement in relation to the reinsurance arrangement or securitisation in the case of a credit event related to the counterparty.

<sup>F23</sup> The loss-given-default on a derivative falling within Article 192a(1) shall be equal to the following:

$$LGD = \max(18\% \cdot (Derivative + 50\% \cdot RM_{fin}) - 50\% \cdot F' \cdot Value; 0)$$

where:

- (a) *Derivative* denotes the value of the derivative determined in accordance with Article 75 of Directive 2009/138/EC;
- (b)  $RM_{fin}$  denotes the risk-mitigating effect on market risk of the derivative;
- (c) *Value* denotes the value of the assets held as collateral determined in accordance with Article 75 of Directive 2009/138/EC;
- (d)  $F'$  denotes a factor to take into account the economic effect of the collateral arrangement in relation to the derivative in case of a credit event related to the counterparty.]

<sup>F123a</sup> Notwithstanding paragraph 3, the loss-given-default on a derivative falling within Article 192a(2) shall be equal to the following:

$$LGD = \max(16\% \cdot (Derivative + 50\% \cdot RM_{fin}) - 50\% \cdot F'' \cdot Value; 0)$$

where:

- (a) *Derivative* denotes the value of the derivative in accordance with Article 75 of Directive 2009/138/EC;

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- (b)  $RM_{fin}$  denotes the risk-mitigating effect on market risk of the derivative;
- (c)  $Value$  denotes the value of the assets held as collateral in accordance with Article 75 of Directive 2009/138/EC;
- (d)  $F''$  denotes a factor to take into account the economic effect of the collateral arrangement in relation to the derivative in case of a credit event related to the counterparty.

3b The loss-given-default on derivatives other than those referred to in paragraphs 3 and 3a shall be equal to the following, provided that the derivative contract meets the requirements of Article 11 of Regulation (EU) 648/2012:

$$LGD = \max(90 \% \cdot (Derivative + 50 \% \cdot RM_{fin}) - 50 \% \cdot F''' \cdot Value; 0)$$

where:

- (a)  $Derivative$  denotes the value of the derivative determined in accordance with Article 75 of Directive 2009/138/EC;
- (b)  $RM_{fin}$  denotes the risk-mitigating effect on market risk of the derivative;
- (c)  $Value$  denotes the value of the assets held as collateral determined in accordance with Article 75 of Directive 2009/138/EC;
- (d)  $F'''$  denotes a factor to take into account the economic effect of the collateral arrangement in relation to the derivative in case of a credit event related to the counterparty.

3c The loss-given-default on derivatives not covered by paragraphs 3, 3a and 3b shall be equal to the following:

$$LGD = \max(90 \% \cdot (Derivative + RM_{fin}) - F''' \cdot Collateral; 0)$$

where:

- (a)  $Derivative$  denotes the value of the derivative determined in accordance with Article 75 of Directive 2009/138/EC;
- (b)  $RM_{fin}$  denotes risk-mitigating effect on market risk of the derivative;
- (c)  $Collateral$  denotes the risk-adjusted value of collateral in relation to the derivative;
- (d)  $F'''$  denotes a factor to take into account the economic effect of the collateral arrangement in relation to the derivative in case of a credit event related to the counterparty.

3d Where the loss-given-default on derivatives is to be calculated on the basis referred to in the second subparagraph of paragraph 1, the following rules shall apply for the purposes of paragraphs 3 to 3c:

- a the value of the derivative shall be the sum of the values of the derivatives covered by the contractual netting arrangement;
- b the risk-mitigating effect shall be determined at the level of the combination of derivatives covered by the contractual netting arrangement;
- c the risk-adjusted value of collateral shall be determined at the level of the combination of derivatives covered by the contractual netting arrangement.]

[<sup>F284</sup> The loss-given-default on a mortgage loan shall be equal to the following:

$$LGD = \max(Loan - (80 \% \times Mortgage + Guarantee); 0)$$

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where:

- a) *Loan* denotes the value of the mortgage loan determined in accordance with Article 75 of Directive 2009/138/EC;
- b) *Mortgage* denotes the risk-adjusted value of the mortgage;
- c) *Guarantee* denotes the amount that the guarantor would be required to pay to the insurance or reinsurance undertaking if the obligor of the mortgage loan were to default at a time when the value of the property held as mortgage were equal to 80 % of the risk-adjusted value of the mortgage.

For the purposes of point (c), a guarantee shall be recognised only if it is provided by a counterparty mentioned in points (a) to (d) of the first subparagraph of Article 180(2) and it complies with the requirements set out in Articles 209, 210 and points (a) to (e) of Article 215.]

5 The loss-given-default on a legally binding commitment as referred to in Article 189(2)(e) of this Regulation shall be equal to the difference between its nominal value and its value in accordance with Article 75 of Directive 2009/138/EC.

6 The loss-given-default on cash at bank as defined in Article 6 item F of Council Directive 91/674/EEC, of a deposit with a ceding undertaking, of an item listed in Article 189(2)(d) or Article 189(3)(e) of this Regulation, or of a receivable from an intermediary or policyholder debtor, as well as any other exposure not listed elsewhere in this Article shall be equal to its value in accordance with Article 75 of Directive 2009/138/EC.

#### Textual Amendments

- F12** 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 \(Solvency II\) \(Text with EEA relevance\)](#).
- F23** Substituted by [Commission Delegated Regulation \(EU\) 2016/467 of 30 September 2015 amending Commission Delegated Regulation \(EU\) 2015/35 concerning the calculation of regulatory capital requirements for several categories of assets held by insurance and reinsurance undertakings \(Text with EEA relevance\)](#).
- F28** 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 \(Solvency II\) \(Text with EEA relevance\)](#).

#### *[<sup>F12</sup> Article 192a*

#### **Exposure to clearing members**

1 For the purposes of Article 192(3), a derivative falls within this paragraph if the following requirements are met:

- a the derivative is a CCP-related transaction in which the insurance or reinsurance undertaking is the client;
- b the positions and assets of the insurance or reinsurance undertaking related to that transaction are distinguished and segregated, at the level of both the clearing member and the CCP, from the positions and assets of both the clearing member and the other

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- clients of that clearing member and as a result of that distinction and segregation those positions and assets are bankruptcy remote in the event of the default or insolvency of the clearing member or one or more of its other clients;
- c the laws, regulations, rules and contractual arrangements applicable to or binding the insurance or reinsurance undertaking or the CCP facilitate the transfer of the client's positions relating to that transaction and of the corresponding collateral to another clearing member within the applicable margin period of risk in the event of default or insolvency of the original clearing member. In such circumstance, the client's positions and the collateral shall be transferred at market value, unless the client requests to close out the position at market value;
  - d the insurance or reinsurance undertaking has available an independent, written and reasoned legal opinion that concludes that, in the event of legal challenge, the relevant courts and administrative authorities would find that the client would bear no losses on account of the insolvency of the clearing member or of any the clients of that clearing member under any of the following laws:
    - (i) the laws of the jurisdiction of the insurance or reinsurance undertaking, its clearing member or the CCP;
    - (ii) the law governing the transaction;
    - (iii) the law governing the collateral;
    - (iv) the law governing any contract or agreement necessary to meet the requirement set out in point (b);
  - e the CCP is a qualifying central counterparty.

2 For the purposes of Article 192(3a), a derivative falls within this paragraph if the requirements set out in paragraph 1 are met, with the exception that the insurance or reinsurance undertaking is not required to be protected from losses in the event that the clearing member and another client of the clearing member jointly default.]

#### Textual Amendments

**F12** 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 \(Solvency II\) \(Text with EEA relevance\)](#).

### Article 193

#### Loss-given-default for pool exposures of type A

1 For pool exposures of type A which the undertaking considers as separate single name exposures in accordance with Article 190(2), where members are each only liable up to their respective portion of the obligation covered by the pooling arrangement, the loss-given-default shall be calculated in accordance with Article 192.

For pool exposures of type A which the undertaking considers as separate single name exposures in accordance with Article 190(2), where members are each liable up to the full amount of the obligation covered by the pooling arrangement, the loss-given-default calculated in accordance with Article 192 shall be multiplied by the risk-share factor, calculated as follows:

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$$\text{risk-share\_factor} = e^{-0,15(\min(SR, 196\%) - 1)}$$

where:

(a)

$$SR = (1 - P) \times \frac{\sum_i EOF_i}{\sum_i (EOF_i / SR_i)} + \sum_j P_j \times SR_j$$

;

(b)  $i$  denotes all pool members falling within the scope defined in Article 2 of Directive 2009/138/EC and  $j$  denotes all pool members excluded from the scope of Article 2 of that Directive;

(c)

$$P = \sum_j P_j$$

;

(d)  $P_j$  denotes the share of the total risk of the pooling arrangement undertaken by pool member  $j$ ;

(e) for pool members for which a credit assessment by a nominated ECAI is available,  $SR_i$  and  $SR_j$  shall be assigned in accordance with the following table:

Credit quality step	0	1	2	3	4	5	6
$SR_i$	196 %	196 %	175 %	122 %	95 %	75 %	75 %

(f) for pool members which fall within the scope of Directive 2009/138/EC and for which a credit assessment by a nominated ECAI is not available,  $SR_i$  and  $SR_j$  shall be the latest available solvency ratio;

(g) for pool members situated in a third country and for which a credit assessment by a nominated ECAI is not available:

(i)  $SR_i$  and  $SR_j$  shall be equal to 100 % where the pool member is situated in a country whose solvency regime is deemed equivalent pursuant to [F100 Article 379A of this Regulation];

(ii)  $SR_i$  and  $SR_j$  shall be equal to 75 % where the pool member is situated in a country whose solvency regime is not deemed equivalent pursuant to [F100 Article 379A of this Regulation].

2 Where the undertaking is ceding risk to a pooling arrangement by the intermediary of a central undertaking, the central undertaking shall be considered as part of the pooling arrangement and its share of the risk calculated accordingly.

#### Textual Amendments

**F100** Words in Art. 193(1)(g) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(32)** (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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## Article 194

### Loss-given-default for pool exposures of type B

1 For pool exposures of type B which the undertaking considers as separate single name exposures in accordance with Article 190(2), where members are each liable up to the full amount of the obligation covered by the pooling arrangement, the loss-given-default shall be calculated as follows:

$$LGD = \max \left( \left( (1 - RR_C) \times \left( \frac{P_U}{(1 - P_C)} \times BE_C + \Delta RM_C \right) - F \times Collateral \right); 0 \right)$$

where:

- (a)  $P_U$  denotes the undertaking's share of the risk according to the terms of the pooling arrangement;
- (b)  $P_C$  denotes the counterparty member's share of the risk according to the terms of the pooling arrangement;
- (c)  $RR_C$  is equal to:
  - (i) 10 % if 60 % or more of the assets of the counterparty member are subject to collateral arrangements;
  - (ii) 50 % otherwise;
- (d)  $BE_C$  denotes the best estimate of the liability ceded to the counterparty member by the undertaking, net of any amounts reinsured with counterparties external to the pooling arrangement;
- (e)  $\Delta RM_C$  denotes the counterparty member's contribution to the risk-mitigating effect of the pooling arrangement on the underwriting risk of the undertaking;
- (f)  $Collateral$  denotes the risk-adjusted value of collateral held by the counterparty member of the pooling arrangement;
- (g)  $F$  denotes the factor to take into account the economic effect of the collateral held by the counterparty member, calculated in accordance with Article 197.

2 For pool exposures of type B which the undertaking considers as separate single name exposures in accordance with Article 190(2), where members are each only liable up to their respective portion of the obligation covered by the pooling arrangement, the loss-given-default shall be calculated as follows:

$$LGD = \max \left( ((1 - RR_C) \times (P_C \times BE_U + \Delta RM_C) - F \times Collateral); 0 \right)$$

where:

- (a)  $P_C$  denotes the counterparty member's share of the risk according to the terms of the pooling arrangement;
- (b)  $RR_C$  is equal to:
  - (i) 10 % if 60 % or more of the assets of the counterparty member are subject to collateral arrangements;
  - (ii) 50 % otherwise;

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- (c)  $BE_U$  denotes the best estimate of the liability ceded to the pooling arrangement by the undertaking, net of any amounts reinsured with counterparties external to the pooling arrangement;
- (d)  $\Delta RM_C$  denotes the counterparty member's contribution to the risk-mitigating effect of the pooling arrangement on the underwriting risk of the undertaking;
- (e) *Collateral* denotes the risk-adjusted value of collateral held by the counterparty member of the pooling arrangement;
- (f)  $F$  denotes the factor to take into account the economic effect of the collateral held by the counterparty member, calculated in accordance with Article 197.

### Article 195

#### Loss-given-default for pool exposures of type C

For pool exposures of type C which the undertaking considers as separate single name exposures in accordance with Article 190(2), the loss-given-default shall be calculated as follows:

$$LGD = \max(((1 - RR_{CE}) \times (P_U \times BE_{CE} + \Delta RM_{CE}) - F \times Collateral); 0)$$

where:

- (a)  $P_U$  denotes the undertaking's share of the risk according to the terms of the pooling arrangement;
- (b)  $RR_{CE}$  is equal to:
  - (i) 10 % if 60 % or more of the assets of the external counterparty are subject to collateral arrangements;
  - (ii) 50 % otherwise;
- (c)  $BE_{CE}$  denotes the best estimate of the liability ceded to the external counterparty by the pooling arrangement as a whole;
- (d)  $\Delta RM_{CE}$  denotes the external counterparty's contribution to the risk-mitigating effect of the pooling arrangement on the underwriting risk of the undertaking;
- (e) *Collateral* denotes the risk-adjusted value of collateral held by the counterparty member of the pooling arrangement;
- (f)  $F$  denotes the factor to take into account the economic effect of the collateral held by the counterparty member, calculated in accordance with Article 197.

### <sup>F28</sup>Article 196

#### Risk-mitigating effect

The risk-mitigating effect on underwriting or market risks of a reinsurance arrangement, securitisation or derivative shall be the larger of zero and the difference between the following capital requirements:

- (a) the hypothetical capital requirement for underwriting or market risk of the insurance or reinsurance undertaking, calculated in accordance with Sections 1 to 5 of this Chapter,



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that would apply if the reinsurance arrangement, securitisation or derivative did not exist;

- (b) the capital requirement for underwriting or market risk of the insurance or reinsurance undertaking.]

#### Textual Amendments

**F28** 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).

### Article 197

#### Risk-adjusted value of collateral

1 [F28]Where the criteria set out in Article 214 of this Regulation are met, the risk-adjusted value of collateral provided by way of security, as referred to in point (b) of Article 1(26), shall be equal to the difference between the value of the assets held as collateral, valued in accordance with Article 75 of Directive 2009/138/EC, and the adjustment for market risk, as referred to in paragraph 5 of this Article, provided that both of the following requirements are fulfilled:]

- a the insurance or reinsurance undertaking has (or is a beneficiary under a trust where the trustee has) the right to liquidate or retain, in a timely manner, the collateral in the event of a default, insolvency or bankruptcy or other credit event relating to the counterparty (the counterparty requirement);
- b the insurance or reinsurance undertaking has (or is a beneficiary under a trust where the trustee has) the right to liquidate or retain, in a timely manner, the collateral in the event of a default, insolvency or bankruptcy or other credit event relating to the custodian or other third party holding the collateral on behalf of the counterparty (the third party requirement).

2 Where the counterparty requirement is met and the criteria set out in Article 214 of this Regulation are met and the third party requirement is not met, the risk-adjusted value of a collateral provided by way of security, as referred to in Article 1(26)(b) of this Regulation, shall be equal to 90 % of the difference between the value of the assets held as collateral in accordance with Article 75 of Directive 2009/138/EC and the adjustment for market risk, as referred to in paragraph 5 of this Article.

3 Where either the counterparty requirement is not met or the requirements in Article 214 are not met, the risk-adjusted value of collateral provided by way of security, as referred to in Article 1(26)(b), shall be zero.

4 The risk-adjusted value of a collateral of which full ownership is transferred, as referred to in Article 1(26)(a) of this Regulation, shall be equal to the difference between the value of the assets held as collateral, valued in accordance with Article 75 of Directive 2009/138/EC, and the adjustment for market risk, as referred to in paragraph 5 of this Article, provided the requirements in Article 214 of this Regulation are fulfilled.

5 The adjustment for market risk is the difference between the following capital requirements:

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- a the hypothetical capital requirement for market risk of the insurance or reinsurance undertaking that would apply if the assets held as collateral were not included in the calculation;
- b the hypothetical capital requirement for market risk of the insurance or reinsurance undertaking that would apply if the assets held as collateral were included in the calculation.

6 For the purposes of paragraph 5, the currency risk of the assets held as collateral shall be calculated by comparing the currency of the assets held as collateral against the currency of the corresponding exposure.

[<sup>F287</sup> Where, in case of insolvency of the counterparty, the determination of the insurance or reinsurance undertaking's proportional share of the counterparty's insolvency estate in excess of the collateral does not take into account that the undertaking receives the collateral, the factors  $F$ ,  $F'$ ,  $F''$  and  $F'''$  referred to in Article 192(2) to (3c) shall all be 100 %. In all other cases these factors shall be 50 %, 18 %, 16 % and 90 % respectively.]

#### Textual Amendments

- F28** 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 \(Solvency II\) \(Text with EEA relevance\).](#)

### Article 198

#### Risk-adjusted value of mortgage

1 The risk-adjusted value of mortgage shall be equal to the difference between the value of the residential property held as mortgage, valued in accordance with paragraph 2, and the adjustment for market risk, as referred to in paragraph 3.

2 The value of the residential property held as mortgage shall be the market value reduced as appropriate to reflect the results of the monitoring required under Article 191(9) and (10) of this Regulation and to take account of any prior claims on the property. The external, independent valuation of the property shall be the same or less than the market value calculated in accordance with Article 75 of Directive 2009/138/EC.

3 The adjustment for market risk referred to in paragraph 1 shall be the difference between the following capital requirements:

- a the hypothetical capital requirement for market risk of the insurance or reinsurance undertaking that would apply if the residential property held as mortgage were not included in the calculation;
- b the hypothetical capital requirement for market risk of the insurance or reinsurance undertaking that would apply if the residential property held as mortgage were included in the calculation.

4 For the purposes of paragraph 2, the currency risk of the residential property held as mortgage shall be calculated by comparing the currency of the residential property against the currency of the corresponding loan.

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## Subsection 2

### Type 1 exposures

#### Article 199

#### Probability of default

1 The probability of default on a single name exposure shall be equal to the average of the probabilities of default on each of the exposures to counterparties that belong to the single name exposure, weighted by the loss-given-default in respect of those exposures.

2 Single name exposure  $i$  for which a credit assessment by a nominated ECAI is available shall be assigned a probability of default  $PD_i$  in accordance with the following table.

Credit quality step	0	1	2	3	4	5	6
Probability of default $PD_i$	0,002 %	0,01 %	0,05 %	0,24 %	1,20 %	4,2 %	4,2 %

3 Single name exposures  $i$  to an insurance or reinsurance undertaking for which a credit assessment by a nominated ECAI is not available and where this undertaking meets its Minimum Capital Requirement, shall be assigned a probability of default  $PD_i$  depending on the undertaking's solvency ratio, in accordance with the following table:

Solvency ratio	196 %	175 %	150 %	125 %	122 %	100 %	95 %	75 %
Probability of default	0,01 %	0,05 %	0,1 %	0,2 %	0,24 %	0,5 %	1,2 %	4,2 %

Where the solvency ratio falls in between the solvency ratios specified in the table above, the value of the probability of default shall be linearly interpolated from the closest values of probabilities of default corresponding to the closest solvency ratios specified in the table above. Where the solvency ratio is lower than 75 %, the probability of default shall be 4,2 %. Where the solvency ratios is higher than 196 %, the probability of default shall be 0,01 %.

For the purposes of this paragraph, 'solvency ratio' denotes the ratio of the eligible amount of own funds to cover the Solvency Capital Requirement and the Solvency Capital Requirement, using the latest available values.

4 Exposures to an insurance or reinsurance undertaking that do not meet its Minimum Capital Requirement shall be assigned a probability of default equal to 4,2 %.

5 Paragraphs 3 and 4 of this Article shall only apply as of the first date of public disclosure, by the undertaking corresponding to the exposure, of the report on its solvency and financial condition <sup>F101</sup>.... Before that date, if a credit assessment by a nominated ECAI is available for the exposures, paragraph 2 shall apply. Otherwise, the exposures shall be assigned

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the same risk factor as the ones that would result from the application of paragraph 3 to exposures to an insurance or reinsurance undertaking whose solvency ratio is 100 %.

6 Exposures to a third country insurance or reinsurance undertaking for which a credit assessment by a nominated ECAI is not available, situated in a country whose solvency regime is deemed equivalent<sup>F102</sup>... in accordance with [F103 Article 379A of this Regulation], and which complies with the solvency requirements of that third-country, shall be assigned a probability of default equal to 0,5 %.

7 Exposures to credit institutions and financial institutions within the meaning of points (1) and (26) of Article 4(1) of Regulation (EU) No 575/2013 which comply with the solvency requirements set out in Directive 2013/36/EU and Regulation (EU) No 575/2013, for which a credit assessment by a nominated ECAI is not available, shall be assigned a probability of default equal to 0,5 %.

8 Exposures to counterparties referred to in points (a) to (d) of Article 180(2) shall be assigned a probability of default equal to 0 %.

9 The probability of default on single name exposures other than those identified in paragraphs 2 to 8 shall be equal to 4,2 %.

10 Where a letter of credit, a guarantee or an equivalent arrangement is provided to fully secure an exposure and this arrangement complies with Articles 209 to 215, the provider of that letter of credit, guarantee or equivalent arrangement may be considered as the counterparty on the secured exposure for the purposes of assessing the probability of default of a single name exposure.

11 For the purposes of paragraph 10, exposures fully, unconditionally and irrevocably guaranteed by counterparties listed in [F104 Commission Implementing Regulation (EU) 2015/2011 laying down implementing technical standards with regard to the lists of regional governments and local authorities, exposures to whom are to be treated as exposures to the central government in accordance with Directive 2009/138/EC of the European Parliament and of the Council] shall be treated as exposures to the central government.

[F12][X3]12 Notwithstanding paragraphs 2 to 11, exposures referred to Article 192(3) shall be assigned a probability of default equal to 0,002 %.

13 Notwithstanding paragraphs 2 to 12, exposures referred to Article 192(3a) shall be assigned a probability of default equal to 0,01 %.]

#### Editorial Information

**X3** Substituted by [Corrigendum to 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 \(Solvency II\) \(Official Journal of the European Union L 161 of 18 June 2019\)](#).

#### Textual Amendments

**F12** 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 \(Solvency II\) \(Text with EEA relevance\)](#).

**F101** Words in Art. 199(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(33)(a)** (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:** Commission Delegated Regulation (EU) 2015/35 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

- F102** Words in Art. 199(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), **11(33)(b)(i)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F103** Words in Art. 199(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(33)(b)(ii)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F104** Words in Art. 199(11) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(33)(c)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)

## Article 200

### Type 1 exposures

1 Where the standard deviation of the loss distribution of type 1 exposures is lower than or equal to 7 % of the total losses-given-default on all type 1 exposures, the capital requirement for counterparty default risk on type 1 exposures shall be equal to the following:

$$SCR_{def,i} = 3 \times \sigma$$

where  $\sigma$  denotes the standard deviation of the loss distribution of type 1 exposures, as defined in paragraph 4.

2 Where the standard deviation of the loss distribution of type 1 exposures is higher than 7 % of the total losses-given-default on all type 1 exposures and lower or equal to 20 % of the total losses-given-default on all type 1 exposures, the capital requirement for counterparty default risk on type 1 exposures shall be equal to the following:

$$SCR_{def,i} = 5 \times \sigma$$

where  $\sigma$  denotes the standard deviation of the loss distribution of type 1 exposures.

3 Where the standard deviation of the loss distribution of type 1 exposures is higher than 20 % of the total losses-given-default on all type 1 exposures, the capital requirement for counterparty default risk on type 1 exposures shall be equal to the total losses-given-default on all type 1 exposures.

4 The standard deviation of the loss distribution of type 1 exposures shall be equal to the following:

$$\sigma = \sqrt{V}$$

where  $V$  denotes the variance of the loss distribution of type 1 exposures.

## Article 201

### Variance of the loss distribution of type 1 exposures

1 The variance of the loss distribution of type 1 exposures as referred to in paragraph 4 of Article 200 shall be equal to the sum of  $V_{inter}$  and  $V_{intra}$ .

2  $V_{inter}$  shall be equal to the following:

$$V_{inter} = \sum_{(j,k)} \frac{PD_k \times (1 - PD_k) \times PD_j \times (1 - PD_j)}{1,25 \times (PD_k + PD_j) - PD_k \times PD_j} \times TLGD_j \times TLGD_k$$

where:

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- (a) <sup>F28</sup>the sum covers all possible combinations  $(j,k)$  of probabilities of default on single name exposures in accordance with Article 199;
- (b)  $TLGD_j$  and  $TLGD_k$  denote the sum of losses -given- default on type 1 exposures from counterparties bearing a probability of default  $PD_j$  and  $PD_k$  respectively.

3  $V_{intra}$  shall be equal to the following:

$$V_{intra} = \sum_j \frac{1,5 \times PD_j \times (1 - PD_j)}{2,5 - PD_j} \times \sum_{PD_j} LGD_i^2$$

where:

- (a) the first sum covers all different probabilities of default on single name exposures in accordance with Article 199;
- (b) the second sum covers all single name exposures that have a probability of default equal to  $PD_j$ ;
- (c)  $LGD_i$  denotes the loss-given-default on the single name exposure  $i$ .

#### Textual Amendments

**F28** 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).

### Subsection 3

### Type 2 exposures

#### Article 202

### Type 2 exposures

The capital requirement for counterparty default risk on type 2 exposures shall be equal to the loss in the basic own funds that would result from an instantaneous decrease in value of type 2 exposures by the following amount:

$$90\% \times LGD_{receivables > 3 \text{ months}} + \sum_i 15\% \times LGD_i$$

where:

- (a)  $LGD_{receivables > 3 \text{ months}}$  denote the total losses-given-default on all receivables from intermediaries which have been due for more than three months
- (b) the sum is taken on all type 2 exposures other than receivables from intermediaries which have been due for more than three months;
- (c)  $LGD_i$  denotes the loss-given-default on the type 2 exposure  $i$ .

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## SECTION 7

### Intangible asset module

#### Article 203

The capital requirement for intangible asset risk shall be equal to the following:

$$SCR_{\text{intangible}} = 0,8 \times V_{\text{intangible}}$$

where  $V_{\text{intangibles}}$  denotes the amount of intangible assets as recognised and valued in accordance with point 2 of Article 12.

## SECTION 8

### Operational risk

#### Article 204

1 The capital requirement for the operational risk module shall be equal to the following:

$$SCR_{\text{Operational}} = \min(0,3 \times BSCR; Op) + 0,25 \times Exp_{ul}$$

where:

- (a)  $BSCR$  denotes the Basic Solvency Capital Requirement;
- (b)  $Op$  denotes the basic capital requirement for operational risk charge;
- (c)  $Exp_{ul}$  denotes the amount of expenses incurred during the previous 12 months in respect of life insurance contracts where the investment risk is borne by policy holders.

2 The basic capital requirement for operational risk shall be calculated as follows:

$$Op = \max(Op_{\text{premiums}}; Op_{\text{provisions}})$$

where:

- (a)  $Op_{\text{premiums}}$  denotes the capital requirement for operational risks based on earned premiums;
- (b)  $Op_{\text{provisions}}$  denotes the capital requirement for operational risks based on technical provisions.

3 The capital requirement for operational risks based on earned premiums shall be calculated as follows:

$Op_{\text{premiums}} =$	$0,04 \cdot (Earn_{\text{life}} - Earn_{\text{life-ul}}) + 0,03 \cdot Earn_{\text{non-life}} + \max(0; 0,04 \cdot (Earn_{\text{life}} - 1,2 \cdot pEarn_{\text{life}} - (Earn_{\text{life-ul}} - 1,2 \cdot pEarn_{\text{life-ul}}))) + \max(0; 0,03 \cdot (Earn_{\text{non-life}} - 1,2 \cdot pEarn_{\text{non-life}}))$
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where:

- (a)  $Earn_{\text{life}}$  denotes the premiums earned during the last 12 months for life insurance and reinsurance obligations, without deducting premiums for reinsurance contracts;

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- (b)  $Earn_{life-ul}$  denotes the premiums earned during the last 12 months for life insurance and reinsurance obligations where the investment risk is borne by the policy holders without deducting premiums for reinsurance contracts;
- (c)  $Earn_{non-life}$  denotes the premiums earned during the last 12 months for non-life insurance and reinsurance obligations, without deducting premiums for reinsurance contracts;
- (d)  $pEarn_{life}$  denotes the premiums earned during the 12 months prior to the last 12 months for life insurance and reinsurance obligations, without deducting premiums for reinsurance contracts;
- (e)  $pEarn_{life-ul}$  denotes the premiums earned during the 12 months prior to the last 12 months for life insurance and reinsurance obligations where the investment risk is borne by the policy holders without deducting premiums for reinsurance contracts;
- (f)  $pEarn_{non-life}$  denotes the premium earned during the 12 months prior to the last 12 months for non-life insurance and reinsurance obligations, without deducting premiums for reinsurance contracts.

For the purposes of this paragraph, earned premiums shall be gross, without deduction of premiums for reinsurance contracts.

4 The capital requirement for operational risk based on technical provisions shall be calculated as follows:

$$Op_{provisions} = 0,0045 \times \max(0; TP_{life} - TP_{life-ul}) + 0,03 \times \max(0; TP_{non-life})$$

where:

- (a)  $TP_{life}$  denotes the technical provisions for life insurance and reinsurance obligations;
- (b)  $TP_{life-ul}$  denotes the technical provisions for life insurance obligations where the investment risk is borne by the policy holders;
- (c)  $TP_{non-life}$  denotes the technical provisions for non-life insurance and reinsurance obligations.

For the purposes of this paragraph, technical provisions shall not include the risk margin, and shall be calculated without deduction of recoverables from reinsurance contracts and special purpose vehicles.

## SECTION 9

### *Adjustment for the loss-absorbing capacity of technical provisions and deferred taxes*

#### Article 205

#### **General provisions**

The adjustment referred to in Article 103(c) of Directive 2009/138/EC for the loss-absorbing capacity of technical provisions and deferred taxes shall be the sum of the following items:

- (a) the adjustment for the loss-absorbing capacity of technical provisions;
- (b) the adjustment for the loss-absorbing capacity of deferred taxes.



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## Article 206

### Adjustment for the loss-absorbing capacity of technical provisions

1 The adjustment for the loss-absorbing capacity of technical provisions shall be equal to the following:

$$Adj_{TP} = -\max(\min(BSCR - nBSCR; FDB); 0)$$

where:

- (a) *BSCR* denotes the Basic Solvency Capital Requirement referred to in Article 103(a) of Directive 2009/138/EC;
- (b) *nBSCR* denotes the net Basic Solvency Capital Requirement as referred to in paragraph 2 of this Article;
- (c) *FDB* denotes the technical provisions without risk margin in relation to future discretionary benefits

2 The net Basic Solvency Capital Requirement shall be calculated in accordance with Section 1, Subsection 1 to 7 of Chapter V with all the following modifications:

- a where the calculation of a module or sub-module of the Basic Solvency Capital Requirement is based on the impact of a scenario on the basic own funds of insurance and reinsurance undertakings, the scenario can change the value of the future discretionary benefits included in technical provisions;
- b the scenario based calculations of the life underwriting risk module, the SLT health underwriting risk sub-module, the health catastrophe risk sub-module, the market risk module and the counterparty default risk module as well as the scenario-based calculation set out in points (c) and (d) shall take into account the impact of the scenario on future discretionary benefits included in technical provisions; this shall be done on the basis of assumptions on future management actions that comply with Article 23;
- c instead of the capital requirement for counterparty default risk on type 1 exposures referred to in Article 189(1), the calculation shall be based on the capital requirement that is equal to the loss in basic own funds that would result from an instantaneous loss, due to default events relating to type 1 exposures, of the amount of the capital requirement for counterparty default risk on type 1 exposures referred to in Article 189(1);
- d where insurance and reinsurance undertakings use a simplified calculation for a specific capital requirement as set out in Articles 91, 92, 93, 94, 95(1), 95(2), 96, 101, 103(1)(a), 103(1)(b) or 104 the undertakings shall base the calculation on the capital requirement that is equal to the loss in basic own funds that would result from an instantaneous loss of the amount of the capital requirement referred to in the relevant Article and shall assume that the instantaneous loss is due to the risk that the capital requirement referred to in that Article captures.

3 For the purposes of point (b) of paragraph 2, insurance and reinsurance undertakings shall take into account any legal, regulatory or contractual restrictions in the distribution of future discretionary benefits.

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## Article 207

### Adjustment for the loss-absorbing capacity of deferred taxes

1 The adjustment for the loss-absorbing capacity of deferred taxes shall be equal to the change in the value of deferred taxes of insurance and reinsurance undertakings that would result from an instantaneous loss of an amount that is equal to the sum of the following:

- a the Basic Solvency Capital Requirement referred to in Article 103(a) of Directive 2009/138/EC;
- b the adjustment for the loss-absorbing capacity of technical provisions referred to in Article 206 of this Regulation;
- c the capital requirement for operational risk referred to in Article 103(b) of Directive 2009/138/EC.

[<sup>F28</sup>2 For the purposes of paragraph 1, deferred taxes shall be valued in accordance with Article 15(1) and (2), without prejudice to paragraphs 2a, 2b and 2c of this Article.]

[<sup>F12</sup>2a Where the loss referred to in paragraph 1 would result in an increase in the amount of deferred tax assets, insurance and reinsurance undertakings shall not utilise that increase for the purposes of the adjustment referred to in that paragraph unless they are able to demonstrate to the satisfaction of the supervisory authority that it is probable that future taxable profit will be available against which that increase can be utilised, taking into account all of the following:

- a any legal or regulatory requirements on the time limits relating to the carry-forward of unused tax losses or the carry-forward of unused tax credits;
- b the magnitude of the loss referred to in paragraph 1 and its impact on the undertaking's current and future financial situation and on insurance product pricing, market profitability, insurance demand, reinsurance coverage and other macro-economic variables;
- c the increased uncertainty in future profit following the loss referred to in paragraph 1, as well as the increasing degree of uncertainty relating to future taxable profit following that loss, as the projection horizon becomes longer.

2b For the purposes of demonstrating that it is probable that future taxable profit will be available, insurance and reinsurance undertakings shall not apply assumptions that are more favourable than those used for the valuation and utilisation of deferred tax assets in accordance with Article 15.

2c For the purposes of demonstrating that it is probable that future taxable profit will be available, the assumptions applied by insurance and reinsurance undertakings shall meet the following conditions:

- a new business sales in excess of those projected for the purposes of the insurance or reinsurance undertaking's business planning shall not be assumed;
- b new business sales beyond the horizon of the insurance or reinsurance undertaking's business planning and beyond a maximum of five years shall not be assumed;
- c the rates of return on the insurance or reinsurance undertaking's investments following the loss referred to in paragraph 1 shall be assumed to be equal to the implicit returns of the forward rates derived from the relevant risk-free interest rate term structure obtained after that loss, unless the insurance or reinsurance undertaking is able to provide credible evidence of likely returns in excess of those implicit returns;
- d where, without prejudice to point (a), the insurance or reinsurance undertaking sets a projection horizon for profits from new business that is longer than the horizon of

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its business planning, a finite projection horizon shall be set and appropriate haircuts shall be applied to the profits from new business projected beyond the horizon of the undertaking's business planning. Such haircuts shall be assumed to increase the further into the future the profits are projected.

2d Insurance and reinsurance undertakings may assume the implementation of future management actions following the loss referred to in paragraph 1, provided that the provisions laid down in Article 23 are complied with.]

3 For the purposes of paragraph 1, a decrease in deferred tax liabilities or an increase in deferred tax assets shall result in a negative adjustment for the loss-absorbing capacity of deferred taxes.

4 Where the calculation of the adjustment in accordance with paragraph 1 results in a positive change of deferred taxes, the adjustment shall be nil.

5 Where it is necessary to allocate the loss referred to in paragraph 1 to its causes in order to calculate the adjustment for the loss-absorbing capacity of deferred taxes, insurance and reinsurance undertakings shall allocate the loss to the risks that are captured by the Basic Solvency Capital Requirement and the capital requirement for operational risk. The allocation shall be consistent with the contribution of the modules and sub-modules of the standard formula to the Basic Solvency Capital Requirement. Where an insurance or reinsurance undertaking uses a partial internal model where the adjustment to the loss-absorbing capacity of technical provisions and deferred taxes are not within the scope of the model, the allocation shall be consistent with the contribution of the modules and sub-modules of the standard formula which are outside of the scope of the model to the Basic Solvency Capital Requirement.

#### Textual Amendments

- F12** 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 \(Solvency II\) \(Text with EEA relevance\)](#).
- F28** 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 \(Solvency II\) \(Text with EEA relevance\)](#).

## SECTION 10

### *Risk mitigation techniques*

#### Article 208

### Methods and Assumptions

1 Where insurance or reinsurance undertakings transfer underwriting risks using reinsurance contracts or special purpose vehicles that meet the requirements set out in Articles 209, 211 and 213, and where these arrangement provide for protection in several of the scenario-based calculations set out in Title I, Chapter V, Sections 2, 3 and 4, the risk-mitigating effects of these contractual arrangements shall be allocated to the scenario-based calculations in a manner that, without double-counting, captures the economic effect of the protections provided.

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In particular, the economic effect of the protections provided shall be captured in determining the loss in basic own funds in the scenario-based calculations.

[<sup>F28</sup>2 Where insurance or reinsurance undertakings transfer underwriting risks using finite reinsurance contracts, as defined in Article 210(3) of Directive 2009/138/EC, that meet the requirements set out in Articles 209, 211 and 213 of this Regulation, those contracts shall be recognised in the scenario based calculations set out in Title I, Chapter V, Sections 2, 3 and 4 of this Regulation only to the extent underwriting risk is transferred to the counterparty of the contract. Notwithstanding the previous sentence, finite reinsurance, or similar arrangements where the effective risk transfer is comparable to that of finite reinsurance, shall not be taken into account for the purposes of determining the volume measures for premium and reserve risk in accordance with in Articles 116 and 147 of this Regulation, or for the purposes of calculating undertaking-specific parameters in accordance with Section 13 of this Chapter.]

#### Textual Amendments

**F28** 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 \(Solvency II\) \(Text with EEA relevance\).](#)

### Article 209

#### Qualitative Criteria

1 When calculating the Basic Solvency Capital Requirement, insurance or reinsurance undertakings shall only take into account risk-mitigation techniques as referred to in Article 101(5) of Directive 2009/138/EC where all of the following qualitative criteria are met:

- a the contractual arrangements and transfer of risk are legally effective and enforceable in all relevant jurisdictions;
- b the insurance or reinsurance undertaking has taken all appropriate steps to ensure the effectiveness of the arrangement and to address the risks related to that arrangement;
- c the insurance or reinsurance undertaking is able to monitor the effectiveness of the arrangement and the related risks on an ongoing basis;
- d the insurance or reinsurance undertaking has, in the event of a default, insolvency or bankruptcy of a counterparty or other credit event set out in the transaction documentation for the arrangement, a direct claim on that counterparty;
- e there is no double counting of risk-mitigation effects in own funds and in the calculation of the Solvency Capital Requirement or within the calculation of the Solvency Capital Requirement.

2 Only risk-mitigation techniques that are in force for at least the next 12 months and which meet the qualitative criteria set out in this Section shall be fully taken into account in the Basic Solvency Capital Requirement. In all other cases, the risk-mitigation effect of risk-mitigation techniques that are in force for a period shorter than 12 months and which meet the qualitative criteria set out in this Section shall be taken into account in the Basic Solvency Capital Requirement in proportion to the length of time involved for the shorter of the full term of the risk exposure or the period that the risk-mitigation technique is in force.

[<sup>F28</sup>3 Where contractual arrangements governing the risk-mitigation techniques will be in force for a period shorter than the next 12 months and the insurance or reinsurance undertaking intends to replace that risk-mitigation technique at the time of its expiry with a similar

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arrangement or where that risk-mitigation technique is subject to an adjustment to reflect changes in the exposure that it covers, the risk-mitigation technique shall be fully taken into account in the Basic Solvency Capital Requirement provided all of the following qualitative criteria are met:

- a the insurance or reinsurance undertaking has a written policy on the replacement or adjustment of that risk-mitigation technique, covering situations including the situation where the insurance or reinsurance undertaking uses several contractual arrangements in combination to transfer risk as referred to in Article 210(5);
- b the replacement or adjustment of the risk-mitigation technique takes place more often than once per week only in cases where, without the replacement or adjustment, an event would have a material adverse impact on the solvency position of the insurance or reinsurance undertaking;
- c the replacement or adjustment of the risk-mitigation technique is not conditional on any future event which is outside of the control of the insurance or reinsurance undertaking and where the replacement or adjustment of the risk-mitigation technique is conditional on any future event that is within the control of the insurance or reinsurance undertaking, the conditions for such replacement or adjustment are clearly documented in the written policy referred to in point (a);
- d the replacement or adjustment of the risk-mitigation technique is realistically based on replacements and adjustments undertaken previously by the insurance or reinsurance undertaking and consistent with the undertaking's current business practice and business strategy;
- e there is no material risk that the risk-mitigation technique cannot be replaced or adjusted due to an absence of liquidity in the market;
- f the risk that the cost of replacing or adjusting the risk-mitigation technique increases during the following 12 months is reflected in the Solvency Capital Requirement;
- g the replacement or adjustment of the risk-mitigation technique would not be contrary to requirements that apply to future management actions set out in Article 23(5);
- h the initial contractual maturity is not shorter than one month in cases where the insurance or reinsurance undertaking transfers risks through the purchase or issuance of financial instruments;
- i the initial contractual maturity is not shorter than three months where the insurance or reinsurance undertaking transfers underwriting risks using reinsurance contracts or special purpose vehicles.]

#### Textual Amendments

**F28** 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 \(Solvency II\) \(Text with EEA relevance\).](#)

### Article 210

#### Effective Transfer of Risk

1 The contractual arrangements governing the risk-mitigation technique shall ensure that the extent of the cover provided by the risk-mitigation technique and the transfer of risk is clearly defined and incontrovertible.

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2 The contractual arrangement shall not result in material basis risk or in the creation of other risks, unless this is reflected in the calculation of the Solvency Capital requirement.

3 Basis risk is material if it leads to a misstatement of the risk-mitigating effect on the insurance or reinsurance undertaking's Basic Solvency Capital Requirement that could influence the decision-making or judgement of the intended user of that information, including the supervisory authorities.

4 The determination that the contractual arrangements and transfer of risk is legally effective and enforceable in all relevant jurisdictions in accordance with Article 209(1)(a) shall be based on the following:

- a whether the contractual arrangement is subject to any condition which could undermine the effective transfer of risk, the fulfilment of which is outside the direct control of the insurance or reinsurance undertaking;
- b whether there are any connected transactions which could undermine the effective transfer of risk.

[<sup>F125</sup> Where an insurance or reinsurance undertaking combines several contractual arrangements to transfer risk, each of the contractual arrangements shall meet the requirements set out in paragraphs 1 and 4 and the contractual arrangements in combination shall meet the requirements set out in paragraphs 2 and 3.]

#### Textual Amendments

**F12** 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 \(Solvency II\) \(Text with EEA relevance\).](#)

### 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 <sup>F105</sup>... in accordance with [<sup>F106</sup>Article 378A of this Regulation] and which complies with the solvency requirements of that third-country;

<sup>F107</sup>[<sup>F28</sup>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 [<sup>F108</sup>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.]

[<sup>F28</sup>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

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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 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.]

[<sup>F123a</sup> 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 [<sup>F109</sup>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 <sup>F110</sup>....

<sup>F1115</sup> .....

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 [<sup>F112</sup>Articles 318 to 327 of this Regulation] are met by the special purpose vehicle.

#### Textual Amendments

- F12** 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).
- F28** 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).
- F105** 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)
- F106** 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)



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- F107** 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
- F108** 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**)
- F109** 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)
- F110** 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)
- F111** 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)
- F112** 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)

## Article 212

### Financial Risk-Mitigation techniques

[<sup>F28</sup>1] Where insurance or reinsurance undertakings transfer risk, in order for the risk-mitigation technique to be taken into account in the Basic Solvency Capital Requirement, in other cases than in the cases referred to in Article 211(1), including transfers through the purchase or issuance of financial instruments, the qualitative criteria provided in paragraphs 2 to 5 shall be met, in addition to the qualitative criteria set out in Articles 209 and 210.]

2 The risk-mitigation technique shall be consistent with the insurance or reinsurance undertaking's written policy on risk management, as referred to in Article 44(2) of Directive 2009/138/EC.

3 The insurance or reinsurance undertaking shall be able to value the assets, liabilities that are subject to the risk mitigation technique and, where the risk-mitigation technique includes the use of financial instruments, the financial instruments, reliably in accordance with Article 75 of Directive 2009/138/EC.

4 Where the risk-mitigation technique includes the use of financial instruments, the financial instruments shall have a credit quality which has been assigned to credit quality step 3 or better in accordance with Section 2, Chapter I of this Title.

5 Where the risk-mitigation technique is not a financial instrument, the counterparties to the risk-mitigation technique shall have a credit quality which has been assigned to credit quality step 3 or better in accordance with Section 2, Chapter I of this Title.

#### Textual Amendments

- F28** 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).

## Article 213

### Status of the counterparties

[<sup>F28</sup>1 In the event that the qualitative criteria in Article 211(1), or Article 212(4) or (5) are not met, insurance and reinsurance undertakings shall only take into account the risk-mitigation techniques when calculating the Basic Solvency Capital Requirement where one of the following criteria is met:

- a the risk-mitigation technique meets the qualitative criteria set out in Articles 209, 210 and Article 212(2) and (3) and collateral arrangements exist that meet the criteria provided in Article 214;
- b the risk-mitigation technique is accompanied by another risk-mitigation technique that, when viewed in combination with the first technique, meets the qualitative criteria set out in Articles 209 and 210 and Article 212(2) and (3), with the counterparties to that other technique meeting the criteria provided in Articles 211(1) and Article 212(4) and (5).]

2 For the purposes of point (a) of paragraph 1 of this Article, where the value, in accordance with Article 75 of Directive 2009/138/EC of the collateral is less than the total risk exposure, the collateral arrangement shall only be taken into account to the extent that the collateral covers the risk exposure.

#### Textual Amendments

**F28** 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 \(Solvency II\) \(Text with EEA relevance\).](#)

## Article 214

### Collateral Arrangements

1 In the calculation of the Basic Solvency Capital Requirement, collateral arrangements shall only be recognised where, in addition to the qualitative criteria in Articles 209 and 210, the following criteria are met:

- a the insurance or reinsurance undertaking transferring the risk shall have the right to liquidate or retain, in a timely manner, the collateral in the event of a default, insolvency or bankruptcy or other credit event of the counterparty;
- b there is sufficient certainty as to the protection achieved by the collateral because of either of the following:
  - (i) it is of sufficient credit quality, is of sufficient liquidity and is sufficiently stable in value;
  - (ii) it is guaranteed by a counterparty, other than a counterparty referred to in Article 187(5) and 184(2) who has been assigned a risk factor for concentration risk of 0 %;

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- c there is no material positive correlation between the credit quality of the counterparty and the value of the collateral;
- d the collateral is not securities issued by the counterparty or a related undertaking of that counterparty.

2 Where a collateral arrangement meets the definition in Article 1(26)(b) and involves collateral being held by a custodian or other third party, the insurance or reinsurance undertaking shall ensure that all of the following criteria are met:

- a the relevant custodian or other third party segregates the assets held as collateral from its own assets;
- b the segregated assets are held by a deposit-taking institution that has a credit quality which has been assigned to credit quality step 3 or better in accordance with Section 2, Chapter I of this Title;
- c the segregated assets are individually identifiable and can only be changed or substituted with the consent of the insurance or reinsurance undertaking or a person acting as a trustee in relation to the insurance or reinsurance undertaking's interest in such assets;
- d the insurance or reinsurance undertaking has (or is a beneficiary under a trust where the trustee has) the right to liquidate or retain, in a timely manner, the segregated assets in the event of a default, insolvency or bankruptcy or other credit event relating to the custodian or other third party holding the collateral on behalf of the counterparty;
- e the segregated assets shall not be used to pay, or to provide collateral in favour of, any person other than the insurance or reinsurance undertaking or as directed by the insurance or reinsurance undertaking.

### Article 215

#### Guarantees

In the calculation of the Basic Solvency Capital Requirement, guarantees shall only be recognised where explicitly referred to in this Chapter, and where in addition to the qualitative criteria in Articles 209 and 210, all of the following criteria are met:

- (a) the credit protection provided by the guarantee is direct;
- (b) the extent of the credit protection is clearly defined and incontrovertible;
- (c) the guarantee does not contain any clause, the fulfilment of which is outside the direct control of the lender, that:
  - (i) would allow the protection provider to cancel the protection unilaterally;
  - (ii) would increase the effective cost of protection as a result of a deterioration in the credit quality of the protected exposure;
  - (iii) could prevent the protection provider from being obliged to pay out in a timely manner in the event that the original obligor fails to make any payments due;
  - (iv) could allow the maturity of the credit protection to be reduced by the protection provider;
- (d) on the default, insolvency or bankruptcy or other credit event of the counterparty, the insurance or reinsurance undertaking has the right to pursue, in a timely manner, the guarantor for any monies due under the claim in respect of which the protection is

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provided and the payment by the guarantor shall not be subject to the insurance or reinsurance undertaking first having to pursue the obligor;

- (e) the guarantee is an explicitly documented obligation assumed by the guarantor;
- (f) the guarantee fully covers all types of regular payments the obligor is expected to make in respect of the claim.

## SECTION 11

### *Ring fenced funds*

#### *Article 216*

#### **Calculation of the Solvency Capital Requirement in the case of ring-fenced funds and matching adjustment portfolios**

1 In the case of ring-fenced funds determined in accordance with Article 81(1) of this Regulation or in the case insurance or reinsurance undertakings have received approval to apply a matching adjustment to the risk-free interest term structure in accordance with Article 77b of Directive 2009/138/EC, insurance and reinsurance undertakings shall make an adjustment to the calculation of the Solvency Capital Requirement following the method that is set out in Article 217 of this Regulation.

2 However, where an insurance or reinsurance undertaking has received supervisory approval to apply [<sup>F113</sup>a duration-based equity risk sub-module] to a ring-fenced funds, it shall not adjust the calculation in accordance with Article 217 of this Regulation, but base the calculation of the assumption of full diversification between the assets and liabilities of the ring-fenced funds and the rest of the undertaking.

#### **Textual Amendments**

**F113** Words in [Art. 216\(2\)](#) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(35)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)

#### *Article 217*

#### **Solvency Capital Requirement calculation method for ring-fenced funds and matching adjustment portfolios**

1 Insurance and reinsurance undertakings shall calculate a notional Solvency Capital Requirement for each ring-fenced fund and each matching adjustment portfolio, as well as for the remaining part of the undertaking, in the same manner as if those ring-fenced funds and matching adjustment portfolio and the remaining part of the undertaking were separate undertakings.

2 Insurance and reinsurance undertakings shall calculate their Solvency Capital Requirement as the sum of the notional Solvency Capital Requirements for each of the ring-fenced funds and each matching adjustment portfolio and for the remaining part of the undertaking.

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3 Where the calculation of the capital requirement for a risk module or sub-module of the Basic Solvency Capital Requirement is based on the impact of a scenario on the basic own funds of the insurance or reinsurance undertaking, the impact of the scenario on the basic own funds at the level of the ring-fenced fund and matching adjustment portfolio and the remaining part of the undertaking shall be calculated.

4 The basic own funds at the level of the ring-fenced fund or matching adjustment portfolio shall be those restricted own-fund items that meet the definition of basic own funds set out in Article 88 of Directive 2009/138/EC.

5 Where profit participation arrangements exist in the ring-fenced fund, insurance and reinsurance undertakings shall apply the following approach when adjusting the Solvency Capital Requirement:

- a where the calculation referred to in paragraph 3 would result in an increase in the basic own funds at the level of the ring-fenced fund, the estimated change in those basic own funds shall be adjusted to reflect the existence of profit participation arrangements in the ring-fenced fund; in this case, the adjustment to the change in the basic own funds of the ring-fenced fund shall be the amount by which technical provisions would increase due to the expected future distribution to policy holders or beneficiaries of that ring-fenced fund;
- b where the calculation referred to in paragraph 3 would result in a decrease in the basic own funds at the level of the ring-fenced fund, the estimated change in those basic own funds for the calculation of the net Basic Solvency Capital Requirement, as referred to in Article 206(2), shall be adjusted to reflect the reduction in future discretionary benefits payable to policy holders or beneficiaries of that ring-fenced fund; the adjustment shall not exceed the amount of future discretionary benefits within the ring-fenced fund.

6 Notwithstanding paragraph 1, the notional Solvency Capital Requirement for each ring-fenced fund and each matching adjustment portfolio shall be calculated using the scenario-based calculations under which basic own funds for the undertaking as a whole are most negatively affected.

7 For the purposes of determining the scenario under which basic own funds are most negatively affected for the undertaking as a whole, the undertaking shall first calculate the sum of the results of the impacts of the scenarios on the basic own funds at the level of each ring-fenced fund and each matching adjustment portfolio, in accordance with paragraphs 3 and 5. The sums at the level of each ring-fenced fund and each matching adjustment portfolio shall be added to one another and to the results of the impact of the scenarios on the basic own funds in the remaining part of the insurance or reinsurance undertaking.

8 The notional Solvency Capital Requirement for each ring-fenced fund and each matching adjustment portfolio shall be determined by aggregating the capital requirements for each sub-module and risk module of the Basic Solvency Capital Requirement.

9 Insurance and reinsurance undertakings shall assume that there is no diversification of risks between each of the ring-fenced funds and each matching adjustment portfolio and the remaining part of the insurance or reinsurance undertaking.

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## SECTION 12

### *Undertaking-specific parameters*

#### *Article 218*

#### **Subset of standard parameters that may be replaced by undertaking-specific parameters**

1 The subset of standard parameters that may be replaced by undertaking-specific parameters as set out in Article 104(7) of Directive 2009/138/EC shall comprise the following parameters:

- a in the non-life premium and reserve risk sub-module, for each segment set out in Annex II of this Regulation:
  - (i) the standard deviation for non-life premium risk referred to in Article 117(2) (a) of this Regulation;
  - (ii) the standard deviation for non-life gross premium risk referred to in Article 117(3) of this Regulation;
  - (iii) [F28the adjustment factor for non-proportional reinsurance referred to in Article 117(3) of this Regulation, provided that there is a recognisable excess of loss reinsurance contract or a recognisable stop loss reinsurance contract for that segment as set out in paragraph 2 of this Article;]
  - (iv) the standard deviation for non-life reserve risk referred to in Article 117(2) (b) of this Regulation;
- b in the life revision risk sub-module, the increase in the amount of annuity benefits referred to in Article 141 of this Regulation, provided that the annuities falling under that sub-module are not subject to material inflation risk;
- c in the NSLT health premium and reserve risk sub-module, for each segment set out in Annex XIV of this Regulation:
  - (i) the standard deviation for NSLT health premium risk referred to in Article 148(2)(a) of this Regulation;
  - (ii) the standard deviation for NSLT health gross premium risk referred to in Article 148(3) of this Regulation;
  - (iii) [F28the adjustment factor for non-proportional reinsurance referred to in Article 148(3) of this Regulation, provided that there is a recognisable excess of loss reinsurance contract or a recognisable stop loss reinsurance contract for that segment as set out in paragraph 2 of this Article;]
  - (iv) the standard deviation for NSLT health reserve risk referred to in Article 148(2)(b) of this Regulation;
- d in the health revision risk sub-module, the increase in the amount of annuity benefits referred to in Article 158 of this Regulation, provided that the annuities falling under that sub-module are not subject to material inflation risk.

Insurance and reinsurance undertakings shall not replace both the standard parameters referred to in point (a)(ii) and (iii) of the same segment or both the standard parameters referred to in point (c)(ii) and (iii) of the same segment.

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2 [F28 An excess of loss reinsurance contract or a stop loss reinsurance contract for a segment shall be considered recognisable provided it meets the following conditions:]

- [F28a where the contract is an excess of loss reinsurance contract, it provides for complete compensation up to a specified limit or without limit for losses of the ceding undertaking that relate either to single insurance claims, or to all insurance claims under the same policy during a specified time period, and that are larger than a specified retention;]
- [F12aa where the contract is a stop loss reinsurance contract, it provides for complete compensation specified limit or without limit for aggregated losses of the ceding undertaking that relate to all insurance claims in the segment or homogeneous risk groups within the segment during a specified time period and that are larger than a specified retention;]
- b it covers all insurance claims that the insurance or reinsurance undertaking may incur in the segment or homogeneous risk groups within the segment during the following 12 months;
- c it allows for a sufficient number of reinstatements so as to ensure that all claims of multiple events incurred during the following 12 months are covered;
- d it complies with Articles 209, 210, 211 and 213.

[F28 For the purposes of this Article, ‘excess of loss reinsurance contract’ shall also denote arrangements with special purpose vehicles that provide risk transfer which is equivalent to that of an excess of loss reinsurance contract, and ‘stop loss reinsurance contract’ shall also denote arrangements with special purpose vehicles that provide risk transfer which is equivalent to that of a stop loss reinsurance contract.]

[F283 Where an insurance or reinsurance undertaking has concluded several excess of loss reinsurance contracts, or several stop loss reinsurance contracts, that individually meet the requirement set out in point (d) of paragraph 2, and in combination meet the requirements set out in points (a), (b) and (c) of that paragraph, their combination shall be considered as one recognisable excess of loss reinsurance contract or, as applicable, one stop loss reinsurance contract.]

4 For the purposes of points (b) and (d) of paragraph 1, inflation risk shall be considered to be material where ignoring it in the calculation of the capital requirement for revision risk could influence the decision-making or the judgement of the users of that information, including the supervisory authorities.

#### Textual Amendments

- F12** 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).
- F28** 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).

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## Article 219

### Data criteria

- 1 Data used to calculate undertaking-specific parameters shall only be considered to be complete, accurate and appropriate where they satisfy the following criteria:
  - a the data meet the conditions set out in Article 19(1), (2) and (3), and the insurance or reinsurance undertaking complies in relation to that data with the requirements set out in Article 19(4), where any reference to the calculation of technical provisions shall be understood as referring to the calculation of the undertaking-specific parameter;
  - b the data are capable of being incorporated into the standardised methods;
  - c the data do not prevent the insurance or reinsurance undertaking from complying with the requirements of Article 101(3) of Directive 2009/13/EC;
  - d the data meet any additional data requirement necessary to use each standardised method.
  - e the data and its production process are thoroughly documented, including:
    - (i) the collection of data and analysis of its quality, where the documentation required includes a directory of the data, specifying their source, characteristics and usage and the specification for the collection, processing and application of the data;
    - (ii) the choice of assumptions used in the production and adjustment of the data, including adjustments with regard to reinsurance and catastrophe claims and about the allocation of expenses, where the documentation required includes a directory of all relevant assumptions that the calculation of technical provisions is based upon and a justification for the choice of the assumptions;
    - (iii) the selection and application of actuarial and statistical methods for the production and the adjustment of the data;
    - (iv) the validation of the data.
- 2 Where external data are used, they shall satisfy the following additional criteria:
  - a the process for collecting data is transparent, auditable and known by the insurance or reinsurance undertaking that uses the data to calculate undertaking-specific parameters on its basis;
  - b where the data stem from different sources, the assumptions made in the collection, processing and application of data ensure that the data are comparable;
  - c the data stem from insurance and reinsurance undertakings whose business and risk profile is similar to that of the insurance or reinsurance undertaking whose undertaking-specific parameter is calculated in the basis of those data;
  - d undertakings using the external data are able to verify that there is sufficient statistical evidence that the probability distributions underlying their own data and that of the underlying external data have a high degree of similarity, in particular with respect to the level of volatility they reflect;
  - e external data only comprises data from undertakings with a similar risk profile and this risk profile is similar to the risk profile of the undertaking using the data, in particular that the external data comprise data from undertakings whose business nature and risk profile with respect to the external data is similar and for which there is sufficient

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statistical evidence that the probability distributions underlying the external data will exhibit a high degree of homogeneity.

#### Article 220

##### Standardised methods to calculate the undertaking-specific parameters

1 Where insurance and reinsurance undertakings calculate undertaking-specific parameters they shall use, for each parameter, the standardised methods set out in Annex XVII as follows:

- a the premium risk method for undertaking-specific parameters replacing the standard parameters referred to in Article 218(1)(a)(i), (a)(ii), (c)(i) and (c)(ii);
- b the reserve risk method 1 or the reserve risk method 2 for undertaking-specific parameters replacing the standard parameters referred to in Article 218(1)(a)(iv), and (c)(iv);
- <sup>F28</sup>c where there is a recognisable excess of loss reinsurance contract, the non-proportional reinsurance method 1, or, where there is a recognisable stop loss reinsurance contract, the non-proportional reinsurance method 2 for undertaking-specific parameters replacing the standard parameters referred to in Article 218(1)(a)(iii) and (c)(iii);]
- d the revision risk method for undertaking-specific parameters replacing the standard parameters referred to in Article 218(1)(b) and (d).

2 Where the undertaking is able to use more than one standardised method, the method that provides the most accurate result for the purposes of fulfilling the calibration requirements included in Article 101(3) of Directive 2009/138/EC shall be used.

However, where an undertaking is not able to demonstrate the greater accuracy of the results of one standardised method over the other standardised methods to calculate an undertaking-specific parameter, the method providing the most conservative result shall be used.

#### Textual Amendments

- F28** 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 \(Solvency II\) \(Text with EEA relevance\).](#)

### SECTION 13

#### Procedure for updating correlation parameters

#### Article 221

<sup>F114</sup>1 The PRA must collect the quantitative undertaking-specific data necessary for determining dependencies between risks referred to in Article 309(8).]

<sup>F115</sup>2 .....



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#### Textual Amendments

- F114** Art. 221(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(36)(a)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F115** Art. 221(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), **11(36)(b)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)

## CHAPTER VI

### SOLVENCY CAPITAL REQUIREMENT — FULL AND PARTIAL INTERNAL MODELS

#### SECTION 1

##### *Definitions*

##### *Article 222*

##### **Materiality**

For the purposes of this Chapter, a change or error in the outputs of the internal model, including the Solvency Capital Requirement, or in the data used in the internal model shall be considered material where it could influence the decision-making or the judgement of the users of that information, including the supervisory authorities.

#### SECTION 2

##### *Use test*

##### *Article 223*

##### **Use of the internal model**

Insurance and reinsurance undertakings shall explain upon request of the supervisory authorities the different uses of their internal model and how they ensure consistency between the different outputs where the internal model is used for different purposes. Where insurance and reinsurance undertakings decide not to use the internal model for a part of the system of governance, particularly in the coverage of any material risks, they shall explain that decision.

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## Article 224

### Fit to the business

Insurance and reinsurance undertakings shall ensure that the design of the internal model is aligned with their activities in the following manner:

- (a) the modelling approaches reflect the nature, scale and complexity of the risks inherent in the activities of the undertaking which are within the scope of the internal model;
- (b) the outputs of the internal model and the content of the internal and external reporting of the undertaking are consistent;
- (c) the internal model is capable of producing outputs that are sufficiently granular to play an important role in the relevant management decisions of the undertaking; as a minimum, the outputs of the internal model shall differentiate between lines of business, between risk categories and between major business units;
- (d) the policy for changing the internal model provides that the internal model is to be adjusted for changes in the scope or nature of the activities of the undertaking.

## Article 225

### Understanding of the internal model

1 The administrative, management or supervisory body of the insurance or reinsurance undertaking and the other persons who effectively run the undertaking shall be able to demonstrate upon request of the supervisory authorities an overall understanding of the internal model which comprises knowledge about all of the following:

- a the structure of the internal model and the way the model fits to the business and is integrated in the risk-management system of the insurance or reinsurance undertaking;
- b the scope and purposes of the internal model and the risks that are or are not covered by the internal model;
- c the general methodology applied in the internal model calculations;
- d the limitations of the internal model;
- e the diversification effects taken into account in the internal model.

2 The persons who effectively run the undertaking shall be able to demonstrate a sufficiently detailed understanding of the parts of the internal model used in the area for which they are responsible.

## Article 226

### Support of decision-making and integration with risk management

An internal model shall only be considered to be widely used in and to play an important role in the system of governance of an insurance or reinsurance undertaking where it meets all of the following conditions:

- (a) the internal model supports the relevant decision-making processes in the undertaking, including the setting of the business strategy;

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- (b) the internal model and its results are regularly discussed and reviewed in the administrative, management or supervisory body of the insurance or reinsurance undertaking;
- (c) all material quantifiable risks identified by the risk management system which are within the scope of the internal model are covered by the internal model;
- (d) the undertaking uses the internal model to assess, where material, the impact on its risk profile of potential decisions, including the impact on expected profit or loss and the variability of the profit or loss resulting from those decisions;
- (e) the outputs of the internal model, including the measurement of diversification effects, are taken into account in formulating risk strategies, including the development of risk tolerance limits and risk mitigation strategies;
- (f) the relevant outputs of the internal model are covered by the internal reporting procedures of the risk management system;
- (g) the quantifications of risks and the risk ranking produced by the internal model trigger risk management actions where relevant;
- (h) the insurance or reinsurance undertaking is required to change the internal model in accordance with Article 115 of Directive 2009/138/EC as soon as possible where the results of the model validation process in accordance with Article 124 of that Directive show that the internal model does not comply with the requirements set out in Articles 101, 113, 120 to 125 of that Directive, to ensure compliance with those requirements;
- (i) the policy for changing the internal model provides that the internal model is changed, where relevant, to reflect changes in the risk management system.

#### Article 227

### Simplified calculation

1 Insurance and reinsurance undertakings may use a simplified calculation of the Solvency Capital Requirement as set out in paragraph 2 of this Article to satisfy the requirement to calculate the Solvency Capital Requirement in accordance with the second paragraph of Article 120 of Directive 2009/138/EC.

2 In order to produce a simplified calculation of the Solvency Capital Requirement referred to in paragraph 1, insurance and reinsurance undertakings may carry out only a part of the calculations which are usually necessary to determine the Solvency Capital Requirement. For the remaining part of the calculation, the results from the previous calculation of the Solvency Capital Requirement shall be used.

3 Insurance and reinsurance undertakings may use the approach set out in paragraph 2 provided that they are able to demonstrate upon request of the supervisory authorities that the results taken from the previous calculation of the Solvency Capital Requirement would not be materially different from the results of a new calculation.

4 Insurance and reinsurance undertakings shall not use a simplified calculation of the Solvency Capital Requirement when calculating the Solvency Capital Requirement in accordance with Article 102 of Directive 2009/138/EC.

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## SECTION 3

### **Statistical quality standards**

#### *Article 228*

#### **Probability distribution forecast**

1 The probability distribution forecast underlying the internal model shall assign probabilities to changes in either the amount of basic own funds of the insurance or reinsurance undertaking or to other monetary amounts, such as profit and loss, provided that those monetary amounts can be used to determine the changes in basic own funds. The exhaustive set of mutually exclusive future events, referred to in Article 13(38) of Directive 2009/138/EC, shall contain a sufficient number of events to reflect the risk profile of the undertaking.

2 Insurance and reinsurance undertakings shall calculate the probability distribution forecast of a partial internal model at the highest level of aggregation of the components of the partial internal model. If a partial internal model consists of different components which are separately calculated and not aggregated within the partial internal model, the probability distribution forecast shall be calculated for each component.

#### *Article 229*

#### **Adequate, applicable and relevant actuarial techniques**

Actuarial and statistical techniques shall only be considered adequate, applicable and relevant for the purposes of Article 121(2) of Directive 2009/138/EC where all of the following conditions are met:

- (a) the techniques are based on up to date information and progress in actuarial science and generally accepted market practice are taken into account in the choice of the techniques;
- (b) the insurance or reinsurance undertaking has a detailed understanding of the economic and actuarial theory and the assumptions underlying them.
- (c) the outputs of the internal model indicate relevant changes in the risk profile of the insurance or reinsurance undertaking;
- (d) the outputs of the internal model are stable in relation to changes in the input data that do not correspond to a relevant change of the risk profile of the insurance or reinsurance undertaking;
- (e) the internal model captures all the relevant characteristics of the risk profile of the insurance or reinsurance undertaking;
- (f) the techniques are adapted to the data used for the internal model;
- (g) the outputs of the internal model do not include a material model error or estimation error; wherever possible, the probability distribution forecast shall be adjusted to account for model and estimation errors;
- (h) the calculation of the outputs of the internal model can be set out in a transparent manner.

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## Article 230

### **Information and assumptions used for the calculation of the probability distribution forecast**

1 Information shall only be considered credible for the purposes of Article 121(2) of Directive 2009/138/EC where insurance and reinsurance undertakings provide evidence of the consistency and objectivity of that information, the reliability of the source of information and the transparency of the method by which that information is generated and processed.

2 Assumptions shall only be considered realistic for the purposes of Article 121(2) of Directive 2009/138/EC where they meet all of the following conditions:

- a insurance and reinsurance undertakings are able to explain and justify each of the assumptions, taking into account the significance of the assumption, the uncertainty involved in the assumption and why the relevant alternative assumptions are not used;
- b the circumstances under which the assumptions would be considered false can be clearly identified;
- c insurance and reinsurance undertakings establish and maintain a written explanation of the methodology used to set those assumptions.

## Article 231

### **Data used in the internal model**

1 Data used in the internal model shall only be considered accurate for the purposes of Article 121(3) of Directive 2009/138/EC where all of the following conditions are met:

- a the data are free from material errors;
- b data from different time periods used for the same estimation are consistent;
- c the data are recorded in a timely manner and consistently over time.

2 Data used in the internal model shall only be considered complete for the purposes of Article 121(3) of Directive 2009/138/EC where all of the following conditions are met:

- a data include sufficient historical information to assess the characteristics of the underlying risk, in particular to identify trends in the risks;
- b data that comply with point (a) of this paragraph are available for all relevant model parameters and no such relevant data are excluded from the use in the internal model without justification.

3 Data used in the internal model shall only be considered appropriate for the purposes of Article 121(3) of Directive 2009/138/EC where all of the following conditions are met:

- a the data are consistent with the purposes for which it is to be used;
- b the amount and nature of the data ensure that the estimations made in the internal model on the basis of the data do not include a material estimation error;
- c the data are consistent with the assumptions underlying the actuarial and statistical techniques that are applied to them in the internal model;
- d the data reflect the relevant risks to which the insurance or reinsurance undertaking is exposed;
- e the data are collected, processed and applied in a transparent and structured manner, based on a specification of the following areas:

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- (i) the definition and assessment of the quality of data, including specific qualitative and quantitative standards for different data sets;
- (ii) the use and setting of assumptions made in the collection, processing and application of data;
- (iii) the process for carrying out data updates, including the frequency of regular updates and the circumstances that trigger additional updates.

### *Article 232*

#### **Ability to rank risk**

- 1 For the purposes of the second subparagraph of Article 121(4) of Directive 2009/138/EC, the internal model shall be able to rank all material risks covered by the internal model.
- 2 The ability to rank risks shall be consistent with the classification of risks used in the internal model and the classification of risks used in the risk management system.
- 3 Similar risks shall be ranked consistently throughout the insurance or reinsurance undertaking and ranked consistently over time.
- 4 The ranking of risks shall be consistent with the capital allocation referred to in point (b) of the first paragraph of Article 120 of Directive 2009/138/EC.

### *Article 233*

#### **Coverage of all material risks**

- 1 For the purposes of the third subparagraph of Article 121(4) of Directive 2009/138/EC, insurance and reinsurance undertakings shall assess, at least on a quarterly basis, whether the internal model covers all material quantifiable risks within its scope. The assessment shall take into account an appropriate set of qualitative and quantitative indicators.
- 2 The qualitative indicators referred to in paragraph 1 shall include the following:
  - a the identification in the own risk and solvency assessment of risks other than those that are covered by the internal model;
  - b the existence of a dedicated risk management process for risks other than those that are covered by the internal model;
  - c the existence of dedicated risk mitigation techniques for risks other than those that are covered by the internal model.
- 3 The quantitative indicators referred to in paragraph 1 of this Article shall include the following:
  - a the capital allocation in accordance with Article 120 of Directive 2009/138/EC;
  - b the amount of profits and losses which cannot be explained by the risks covered by the internal model;
  - c the results of stress testing and scenario analysis and any tool used in the model validation process.

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## Article 234

### Diversification effects

The system used for measuring diversification effects referred to in Article 121(5) of Directive 2009/138/EC shall only be considered adequate where all of the following conditions are met:

- (a) the system used for measuring diversification effects identifies the key variables driving dependencies;
- (b) the system used for measuring diversification effects takes into account all of the following:
  - (i) any non-linear dependence and any lack of diversification under extreme scenarios;
  - (ii) any restrictions of diversification which arise from the existence of a ring-fenced fund or matching adjustment portfolio;
  - (iii) the characteristics of the risk measure used in the internal model;
- (c) the assumptions underlying the system used for measuring diversification effects are justified on an empirical basis.

## Article 235

### Risk-mitigation techniques

1 Risks that are properly reflected in the internal model, as referred to in Article 121(6) of Directive 2009/138/EC, shall not include risks arising from any of the following situations:

- a the contractual arrangements relating to the risk-mitigation technique are, in any relevant jurisdiction, not legally effective and enforceable or does not ensure that the transfer of risk is clearly defined and incontrovertible;
- b insurance and reinsurance undertakings do not have a direct claim on the counterparty in the event of the default, insolvency or bankruptcy of the counterparty or other credit event set out in the transaction documentation to the arrangements relating to the risk-mitigation technique;
- c the legal arrangements underlying the risk-mitigation technique do not contain an explicit reference to a specific risk exposure clearly defining the extent of the cover provided by the risk-mitigation technique.

2 Where the risk-mitigation technique referred to in paragraph 1(c) does not cover the risk exposure of the insurance or reinsurance undertaking in all cases, the internal model shall not be considered to properly reflect the risk arising from the risk-mitigation technique in accordance with Article 121(6) of Directive 2009/138/EC unless it takes into account the reduced effectiveness of the risk-mitigation technique resulting from this deviation of risk exposures.

3 Where the risk-mitigation technique is subject to a condition, the fulfilment of which is outside the direct control of the insurance or reinsurance undertaking and which could undermine the effective transfer of risk, the internal model shall not be considered to properly reflect the risk arising from the risk-mitigation technique in accordance with Article 121(6)

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of Directive 2009/138/EC unless it takes into account the effects of those conditions and any reduced effectiveness of that risk-mitigation technique.

### Article 236

#### Future management actions

1 Future management actions shall only be considered to be reasonably expected to be carried out for the purposes of Article 121(8) of Directive 2009/138/EC where all of the following conditions are met:

- a the assumptions on future management actions used in the calculations for the internal model are determined in an objective manner;
- b assumed future management actions are realistic and consistent with the insurance or reinsurance undertaking's current business practice and business strategy, including the use of risk-mitigation techniques and, where there is sufficient evidence that the undertaking will change its practices or strategy, the assumed management actions are consistent with the changed practices or strategy;
- c assumed future management actions are consistent with each other;
- d assumed future management actions are not contrary to any obligations towards policy holders and beneficiaries or to legal provisions;
- e assumed future management actions take account of any public information or communication by the insurance or reinsurance undertaking as to the actions that it would expect to take or not take.

2 Assumptions on future management actions shall be realistic and include all of the following:

- a a comparison of assumed future management actions with management actions taken previously by the insurance or reinsurance undertaking;
- b a comparison of future management actions taken into account in the current and past calculations of the internal model.

Insurance and reinsurance undertakings shall be able to explain any relevant deviations in relation to points (a) and (b).

3 For the purpose of paragraph 1, insurance and reinsurance undertakings shall establish a comprehensive future management actions plan, approved by the administrative, management or supervisory body of the insurance and reinsurance undertaking provides for all of the following:

- a the identification of future management actions implemented in the internal model;
- b the identification of the specific circumstances in which the insurance or reinsurance undertaking would reasonably expect to carry out the future management actions identified pursuant to point (a);
- c the identification of the specific circumstances in which the insurance or reinsurance undertaking may not be able to carry out the future management actions identified pursuant to point (a), and a description of how those circumstances are reflected in the internal model;
- d the order in which future management actions would be carried out and the governance requirements applicable to those future management actions;
- e a description of any ongoing work required to ensure that the insurance or reinsurance undertaking is in a position to carry out the future management actions identified pursuant to point (a);



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- f a description of how future management actions have been reflected in the calculation of the probability distribution forecast;
  - g a description of the applicable internal reporting procedures, which shall include at least an annual communication to the administrative, supervisory or management body, that cover future management actions implemented in the internal model.
- 4 Assumptions on future management actions shall take account of the time needed to implement the management actions and any expenses caused by them.

#### Article 237

### Understanding of external models and data

Parts of the internal model obtained from a third party shall be subject to all of the same tests and standards as the parts developed by the undertaking. In addition, the parts obtained from a third part shall not be considered to be adequate unless the insurance or reinsurance undertaking is able to demonstrate a detailed understanding of those parts, including their limitations.

Data used in the internal model obtained from a third party shall not be considered to be appropriate unless the insurance or reinsurance undertaking is able to demonstrate a detailed understanding of those data, including their limitations.

#### SECTION 4

### Calibration standards

#### Article 238

[<sup>F116</sup>A1 Where insurance and reinsurance undertakings cannot derive the Solvency Capital Requirement directly from the probability distribution forecast generated by the internal model, the PRA may allow approximations to be used in the process to calculate the Solvency Capital Requirement, as long as those undertakings can demonstrate to the supervisory authorities that policy holders are provided with a level of protection equivalent to that provided for in rules 3.2 to 3.5 of the Solvency Capital Requirement – General Provisions part of the PRA Rulebook.]

1 The option referred to in Article 122 of Directive 2009/138/EC to use a different time period or risk measure than that set out in Article 101(3) of that Directive shall apply both to the internal model as a whole and to different risk categories or major business units within that internal model.

2 The requirement to demonstrate the protection provision for policy holders referred to in [<sup>F117</sup>paragraph A1] shall include evidence that the approximations referred to in that Article do not introduce a material error in the Solvency Capital Requirement or do not lead to a lower Solvency Capital Requirement than that which is calculated in accordance with the requirements set out in [<sup>F118</sup>the Solvency Capital Requirement – General Provisions part of the PRA Rulebook].

Where the approximations are based on the rescaling of modelled risks, the undertakings referred to in [<sup>F117</sup>paragraph A1] shall demonstrate that the rescaling does not impair the outcome of the approximations.

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Where the time period of the risk measure used is different from the one provided in Article 101(3) of Directive 2009/138/EC, the undertakings referred to in Article 122(3) of that Directive shall take into account all of the following:

- a whether events are equally distributed over time and if not, how it is reflected in the approximations;
- b whether all significant risks over a one year period are properly managed;
- c where the time period used is longer than that provided in Article 101(3) of Directive 2009/138/EC, whether due consideration to the solvency position during that time period has been given by the undertaking;
- d whether the time period used is appropriate taking into account the average duration of the liabilities of the insurance or reinsurance undertaking, the business of the undertaking and, where relevant, the uncertainties associated with long time periods;
- e any assumptions made in the approximations about the dependencies between risks over consecutive periods of time.

3 Insurance and reinsurance undertakings shall demonstrate the level of protection required by <sup>F119</sup>paragraph A1] once a year and each time the risk profile of the insurance or reinsurance undertaking changes significantly.

4 The approximations referred to in <sup>F120</sup>paragraph A1] shall be considered to be part of the internal model.

#### Textual Amendments

- F116** Art. 238(A1) inserted (31.12.2020) by The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), **11(37)(a)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F117** Words in Art. 238(2) substituted (31.12.2020) by The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), **11(37)(b)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F118** Words in Art. 238(2) substituted (31.12.2020) by The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), **11(37)(c)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F119** Words in Art. 238(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(37)(b)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F120** Words in Art. 238(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(37)(b)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)

## SECTION 5

### Integration of partial internal models

#### Article 239

1 In order to fully integrate a partial internal model into the Solvency Capital Requirement standard formula, insurance and reinsurance undertakings shall use as a default integration technique the correlation matrices and formulas of the standard formula set out in Annex IV of Directive 2009/138/EC and Title I, Chapter V of this Regulation.

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2 Where the insurance or reinsurance undertaking demonstrates to the supervisory authorities that it would not be appropriate to use the default integration technique referred to in paragraph 1 for any of the reasons referred to in paragraph 5, insurance and reinsurance undertakings shall use the most appropriate integration technique set out in Annex XVIII. The insurance or reinsurance undertakings shall demonstrate the appropriateness of the integration technique proposed.

3 Where the insurance or reinsurance undertaking further demonstrates to the supervisory authorities that it would not be appropriate to use any of the integration techniques set out in Annex XVIII for any of the reasons referred to in paragraph 5, the insurance and reinsurance undertaking may use an alternative integration technique. The insurance or reinsurance undertaking shall demonstrate the appropriateness of the integration technique proposed.

4 The alternative integration technique used shall result in a Solvency Capital Requirement that complies with the principles set out in Title I, Chapter VI, Section 4, subsections 1 and 3 of Directive 2009/138/EC and which more appropriately reflects the risk profile of the insurance or reinsurance undertaking.

5 An integration technique shall not be appropriate where any of the following conditions is met:

- a the resulting Solvency Capital Requirement would not comply with Article 101 of Directive 2009/138/EC;
- b the resulting Solvency Capital Requirement would not appropriately reflect the risk profile of the insurance or reinsurance undertaking;
- c the design of the partial internal model is consistent with the principles set out in Articles 101 and 102 of Directive 2009/138/EC but would not allow its integration into the solvency capital requirement standard formula.

## SECTION 6

### **Profit and loss attribution**

#### *Article 240*

1 For the purpose of profit and loss attribution in accordance with Article 123 of Directive 2009/138/EC, insurance and reinsurance undertakings shall specify all of the following:

- a the profit and loss;
- b the major business units of the undertaking;
- c the categorisation of risks chosen in the internal model;
- d the attribution of the overall profit or loss to the risk categories and major business units.

2 The specification of profit and loss shall be consistent with the increase and decrease of the monetary amount underlying the probability distribution forecast referred to in Article 228(1).

3 The categorisation of risks chosen in the internal model shall be adequate, and sufficiently granular, for the purpose of risk-management and decision-making in accordance with Article 120 of Directive 2009/138/EC. The categorisation of risk shall distinguish between risks covered by the internal model and risks not covered by the internal model.

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4 The attribution of profit and loss shall be made in an objective and transparent manner and be consistent over time.

## SECTION 7

### **Validation standards**

#### *Article 241*

#### **Model validation process**

1 The model validation process shall apply to all parts of the internal model and shall cover all requirements set out in Articles 101, Article 112(5), Articles 120 to 123 and Article 125 of Directive 2009/138/EC. In the case of a partial internal model the validation process shall in addition cover the requirements set out in Article 113 of that Directive.

2 In order to ensure independence of the model validation process from the development and operation of the internal model, the persons or organisational unit shall, when carrying out the model validation process, be free from influence from those responsible for the development and operation of the internal model. This assessment shall be in accordance with paragraph 4.

3 For the purpose of the model validation process insurance and reinsurance undertakings shall specify all of the following:

- a the processes and methods used to validate the internal model and their purposes;
- b for each part of the internal model, the frequency of regular validations and the circumstances which trigger additional validation;
- c the persons who are responsible for each validation task;
- d the procedure to be followed in the event that the model validation process identifies problems with the reliability of the internal model and the decision-making process to address those problems.

4 As part of the model validation process insurance and reinsurance undertakings shall assess the quality and independence of the validation. In the assessment of independence, undertakings shall take all of the following into account:

- a in case of an internal validation process, the responsibilities and reporting structure of the persons involved in the process,
- b in case of an external validation process, the remuneration structure of the persons, including where applicable their employees or other persons acting on their behalf, who are involved in the process and any other mandates of these persons relating to the insurance or reinsurance undertaking.

#### *Article 242*

#### **Validation tools**

1 Insurance and reinsurance undertakings shall test the results and the key assumptions of the internal model at least annually against experience and other appropriate data to the extent that data are reasonably available. These tests shall be applied at the level of single outputs as well as at the level of aggregated results. Insurance and reinsurance undertakings shall identify the reason for any significant divergence between assumptions and data and between results and data.

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2 As part of the testing of the internal model results against experience insurance and reinsurance undertakings shall compare the results of the profit and loss attribution referred to in Article 123 of Directive 2009/138/EC with the risks modelled in the internal model.

3 The statistical process for validating the internal model, referred to in the second paragraph of Article 124 of Directive 2009/138/EC, shall be based on all of the following:

- a current information, taking into account, where it is relevant and appropriate, developments in actuarial techniques and the generally accepted market practice;
- b a detailed understanding of the economic and actuarial theory and the assumptions underlying the methods to calculate the probability distribution forecast of the internal model.

4 Where insurance or reinsurance undertakings observe in accordance with the fourth paragraph of Article 124 of Directive 2009/138/EC that changes in a key underlying assumption have a significant impact on the Solvency Capital Requirement, they shall be able to explain the reasons for this sensitivity and how the sensitivity is taken into account in their decision-making process. For the purposes of the fourth subparagraph of Article 124 of Directive 2009/138/EC the key assumptions shall include assumptions on future management actions.

5 The model validation process shall include an analysis of the stability of the outputs of the internal model for different calculations of the internal model using the same input data.

6 As part of the demonstration that the capital requirements resulting from the internal model are appropriate, insurance and reinsurance undertakings shall compare the coverage and the scope of the internal model. For this purpose, the statistical process for validating the internal model shall include a reverse stress test, identifying the most probable stresses that would threaten the viability of the insurance or reinsurance undertaking.

## SECTION 8

### Documentation standards

#### Article 243

#### General provisions

1 The documentation of the design and operational details of the internal model as required by Article 125 of Directive 2009/138/EC shall be sufficient to ensure that any independent knowledgeable third party would be able to understand the design and operational details of the internal model and form a sound judgement as to its compliance with Article 101 and Articles 120 to 124 of Directive.

2 In the case of a partial internal model, the documentation referred to in paragraph 1 of this Article shall additionally cover compliance with Article 113 of Directive 2009/138/EC, in particular in relation to the justification of the limited scope of the model and the integration technique used to integrate the partial internal model into the standard formula.

3 The documentation referred to in paragraphs 1 and 2 shall be appropriately structured, detailed and complete and shall be kept up to date. Outputs of the internal model shall be capable of being reproduced using the internal model documentation and all of the inputs into the internal model.

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## Article 244

### Minimum content of the documentation

The documentation of the internal model shall include all of the following information:

- (a) an inventory of all the documents which form part of the documentation;
- (b) the policy for changing the internal model as referred to in Article 115 of Directive 2009/138/EC;
- (c) a description of the policies, controls and procedures for the management of the internal model, including responsibilities assigned to staff members of the insurance or reinsurance undertaking;
- (d) a description of the information technology used in the internal model, including any contingency plans relating to the information technology used;
- (e) all relevant assumptions on which the internal model is based and their justification in accordance with Article 230(2);
- (f) the explanation of the methodology used to set assumptions referred to in point (c) of Article 230(2) which shall cover the following:
  - (i) the inputs on which the choice of assumptions is based;
  - (ii) the objectives of the choice of assumptions and the criteria used for determining the appropriateness of the choice;
  - (iii) any limitations in the choice of assumptions made;
- (g) a directory of the data used in the internal model, specifying their source, characteristics and usage;
- (h) the specification for the collection, processing and application of data referred to in Article 231(3)(e);
- (i) where data are not used consistently over time in the internal model, a description of the inconsistent use and its justification;
- (j) the specification of the qualitative and quantitative indicators for the coverage of risks referred to in Article 233;
- (k) a description of the risk-mitigation techniques that are taken into account in the internal model as referred to in Article 235 and an explanation of how the risks arising from the use of risk-mitigation techniques are reflected in that internal model;
- (l) a description of the future management actions taken into account in the internal model as referred to in Article 236 and a description of the relevant deviations referred to in Article 236(2);
- (m) the specifications for the profit and loss attribution referred to in Article 240(1);
- (n) the specifications for the model validation process referred to in Article 241(3);
- (o) the results of the validation in relation to compliance with Article 101 of Directive 2009/138/EC;

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- (p) in relation to external models and data:
  - (i) the role of external models and data in the internal model;
  - (ii) the reasons for preferring external models to internally developed models and external data to internal data;
  - (iii) the alternatives to the use of external models and data considered by the insurance or reinsurance undertaking and an explanation of the decision in favour of a particular external model or a set of external data.

#### Article 245

##### **Circumstances under which the internal model does not work effectively**

When assessing and documenting circumstances under which the internal model does not work effectively, insurance and reinsurance undertakings shall take all of the following into account:

- (a) the risks which are not covered by the internal model;
- (b) the limitations in risk modelling used in the internal model;
- (c) the nature, degree and sources of uncertainty connected with the results of the internal model including the sensitivity of the results for the key assumptions underlying the internal model;
- (d) the deficiencies in data used in the internal model and the lack of data for the calculation of the internal model;
- (e) the risks arising out of the use of external models and external data in the internal model;
- (f) the limitations of information technology used in the internal model;
- (g) the limitations of internal model governance.

#### Article 246

##### **Changes to the internal model**

The documentation of the internal model shall include a record of minor and major changes to the internal model, including all of the following:

- (a) a description of the rationale for the minor and major changes;
- (b) a description of the implications of the major changes for the design and operations of the internal model;
- (c) where a major change or a combination of minor changes has a material impact on the outputs of the internal model, a quantitative and qualitative comparison of the outputs before and after the change relating to the same valuation date.

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## SECTION 9

### External models and data

#### Article 247

Insurance and reinsurance undertakings shall monitor any potential limitations arising from the use of external models or external data in the internal model to the ongoing fulfilment of the requirements set out in Articles 101 and Articles 120 to 125 of Directive 2009/138/EC, and also in Article 113 of that Directive for partial internal models.

## CHAPTER VII

### MINIMUM CAPITAL REQUIREMENT

#### Article 248

#### Minimum Capital Requirement

1 The Minimum Capital Requirement shall be equal to the following:

$$MCR = \max(MCR_{combined}; AMCR)$$

where:

- (a)  $MCR_{combined}$  denotes the combined Minimum Capital Requirement;
- (b)  $AMCR$  denotes the absolute floor referred to in Article 129(1)(d) of Directive 2009/138/EC and in Article 253 of this Regulation.

2 The combined Minimum Capital Requirement shall be equal to the following:

$$MCR_{combined} = \min(\max(MCR_{linear}; 0,25 \times SCR); 0,45 \times SCR)$$

where:

- (a)  $MCR_{linear}$  denotes the linear Minimum Capital Requirement, calculated in accordance with Articles 249 to 251;
- (b)  $SCR$  denotes the Solvency Capital Requirement, calculated in accordance with Chapter V or in accordance with Chapter VI where approval for the use of full or partial internal model has been granted.

#### Article 249

#### Linear Minimum Capital Requirement

The linear Minimum Capital Requirement shall be equal to the following:

$$MCR_{linear} = MCR_{(linear,nl)} + MCR_{(linear,l)}$$

where:

- (a)  $MCR_{(linear,nl)}$  denotes the linear formula component for non-life insurance and reinsurance obligations;
- (b)  $MCR_{(linear,l)}$  denotes the linear formula component for life insurance and reinsurance obligations.



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## Article 250

### Linear formula component for non-life insurance and reinsurance obligations

1 The linear formula component for non-life insurance and reinsurance obligations shall be equal to the following:

$$MCR_{(linear, nl)} = \sum_s \alpha_s \times TP_{(nl, s)} + \beta_s \times P_s$$

where:

- (a) the sum covers all segments set out in Annex XIX;
- (b)  $TP_{(nl, s)}$  denotes the technical provisions without a risk margin for non-life insurance and reinsurance obligations in the segment  $s$  after deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles, with a floor equal to zero;
- (c)  $P_s$  denotes the premiums written for insurance and reinsurance obligations in the segment  $s$  during the last 12 months, after deduction of premiums for reinsurance contracts, with a floor equal to zero;
- (d) the factors  $\alpha_s$  and  $\beta_s$  are set out in Annex XIX.

2 Technical provisions referred to in point (b) of paragraph (1) shall not include any of the following amounts:

- a amounts recoverable from reinsurance contracts or special purpose vehicles that cannot be taken into account in accordance with of Article 41(3) and (5);
- b amounts recoverable from reinsurance contracts or special purpose vehicles, that do not comply with Articles 209, 210, 211 and 213 or with Article 235.

3 In the calculation of premiums written after deduction of premiums for reinsurance contracts referred to in point (c) of paragraph (1), the following premiums for reinsurance contracts shall not be deducted:

- a premiums in relation to non-insurance events or settled insurance claims that are not accounted for in the cash-flows referred to in Article 41(3);
- b premiums for reinsurance contracts that do not comply with Articles 209, 210, 211 and 213 or with Article 235.

## Article 251

### Linear formula component for life insurance and reinsurance obligations

1 The linear formula component for life insurance and reinsurance obligations shall be equal to the following:

$$MCR_{(linear, l)} = 0,037 \times TP_{(life, 1)} - 0,052 \times TP_{(life, 2)} + 0,007 \times TP_{(life, 3)} + 0,021 \times TP_{(life, 4)} + 0,0007 \times CAR$$

where:

- (a)  $TP_{(life, 1)}$  denotes the technical provisions without a risk margin in relation to guaranteed benefits for life insurance obligations with profit participation, after deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles, with a floor equal to zero, and technical provisions without a risk margin for reinsurance obligations where the underlying life insurance obligations include profit

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participation, after deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles, with a floor equal to zero;

- (b)  $TP_{(life,2)}$  denotes the technical provisions without a risk margin in relation to future discretionary benefits for life insurance obligations with profit participation, after deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles, with a floor equal to zero;
- (c)  $TP_{(life,3)}$  denotes the technical provisions without a risk margin for index-linked and unit-linked life insurance obligations and reinsurance obligations relating to such insurance obligations, after deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles, with a floor equal to zero;
- (d)  $TP_{(life,4)}$  denotes the technical provisions without a risk margin for all other life insurance and reinsurance obligations, after deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles, with a floor equal to zero;
- (e)  $CAR$  denotes the total capital at risk, being the sum, in relation to each contract that give rise to life insurance or reinsurance obligations, of the capital at risk of the contracts, where the capital at risk of a contract means the higher of zero and the difference between the following two amounts:
  - (i) the sum of all of the following:
    - the amount that the insurance or reinsurance undertaking would currently pay in the event of the death or disability of the persons insured under the contract after deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles;
    - the expected present value of amounts not covered in the previous indent that the undertaking would pay in the future in the event of the immediate death or disability of the persons insured under the contract after deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles;
  - (ii) the best estimate of the corresponding obligations after deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles.

2 Technical provisions referred to in points (a) to (d) of paragraph (1), shall not include any of the following:

- a amounts recoverable from reinsurance contracts or special purpose vehicles that cannot be taken into account in accordance with Article 41(3) and (5);
- b amounts recoverable from reinsurance contracts or special purpose vehicles that do not comply with Articles 209 to 215 or Article 235.

## Article 252

### Minimum Capital Requirement: composite insurance undertakings

1 The notional life Minimum Capital Requirement and the notional non-life Minimum Capital Requirement referred to in Article 74(2) of Directive 2009/138/EC shall be calculated in accordance with paragraphs 2 to 11 of this Article.

2 The notional non-life Minimum Capital Requirement shall be equal to the following:

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$$NMCR_{nl} = \max (NMCR_{(combined,nl)}; AMCR_{nl})$$

where:

- (a)  $NMCR_{(combined,nl)}$  denotes the notional combined non-life Minimum Capital Requirement;
- (b)  $AMCR_{nl}$  denotes the absolute floor prescribed in Article 129(1)(d)(i) of Directive 2009/138/EC and in Article 253 of this Regulation.

3 The notional combined non-life Minimum Capital Requirement shall be equal to the following:

$$NMCR_{(combined,nl)} = \min (\max (NMCR_{(linear,nl)}; 0,25 \times (NSCR_{nl} + Addon_{nl})); 0,45 \times (NSCR_{nl} + Addon_{nl}))$$

where:

- (a)  $NMCR_{(linear,nl)}$  denotes the notional linear Minimum Capital Requirement for non-life insurance or reinsurance activity;
- (b)  $NSCR_{nl}$  denotes the notional Solvency Capital Requirement for non-life insurance or reinsurance activity;
- (c)  $Addon_{nl}$  denotes the part of the capital add-ons, set by the supervisory authority <sup>F121</sup>..., which has been apportioned by that supervisory authority to the non-life insurance or reinsurance activity of the insurance or reinsurance undertaking.

4 The notional linear Minimum Capital Requirement for non-life insurance or reinsurance activity shall be equal to the following:

$$NMCR_{(linear,nl)} = MCR_{(nl,nl)} + MCR_{(l,nl)}$$

where:

- (a)  $MCR_{(nl,nl)}$  denotes the linear formula component for non-life insurance and reinsurance obligations relating to non-life insurance or reinsurance activity;
- (b)  $MCR_{(l,nl)}$  denotes the linear formula component for life insurance and reinsurance obligations relating to non-life insurance or reinsurance activity.

5  $MCR_{(nl,nl)}$  and  $MCR_{(l,nl)}$  shall be calculated in the same way as  $MCR_{(linear,nl)}$  and  $MCR_{(linear,l)}$  referred to in Articles 250 and 251 of this Regulation respectively, but the technical provisions or premiums written used in the calculation shall only relate to the insurance and reinsurance obligations of non-life insurance or reinsurance activity in the classes of non-life insurance referred to in Annex I of Directive 2009/138/EC.

6 The notional Solvency Capital Requirement for non-life insurance or reinsurance activity shall be equal to the following:

$$NSCR_{nl} = \frac{NMCR_{(linear,nl)}}{NMCR_{(linear,nl)} + NMCR_{(linear,l)}} \times SCR$$

where:

- (a)  $SCR$  denotes the Solvency Capital Requirement calculated in accordance with Title I, Chapter VI, Section 4, Subsection 2 of Directive 2009/138/EC or with Title I, Chapter VI, Section 4, Subsection 3 of Directive 2009/138/EC, which shall for the purposes of this Article exclude any capital add-on imposed <sup>F122</sup>...;
- (b)  $NMCR_{(linear,nl)}$  denotes the notional linear non-life Minimum Capital Requirement for non-life insurance or reinsurance activity;

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- (c)  $NMCR_{(linear,l)}$  denotes the notional linear Minimum Capital Requirement for life insurance or reinsurance activity.

7 The notional life Minimum Capital Requirement shall be equal to the following:

$$NMCR_l = \max(NMCR_{(combined,l)}; AMCR_l)$$

where:

- (a)  $NMCR_{(combined,l)}$  denotes the notional combined life Minimum Capital Requirement;
- (b)  $AMCR_l$  denotes the absolute floor prescribed in Article 129(1)(d)(ii) of Directive 2009/138/EC.

8 The notional combined life Minimum Capital Requirement shall be equal to the following:

$$NMCR_{(combined,l)} = \min(\max(NMCR_{(linear,l)}; 0,25 \times (NSCR_l + Addon_l)); 0,45 \times (NSCR_l + Addon_l))$$

where:

- (a)  $NMCR_{(linear,l)}$  denotes the notional linear Minimum Capital Requirement for life insurance or reinsurance activity;
- (b)  $NSCR_l$  denotes the notional Solvency Capital Requirement for life insurance or reinsurance activity;
- (c)  $Addon_l$  denotes the part of the capital add-ons, set by the supervisory authority <sup>F123</sup> ..., which has been apportioned by that supervisory authority to the life insurance or reinsurance activity of the insurance or reinsurance undertaking.

9 The notional linear Minimum Capital Requirement for life insurance or reinsurance activity shall be equal to the following:

$$NMCR_{(linear,l)} = MCR_{(nl,l)} + MCR_{(l,l)}$$

where:

- (a)  $MCR_{(nl,l)}$  denotes the linear formula component for non-life insurance and reinsurance obligations relating to life insurance or reinsurance activity;
- (b)  $MCR_{(l,l)}$  denotes the linear formula component for life insurance and reinsurance obligations relating to life insurance or reinsurance activity.

10  $MCR_{(nl,l)}$  and  $MCR_{(l,l)}$  shall be calculated in the same way as  $MCR_{(linear,nl)}$  and  $MCR_{(linear,l)}$  referred to in Article 250 and 251 of this Regulation respectively, but the technical provisions or premiums written used in the calculation shall only relate to the insurance and reinsurance obligations of life insurance or reinsurance activity in the classes of life insurance referred to in Annex II of Directive 2009/138/EC.

11 The notional Solvency Capital Requirement for life insurance or reinsurance activity shall be equal to the following:

$$NSCR_l = \frac{NMCR_{(linear,l)}}{NMCR_{(linear,nl)} + NMCR_{(linear,l)}} \times SCR$$

where:

- (a)  $SCR$  denotes the Solvency Capital Requirement calculated in accordance with Title I, Chapter VI, Section 4, Subsection 2 of Directive 2009/138/EC or with Title I, Chapter VI, Section 4, Subsection 3 of Directive 2009/138/EC, which shall for the purposes of this Article exclude any capital add-on imposed <sup>F124</sup> ...;

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

- (b)  $NMCR_{(linear,nl)}$  denotes the notional linear non-life Minimum Capital Requirement for non-life insurance or reinsurance activity;
- (c)  $NMCR_{(linear,l)}$  denotes the notional linear Minimum Capital Requirement for life insurance or reinsurance activity.

#### Textual Amendments

- F121** Words in Art. 252(3)(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), **11(38)(a)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F122** Words in Art. 252(6)(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), **11(38)(b)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F123** Words in Art. 252(8)(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), **11(38)(a)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F124** Words in Art. 252(11)(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), **11(38)(b)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)

### Article 253

#### Absolute floor of the Minimum Capital Requirement

- 1 The absolute floor of the Minimum Capital Requirement for insurance undertakings that have obtained the authorisations referred to in points (a) or (b) of Article 73(2) of Directive 2009/138/EC shall be the sum of the amounts set out in points (i) and (ii) of Article 129(1)(d) of that Directive.
- 2 Where the gross written premiums for non-life insurance business listed in classes 1 and 2 in Part A of Annex 1 of Directive 2009/138/EC do not exceed 10 % of total gross written premiums of the undertaking as a whole, the absolute floor of the Minimum Capital Requirement shall be equal to the amount set out in point (ii) of Article 129(1) (d) of that Directive.
- 3 Where the gross written premiums for life insurance business do not exceed 10 % of total gross written premiums of the undertaking as a whole, the absolute floor of the Minimum Capital Requirement shall be equal to the amount set out in point (ii) of Article 129(1) (d) of that Directive.

### CHAPTER VIII

#### INVESTMENTS IN SECURITISATION POSITIONS

### <sup>F76</sup>Article 254

<sup>F76</sup>Risk retention requirements relating to the originators, sponsors or original lenders

.....

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

#### Textual Amendments

**F76** Deleted by Commission Delegated Regulation (EU) 2018/1221 of 1 June 2018 amending Delegated Regulation (EU) 2015/35 as regards the calculation of regulatory capital requirements for securitisations and simple, transparent and standardised securitisations held by insurance and reinsurance undertakings (Text with EEA relevance).

### <sup>F76</sup>Article 255

#### Exemptions to risk retention requirements

#### Textual Amendments

**F76** Deleted by Commission Delegated Regulation (EU) 2018/1221 of 1 June 2018 amending Delegated Regulation (EU) 2015/35 as regards the calculation of regulatory capital requirements for securitisations and simple, transparent and standardised securitisations held by insurance and reinsurance undertakings (Text with EEA relevance).

### <sup>F76</sup>Article 256

#### Qualitative requirements relating to insurance and reinsurance undertakings]

#### Textual Amendments

**F76** Deleted by Commission Delegated Regulation (EU) 2018/1221 of 1 June 2018 amending Delegated Regulation (EU) 2015/35 as regards the calculation of regulatory capital requirements for securitisations and simple, transparent and standardised securitisations held by insurance and reinsurance undertakings (Text with EEA relevance).

### Article 257

#### Requirements for investments in securitisation that no longer comply with the risk-retention and qualitative requirements

[<sup>F51</sup> Where insurance and reinsurance undertakings become aware that the originator, sponsor or original lender fails to comply with the requirements set out in Article 6 of Regulation (EU) 2017/2402, or insurance or reinsurance undertakings become aware that the requirements set out in Article 5(1), (2) and (3) of that Regulation are not being complied with, they shall inform the [<sup>F125</sup>PRA] immediately.

2 Where the requirements in Article 5(1), (2) and (3) of Regulation (EU) 2017/2402 are not fulfilled in any respect by reason of the negligence or omission of the insurance or reinsurance undertaking, the [<sup>F126</sup>PRA] shall impose a proportionate increase to the Solvency Capital Requirement in accordance with paragraph 3 of this Article.]

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3 Where the standard formula is used for the calculation of spread risk as referred to in Article 178, for the purposes of the calculation of the increased Solvency Capital Requirement referred to in paragraph 2 of this Article, the capital requirement for spread risk of the relevant securitisation positions shall be based on risk factors as referred to in Article 178, but increased by no less than 250 % of those risk factors.

[<sup>F54</sup> The risk factors shall be progressively increased with each subsequent breach of the requirements set out in Article 5 of Regulation (EU) 2017/2402.

5 Where insurance and reinsurance undertakings fail to comply with any requirement set out in Article 5(4) of Regulation (EU) 2017/2402, by reason of their negligence or omission, the supervisory authorities shall assess whether that failure should be considered a significant deviation from the [<sup>F127</sup> standards of governance laid down in Title 1, Chapter IV, Section 2] of Directive 2009/138/EC.]

#### Textual Amendments

- F5** Substituted by Commission Delegated Regulation (EU) 2018/1221 of 1 June 2018 amending Delegated Regulation (EU) 2015/35 as regards the calculation of regulatory capital requirements for securitisations and simple, transparent and standardised securitisations held by insurance and reinsurance undertakings (Text with EEA relevance).
- F125** Word in Art. 257(1) substituted (31.12.2020) by The Electronic Commerce and Solvency 2 (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/1361), regs. 1(2), **2(3)(a)** (as amended by S.I. 2019/1390, regs. 1(2), 6); 2020 c. 1, Sch. 5 para. 1(1)
- F126** Word in Art. 257(2) substituted (31.12.2020) by The Electronic Commerce and Solvency 2 (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/1361), regs. 1(2), **2(3)(a)** (as amended by S.I. 2019/1390, regs. 1(2), 6); 2020 c. 1, Sch. 5 para. 1(1)
- F127** Words in Art. 257(5) substituted (31.12.2020) by The Electronic Commerce and Solvency 2 (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/1361), regs. 1(2), **2(3)(b)** (as amended by S.I. 2019/1390, regs. 1(2), 6); 2020 c. 1, Sch. 5 para. 1(1)

## CHAPTER IX

### SYSTEM OF GOVERNANCE

#### SECTION 1

#### *Elements of the system of governance*

#### *Article 258*

#### General governance requirements

- 1 Insurance and reinsurance undertakings shall fulfil all of the following requirements:
- establish, implement and maintain effective cooperation, internal reporting and communication of information at all relevant levels of the undertaking;
  - establish, implement and maintain effective decision making procedures and an organisational structure which clearly specifies reporting lines, allocates functions and responsibilities, and takes into account the nature, scale and complexity of the risks inherent in that undertaking's business;

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- c ensure that the members of the administrative, management or supervisory body collectively possess the necessary qualifications, competency, skills and professional experience in the relevant areas of the business in order to effectively manage and oversee the undertaking in a professional manner;
  - d ensure that each individual member of the administrative, management or supervisory body has the necessary qualifications, competency, skills and professional experience to perform the tasks assigned;
  - e employ personnel with the skills, knowledge and expertise necessary to carry out the responsibilities allocated to them properly;
  - f ensure that all personnel are aware of the procedures for the proper carrying out of their responsibilities;
  - g ensure that the assignment of multiple tasks to individuals and organisational units does not or is not likely to prevent the persons concerned from carrying out any particular function in a sound, honest and objective manner;
  - h establish information systems which produce complete, reliable, clear, consistent, timely and relevant information concerning the business activities, the commitments assumed and the risks to which the undertaking is exposed;
  - i maintain adequate and orderly records of the undertaking's business and internal organisation;
  - j safeguard the security, integrity and confidentiality of information, taking into account the nature of the information in question;
  - k introduce clear reporting lines that ensure the prompt transfer of information to all persons who need it in a way that enables them to recognise its importance as regards their respective responsibilities;
  - l adopt a written remuneration policy.
- 2 Policies on risk management, internal control, internal audit and, where relevant, outsourcing, shall clearly set out the relevant responsibilities, objectives, processes and reporting procedures to be applied, all of which shall be consistent with the undertaking's overall business strategy.
- 3 Insurance and reinsurance undertakings shall establish, implement and maintain a business continuity policy aimed at ensuring, in the case of an interruption to their systems and procedures, the preservation of essential data and functions and the maintenance of insurance and reinsurance activities, or, where that is not possible, the timely recovery of such data and functions and the timely resumption of their insurance or reinsurance activities.
- 4 Insurance and reinsurance undertakings shall ensure that at least two persons effectively run the undertaking.
- 5 Insurance and reinsurance undertakings shall ensure that effective processes and procedures are in place to prevent conflicts of interest and that potential sources of conflicts of interest are identified and procedures are established in order to ensure that those involved in the implementation of the undertaking's strategies and policies understand where conflicts of interest could arise and how such conflicts are to be addressed.
- 6 Insurance and reinsurance undertakings shall monitor, and on a regular basis evaluate, the adequacy and effectiveness of their system of governance and take appropriate measures to address any deficiencies.



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## Article 259

### Risk Management System

1 Insurance and reinsurance undertakings shall establish, implement and maintain a risk management system which includes the following:

- a a clearly defined risk management strategy which is consistent with the undertaking's overall business strategy. The objectives and key principles of the strategy, the approved risk tolerance limits and the assignment of responsibilities across all the activities of the undertaking shall be documented;
- b a clearly defined procedure on the decision-making process;
- c written policies which effectively ensure the definition and categorisation of the material risks by type to which the undertaking is exposed, and the approved risk tolerance limits for each type of risk. Such policies shall implement the undertaking's risk strategy, facilitate control mechanisms and take into account the nature, scope and time periods of the business and the associated risks;
- d reporting procedures and processes which ensure that information on the material risks faced by the undertaking and the effectiveness of the risk management system are actively monitored and analysed and that appropriate modifications to the system are made where necessary.

2 Insurance and reinsurance undertakings shall ensure that the persons who effectively run the undertaking or have other key functions take into account the information reported as part of the risk management system in their decision making process.

3 Insurance and reinsurance undertakings shall, where appropriate, include the performance of stress tests and scenario analysis with regard to all relevant risks faced by the undertaking, in their risk-management system.

4 In addition to the requirements set out in Article 44(4a) of Directive 2009/138/EC for the purposes of the calculation of technical provisions and the Solvency Capital Requirement, internal risk management methodologies shall not rely solely or automatically on external credit assessments. Where the calculation of technical provisions or of the Solvency Capital Requirement is based on external credit assessments by an ECAI or based on the fact that an exposure is unrated, that shall not exempt insurance and reinsurance undertakings from additionally considering other relevant information.

## Article 260

### Risk management areas

1 The areas referred to in Article 44(2) of Directive 2009/138/EC shall include all of the following policies:

- a Underwriting and reserving:
  - (i) actions to be taken by the insurance or reinsurance undertaking to assess and manage the risk of loss or of adverse change in the values of insurance and reinsurance liabilities, resulting from inadequate pricing and provisioning assumptions;
  - (ii) the sufficiency and quality of relevant data to be considered in the underwriting and reserving processes, as set out in Article 19 of this

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- Regulation, and their consistency with the standards of sufficiency and quality;
  - (iii) the adequacy of claims management procedures including the extent to which they cover the overall cycle of claims.
- b Asset-liability management:
  - (i) the structural mismatch between assets and liabilities and in particular the duration mismatch of those assets and liabilities;
  - (ii) any dependency between risks of different asset and liability classes;
  - (iii) any dependency between the risks of different insurance or reinsurance obligations;
  - (iv) any off-balance sheet exposures of the undertaking;
  - (v) the effect of relevant risk-mitigating techniques on asset-liability management.
- c Investment risk management:
  - (i) actions to be taken by the insurance or reinsurance undertaking to ensure that the undertaking's investments complies with the prudent person principle set out in Article 132 of Directive 2009/138/EC;
  - (ii) actions to be taken by the insurance or reinsurance undertaking to ensure that the undertaking's investments take into account the nature of the undertaking's business, its approved risk tolerance limits, its solvency position and its long-term risk exposure;
  - (iii) the insurance or reinsurance undertakings' own internal assessment of the credit risk of investment counterparties, including where the counterparties are central governments;
  - (iv) where the insurance or reinsurance undertaking uses derivatives or any other financial instrument with similar characteristics or effects, the objectives of, and strategy underlying their use and the way in which they facilitate efficient portfolio management or contribute to a reduction of risks, as well as procedures to assess the risk of such instruments and the principles of risk management to be applied to them;
  - (v) where appropriate in order to ensure effective risk-management, internal quantitative limits on assets and exposures, including off-balance sheet exposures.
- d Liquidity risk management:
  - (i) actions to be taken by the insurance or reinsurance undertaking to take into account both short term and long term liquidity risk;
  - (ii) the appropriateness of the composition of the assets in terms of their nature, duration and liquidity in order to meet the undertaking's obligations as they fall due;
  - (iii) a plan to deal with changes in expected cash in-flows and out-flows.
- e Concentration risk management: actions to be taken by the insurance or reinsurance undertaking to identify relevant sources of concentration risk to ensure that risk

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concentrations remain within established limits and actions to analyse possible risks of contagion between concentrated exposures.

- f Operational risk management: actions to be taken by the insurance or reinsurance undertaking to assign clear responsibilities to regularly identify, document and monitor relevant operational risk exposures.
- g Reinsurance and other insurance risk mitigation techniques:
  - (i) actions to be taken by the insurance or reinsurance undertaking to ensure the selection of suitable reinsurance and other risk mitigation techniques;
  - (ii) actions to be taken by the insurance or reinsurance undertaking to assess which types of risk mitigation techniques are appropriate according to the nature of the risks assumed and the capabilities of the undertaking to manage and control the risks associated with those techniques;
  - (iii) the insurance or reinsurance undertakings' own assessment of the credit risk of the risk mitigation techniques.

[<sup>F12</sup>h Deferred taxes:

- (i) actions related to the insurance or reinsurance undertaking's selection of methods and assumptions to demonstrate the amount and recoverability of the loss-absorbing capacity of deferred taxes;
- (ii) involvement of the relevant key functions in the selection and assessment of methods and assumptions to demonstrate the amount and recoverability of the loss-absorbing capacity of deferred taxes, how the outcome of that assessment is reported to the administrative, management or supervisory body, including the assessment of the underlying assumptions applied for the projection of future taxable profit for the purposes of Articles 15 and 207, and an explanation of any concerns about those assumptions, which shall be carried out in each case by either the actuarial function or the risk management function;
- (iii) risks that the insurance or reinsurance undertaking is or could be exposed to, taking into account potential future changes in its risk profile due to its business strategy or the economic and financial environment, including operational risks and potential changes in its loss-absorbing capacity of deferred taxes. That assessment shall include the overall reliance of the solvency and financial condition on deferred taxes and its consistency with the risk management policy.]

2 The expected profit included in future premiums shall be calculated as the difference between the technical provisions without a risk margin calculated in accordance with Article 77 of that Directive and a calculation of the technical provisions without a risk margin under the assumption that the premiums relating to existing insurance and reinsurance contracts that are expected to be received in the future are not received for any reason other than the insured event having occurred, regardless of the legal or contractual rights of the policyholder to discontinue the policy.

3 The calculation of the expected profit included in future premiums shall be carried out separately for the homogeneous risk groups used in the calculation of the technical provisions, provided that the insurance and reinsurance obligations are also homogeneous in relation to the expected profit included in future premiums.

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4 Loss-making policies may only be offset against profit-making policies within a homogeneous risk group.

#### Textual Amendments

**F12** 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 \(Solvency II\) \(Text with EEA relevance\)](#).

### Article 261

#### **Risk management in undertakings providing loans and/or mortgage insurance or reinsurance**

1 Where insurance and reinsurance undertakings engage in the activity of providing loans, they shall have written policies to ensure all of the following:

- a that credit-granting is based on sound and well-defined criteria and that the process for approving, amending, renewing and refinancing credits is clearly established;
- b that undertakings have internal methodologies that enable them to assess the credit risk of exposures to individual obligors and at the portfolio level;
- c that the ongoing administration and monitoring of the loan portfolios, including for identifying and managing problematic credits, and for making adequate value adjustments, is operated through effective systems;
- d that the diversification of the loan portfolios is adequate given the target markets and overall investment strategy of the undertaking.

2 Where insurance and reinsurance undertakings engage in mortgage insurance or reinsurance, they shall base their underwriting on sound and well-defined criteria and comply with the requirements set out in points (b), (c) and (d) of paragraph 1 with regard to the mortgage loans underlying their insurance and reinsurance obligations.

### *[<sup>F10</sup> Article 261a*

#### **Risk management for qualifying infrastructure investments or qualifying infrastructure corporate investments**

1 Insurance and reinsurance undertakings shall conduct adequate due diligence prior to making a qualifying infrastructure investment or a qualifying infrastructure corporate investment, including all of the following:

- a a documented assessment of how the infrastructure entity satisfies the criteria set out in Article 164a or Article 164b, which has been subject to a validation process, carried out by persons that are free from influence from those persons responsible for the assessment of the criteria, and have no potential conflicts of interest with those persons;
- b a confirmation that any financial model for the cash flows of the infrastructure entity has been subject to a validation process carried out by persons that are free from influence from those persons responsible for the development of the financial model, and have no potential conflicts of interest with those persons.

2 Insurance and reinsurance undertakings with a qualifying infrastructure investment or a qualifying infrastructure corporate investment shall regularly monitor and perform stress tests

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on the cash flows and collateral values supporting the infrastructure entity. Any stress tests shall be commensurate with the nature, scale and complexity of the risk inherent in the infrastructure project.

3 The stress testing shall consider risks arising from non-infrastructure activities, but the revenues generated by such activities shall not be taken into account when determining whether the infrastructure entity is able to meet its financial obligations.

4 Where insurance or reinsurance undertakings hold material qualifying infrastructure investments or qualifying infrastructure corporate investments, they shall, when establishing the written procedures referred to in Article 41(3) of Directive 2009/138/EC, include provisions for an active monitoring of these investments during the construction phase, and for a maximisation of the amount covered from these investments in case of a work-out scenario.

5 Insurance or reinsurance undertakings with a qualifying infrastructure investment or a qualifying infrastructure corporate investment in bonds or loans shall set up their asset-liability management to ensure that, on an ongoing basis, they are able to hold the investment to maturity.]

#### Textual Amendments

**F10** Substituted by [Commission Delegated Regulation \(EU\) 2017/1542 of 8 June 2017 amending Delegated Regulation \(EU\) 2015/35 concerning the calculation of regulatory capital requirements for certain categories of assets held by insurance and reinsurance undertakings \(infrastructure corporates\) \(Text with EEA relevance\).](#)

### Article 262

#### Overall solvency needs

1 The assessment of an insurance or reinsurance undertaking's overall solvency needs, referred to in Article 45(1)(a) of Directive 2009/138/EC shall be forward-looking and include all of the following elements:

- a risks the undertaking is or could be exposed to, taking into account potential future changes in its risk profile due to the undertaking's business strategy or the economic and financial environment, including operational risks;
- b the nature and quality of own fund items or other resources appropriate to cover the risks identified in point (a) of this paragraph.

2 The elements referred to paragraph 1 shall take the following into account:

- a the time periods that are relevant for taking into account the risks the undertaking faces in the long-term;
- b valuation and recognition bases that are appropriate for the undertaking's business and risk profile;
- c the undertaking's internal control and risk-management systems and approved risk tolerance limits.

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## Article 263

### Alternative methods for valuation

Where alternative valuation methods in accordance with Article 10(5) are used, insurance and reinsurance undertakings shall:

- (a) identify the assets and liabilities to which that valuation approach applies;
- (b) justify the use of that valuation approach for the assets and liabilities referred to in point (a);
- (c) document the assumptions underlying that valuation approach;
- (d) assess the valuation uncertainty of the assets and liabilities referred to in point (a);
- (e) regularly compare the adequacy of the valuation of the assets and liabilities referred to in point (a) against experience.

## Article 264

### Valuation of technical provisions — validation

1 Insurance and reinsurance undertakings shall validate the calculation of technical provisions, in particular by comparison against experience as referred to in Article 83 of Directive 2009/138/EC, at least once a year and where there are indications that the data, assumptions or methods used in the calculation or the level of the technical provisions are no longer appropriate. The validation shall cover the following:

- a the appropriateness, completeness and accuracy of data used in the calculation of technical provisions as set out in Article 19 of this Regulation;
- b the appropriateness of any grouping of policies in accordance with Article 34 of this Regulation;
- c the remedies to limitations of the data referred to in Article 20 of this Regulation;
- d the appropriateness of approximations referred to in Article 21 of this Regulation for the purposes of calculating the best estimate;
- e the adequacy and realism of assumptions used in the calculation of technical provisions for the purposes of meeting the requirements in Articles 22 to 26 of this Regulation;
- f the adequacy, applicability and relevance of the actuarial and statistical methods applied in the calculation of technical provisions;
- g the appropriateness of the level of the technical provisions as referred to in Article 84 of Directive 2009/138/EC necessary to comply with Article 76 of that Directive.

2 For the purposes of point (d) of paragraph 1, insurance and reinsurance undertakings shall assess the impact of changes in the assumptions on future management actions on the valuation of the technical provisions. Where changes in an assumption on future management action have a significant impact on the technical provisions, insurance and reinsurance undertakings shall be able to explain the reasons for this impact and how the impact is taken into account in their decision-making process.

3 The validation shall be carried out separately for homogeneous risk groups. It shall be carried out separately for the best estimate, the risk margin and technical provisions calculated according to the market value of financial instruments which reliably replicate future cash flows

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in accordance with Article 40 of this Regulation. It shall be carried out separately for technical provisions where the matching adjustment referred to in Article 77b of Directive 2009/138/EC is applied. In relation to the best estimate, it shall be carried out separately for the gross best estimate and amounts recoverable from reinsurance contracts and special purpose vehicles. In relation to non-life insurance obligations, it shall be carried out separately for premium provisions and provisions for claims outstanding.

#### Article 265

##### **Valuation of technical provisions — documentation**

- 1 Insurance and reinsurance undertakings shall document the following processes:
  - a the collection of data and analysis of its quality and other information that relates to the calculation of technical provisions;
  - b the choice of assumptions used in the calculation of technical provisions, in particular the choice of relevant assumptions about the allocation of expenses;
  - c the selection and application of actuarial and statistical methods for the calculation of technical provisions;
  - d the validation of technical provisions.
- 2 For the purposes of point (a) of paragraph 1, the documentation shall include:
  - a a directory of the data used in the calculation of the technical provisions, specifying their source, characteristics and usage;
  - b the specification for the collection, processing and application of data referred to in Article 19(3)(e);
  - c where data are not used consistently over time in the calculation of technical provisions, a description of the inconsistent use and its justification.
- 3 For the purposes of point (b) of paragraph 1, the documentation shall include:
  - a a directory of all the relevant assumptions that the calculation of technical provisions are based upon; this shall include assumptions on future management actions;
  - b a justification for the choice of the assumption in accordance with Subsection 1 of Section 3 of Chapter III;
  - c a description of the inputs on which the choice is based;
  - d the objectives of the choice and the criteria used for determining the appropriateness of this choice;
  - e any material limitations in the choice made;
  - f a description of the processes in place to review the choice of assumptions;
  - g a justification for the changes of assumptions from one period to another and an estimation of the impact of material changes;
  - h the relevant deviations referred to in Article 23(2).

#### Article 266

##### **Internal control system**

The internal control system shall ensure the insurance and reinsurance undertaking's compliance with applicable laws, regulations and administrative provisions and the effectiveness and the efficiency of the undertaking's operations in light of its objectives

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as well as ensure the availability and reliability of financial and non-financial information.

#### *Article 267*

### **Internal control of valuation of assets and liabilities**

1 Insurance and reinsurance undertakings shall have effective systems and controls to ensure that valuation estimates of their assets and liabilities are reliable and appropriate to ensure compliance with Article 75 of Directive 2009/138/EC and shall have a process for regularly verifying that market prices or valuation model inputs are appropriate and reliable.

2 Insurance and reinsurance undertakings shall establish, implement, maintain and document clearly defined policies and procedures for the process of valuation, including the description and definition of roles and responsibilities of the personnel involved with the valuation, the relevant models, and the sources of information to be used.

3 At the request of the supervisory authorities, insurance and reinsurance undertakings shall undertake an external, independent valuation or verification of the value of material assets and liabilities.

4 Insurance and reinsurance undertakings shall fulfil all of the following requirements:

- a provide sufficient resources, both in terms of quality and quantity, to develop, calibrate, approve and review valuation approaches used for solvency purposes;
- b establish internal control processes which include all of the following:
  - (i) an independent review and verification on a regular basis of the information, data, and assumptions which are used in the valuation approach, its results, and the suitability of the valuation approach with respect to valuation of the items referred to in point (a) of Article 263;
  - (ii) oversight by the persons who effectively run the undertaking of the internal processes for approval of those valuations and the process in place to take account of any external, independent valuation or verification of the value of material assets or liabilities.

#### *SECTION 2*

### **Functions**

#### *Article 268*

### **Specific provisions**

1 Insurance and reinsurance undertakings shall incorporate the functions and the associated reporting lines into the organisational structure in a way which ensures that each function is free from influences that may compromise the function's ability to undertake its duties in an objective, fair and independent manner. Each function shall operate under the ultimate responsibility of, and report to the administrative, management or supervisory body and shall, where appropriate, cooperate with the other functions in carrying out their roles.



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2 The persons performing a function shall be able to communicate at their own initiative with any staff member and shall have the necessary authority, resources and expertise as well as unrestricted access to all relevant information necessary to carry out their responsibilities.

3 The persons performing a function shall promptly report any major problem in their area of responsibility to the administrative, management or supervisory body.

#### Article 269

### Risk management function

- 1 The risk management function shall include all of the following tasks:
  - a assisting the administrative, management or supervisory body and other functions in the effective operation of the risk management system;
  - b monitoring the risk management system;
  - c monitoring the general risk profile of the undertaking as a whole;
  - d detailed reporting on risk exposures and advising the administrative, management or supervisory body on risk management matters, including in relation to strategic affairs such as corporate strategy, mergers and acquisitions and major projects and investments;
  - e identifying and assessing emerging risks.
- 2 The risk management function shall fulfil all of the following requirements:
  - a fulfil the requirements set out in Article 44(5) of Directive 2009/138/EC;
  - b liaise closely with the users of the outputs of the internal model;
  - c co-operate closely with the actuarial function.

#### Article 270

### Compliance function

- 1 The compliance function of insurance and reinsurance undertakings shall establish a compliance policy and a compliance plan. The compliance policy shall define the responsibilities, competencies and reporting duties of the compliance function. The compliance plan shall set out the planned activities of the compliance function which take into account all relevant areas of the activities of insurance and reinsurance undertakings and their exposure to compliance risk.
- 2 The duties of the compliance function shall include assessing the adequacy of the measures adopted by the insurance or reinsurance undertaking to prevent non-compliance.

#### Article 271

### Internal audit function

- 1 The persons carrying out the internal audit function shall not assume any responsibility for any other function.
- 2 Notwithstanding paragraph 1, and in particular by respecting the principle of proportionality <sup>F128</sup> ..., the persons carrying out the internal audit function may also carry out other key functions, where all of the following conditions are met:

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- a this is appropriate with respect to the nature, scale and complexity of the risks inherent in the undertaking's business;
  - b no conflict of interest arises for the persons carrying out the internal audit function;
  - c the costs of maintaining persons for the internal audit function that do not carry out other key functions would impose costs on the undertaking that would be disproportionate with respect to the total administrative expenses.
- 3 The internal audit function shall include all of the following tasks:
- a establish, implement and maintain an audit plan setting out the audit work to be undertaken in the upcoming years, taking into account all activities and the complete system of governance of the insurance or reinsurance undertaking;
  - b take a risk-based approach in deciding its priorities;
  - c report the audit plan to the administrative, management or supervisory body;
  - d issue recommendations based on the result of work carried out in accordance with point (a) and submit a written report on its findings and recommendations to the administrative, management or supervisory body on at least an annual basis;
  - e verifying compliance with the decisions taken by the administrative, management or supervisory body on the basis of those recommendations referred to in point (d).

Where necessary, the internal audit function may carry out audits which are not included in the audit plan.

#### Textual Amendments

**F128** Words in [Art. 271\(2\)](#) 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), **11(40)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)

### Article 272

#### Actuarial function

- 1 In coordinating the calculation of the technical provisions, the actuarial function shall include all of the following tasks:
- a apply methodologies and procedures to assess the sufficiency of technical provisions and to ensure that their calculation is consistent with the requirements set out in Articles 75 to 86 of Directive 2009/138/EC;
  - b assess the uncertainty associated with the estimates made in the calculation of technical provisions;
  - c ensure that any limitations of data used to calculate technical provisions are properly dealt with;
  - d ensure that the most appropriate approximations for the purposes of calculating the best estimate are used in cases referred to in Article 82 of Directive 2009/138/EC;
  - e ensure that homogeneous risk groups of insurance and reinsurance obligations are identified for an appropriate assessment of the underlying risks;
  - f consider relevant information provided by financial markets and generally available data on underwriting risks and ensure that it is integrated into the assessment of technical provisions;
  - g compare and justify any material differences in the calculation of technical provisions from year to year;

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- h ensure that an appropriate assessment is provided of options and guarantees included in insurance and reinsurance contracts.

2 The actuarial function shall assess whether the methodologies and assumptions used in the calculation of the technical provisions are appropriate for the specific lines of business of the undertaking and for the way the business is managed, having regard to the available data.

3 The actuarial function shall assess whether the information technology systems used in the calculation of technical provisions sufficiently support the actuarial and statistical procedures.

4 The actuarial function shall, when comparing best estimates against experience, review the quality of past best estimates and use the insights gained from this assessment to improve the quality of current calculations. The comparison of best estimates against experience shall include comparisons between observed values and the estimates underlying the calculation of the best estimate, in order to draw conclusions on the appropriateness, accuracy and completeness of the data and assumptions used as well as on the methodologies applied in their calculation.

5 Information submitted to the administrative, management or supervisory body on the calculation of the technical provisions shall include at least a reasoned analysis on the reliability and adequacy of their calculation and on the sources and the degree of uncertainty of the estimate of the technical provisions. That reasoned analysis shall be supported by a sensitivity analysis that includes an investigation of the sensitivity of the technical provisions to each of the major risks underlying the obligations which are covered in the technical provisions. The actuarial function shall clearly [<sup>XI</sup>state] and explain any concerns it may have concerning the adequacy of technical provisions.

6 Regarding the underwriting policy, the opinion to be expressed by the actuarial function in accordance with Article 48(1)(g) of Directive 2009/138/EC shall at least include conclusions regarding the following considerations:

- a sufficiency of the premiums to be earned to cover future claims and expenses, notably taking into consideration the underlying risks (including underwriting risks), and the impact of options and guarantees included in insurance and reinsurance contracts on the sufficiency of premiums;
- b the effect of inflation, legal risk, change in the composition of the undertaking's portfolio, and of systems which adjust the premiums policy-holders pay upwards or downwards depending on their claims history (bonus-malus systems) or similar systems, implemented in specific homogeneous risk groups;
- c the progressive tendency of a portfolio of insurance contracts to attract or retain insured persons with a higher risk profile (anti-selection).

7 Regarding the overall reinsurance arrangements, the opinion to be expressed by the actuarial function in accordance with Article 48(1)(h) of Directive 2009/138/EC shall include analysis on the adequacy of the following:

- a the undertaking's risk profile and underwriting policy;
- b reinsurance providers taking into account their credit standing;
- c the expected cover under stress scenarios in relation to the underwriting policy;
- d the calculation of the amounts recoverable from reinsurance contracts and special purpose vehicles.

8 The actuarial function shall produce a written report to be submitted to the administrative, management or supervisory body, at least annually. The report shall document all tasks that have been undertaken by the actuarial function and their results, and shall clearly

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identify any deficiencies and give recommendations as to how such deficiencies should be remedied.

### SECTION 3

#### **Fit and proper requirements**

##### *Article 273*

1 Insurance and reinsurance undertakings shall establish, implement and maintain documented policies and adequate procedures to ensure that all persons who effectively run the undertaking or have other key functions are at all times fit and proper within the meaning of Article 42 of Directive 2009/138/EC.

2 The assessment of whether a person is fit shall include an assessment of the person's professional and formal qualifications, knowledge and relevant experience within the insurance sector, other financial sectors or other businesses and shall take into account the respective duties allocated to that person and, where relevant, the insurance, financial, accounting, actuarial and management skills of the person.

3 The assessment of whether members of the administrative, management or supervisory body are fit shall take account of the respective duties allocated to individual members to ensure appropriate diversity of qualifications, knowledge and relevant experience to ensure that the undertaking is managed and overseen in a professional manner.

4 The assessment of whether a person is proper shall include an assessment of that person's honesty and financial soundness based on evidence regarding their character, personal behaviour and business conduct including any criminal, financial and supervisory aspects relevant for the purposes of the assessment.

### SECTION 4

#### **Outsourcing**

##### *Article 274*

1 Any insurance or reinsurance undertaking which outsources or proposes to outsource functions or insurance or reinsurance activities to a service provider shall establish a written outsourcing policy which takes into account the impact of outsourcing on its business and the reporting and monitoring arrangements to be implemented in cases of outsourcing. The undertaking shall ensure that the terms and conditions of the outsourcing agreement are consistent with the undertaking's obligations as provided for in Article 49 of Directive 2009/138/EC.

2 Where the insurance or reinsurance undertaking and the service provider are members of the same group, the undertaking shall, when outsourcing critical or important operational functions or activities take into account the extent to which the undertaking controls the service provider or has the ability to influence its actions.

3 When choosing the service provider referred to in paragraph 1 for any critical or important operational functions or activities, the administrative, management or supervisory body shall ensure that:

- a a detailed examination is performed to ensure that the potential service provider has the ability, the capacity and any authorisation required by law to deliver the required

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- functions or activities satisfactorily, taking into account the undertaking's objectives and needs;
  - b the service provider has adopted all means to ensure that no explicit or potential conflict of interests jeopardize the fulfilment of the needs of the outsourcing undertaking;
  - c a written agreement is entered into between the insurance or reinsurance undertaking and the service provider which clearly defines the respective rights and obligations of the undertaking and the service provider;
  - d the general terms and conditions of the outsourcing agreement are clearly explained to the undertaking's administrative, management or supervisory body and authorised by them;
  - e the outsourcing does not entail the breaching of any law in particular with regard to rules on data protection;
  - f the service provider is subject to the same provisions on the safety and confidentiality of information relating to the insurance or reinsurance undertaking or to its policyholders or beneficiaries that are applicable to the insurance or reinsurance undertaking.
- 4 The written agreement referred to in paragraph 3 (c) to be concluded between the insurance or reinsurance undertaking and the service provider shall in particular clearly state all of the following requirements:
- a the duties and responsibilities of both parties involved;
  - b the service provider's commitment to comply with all applicable laws, regulatory requirements and guidelines as well as policies approved by the insurance or reinsurance undertaking and to cooperate with the undertaking's supervisory authority with regard to the outsourced function or activity;
  - c the service provider's obligation to disclose any development which may have a material impact on its ability to carry out the outsourced functions and activities effectively and in compliance with applicable laws and regulatory requirements;
  - d a notice period for the termination of the contract by the service provider which is long enough to enable the insurance or reinsurance undertaking to find an alternative solution;
  - e that the insurance or reinsurance undertaking is able to terminate the arrangement for outsourcing where necessary without detriment to the continuity and quality of its provision of services to policyholders;
  - f that the insurance or reinsurance undertaking reserves the right to be informed about the outsourced functions and activities and their performance by the services provider as well as a right to issue general guidelines and individual instructions at the address of the service provider, as to what has to be taken into account when performing the outsourced functions or activities;
  - g that the service provider shall protect any confidential information relating to the insurance or reinsurance undertaking and its policyholders, beneficiaries, employees, contracting parties and all other persons;
  - h that the insurance or reinsurance undertaking, its external auditor and the supervisory authority have effective access to all information relating to the outsourced functions and activities including carrying out on-site inspections of the business premises of the service provider;
  - i that, where appropriate and necessary for the purposes of supervision, the supervisory authority may address questions directly to the service provider to which the service provider shall reply;
  - j that the insurance or reinsurance undertaking may obtain information about the outsourced activities and may issue instructions concerning the outsourced activities and functions;

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- k the terms and conditions, where applicable, under which the service provider may sub-outsource any of the outsourced functions and activities;
  - l that the service provider's duties and responsibilities deriving from its agreement with the insurance or reinsurance undertaking shall remain unaffected by any sub-outsourcing taking place according to point (k).
- 5 The insurance or reinsurance undertaking that is outsourcing critical or important operational functions or activities shall fulfil all of the following requirements:
- a ensure that relevant aspects of the service provider's risk management and internal control systems are adequate to ensure compliance with Article 49(2)(a) and (b) of Directive 2009/138/EC;
  - b adequately take account of the outsourced activities in its risk management and internal control systems to ensure compliance with Article 49(2)(a) and (b) of Directive 2009/138/EC;
  - c verify that the service provider has the necessary financial resources to perform the additional tasks in a proper and reliable way, and that all staff of the service provider who will be involved in providing the outsourced functions or activities are sufficiently qualified and reliable;
  - d ensure that the service provider has adequate contingency plans in place to deal with emergency situations or business disruptions and periodically tests backup facilities where necessary, taking into account the outsourced functions and activities.

## SECTION 5

### *[<sup>XI</sup>Remuneration] policy*

#### Article 275

- 1 When establishing and applying the remuneration policy referred to in Article 258(1) (l), insurance and reinsurance undertakings shall comply with all of the following principles:
- a the remuneration policy and remuneration practices shall be established, implemented and maintained in line with the undertaking's business and risk management strategy, its risk profile, objectives, risk management practices and the long-term interests and performance of the undertaking as a whole and shall incorporate measures aimed at avoiding conflicts of interest;
  - b the remuneration policy promotes sound and effective risk management and shall not encourage risk-taking that exceeds the risk tolerance limits of the undertaking;
  - c the remuneration policy applies to the undertaking as a whole, and contains specific arrangements that take into account the tasks and performance of the administrative, management or supervisory body, persons who effectively run the undertaking or have other key functions and other categories of staff whose professional activities have a material impact on the undertaking's risk profile;
  - d the administrative, management or supervisory body of the undertaking which establishes the general principles of the remuneration policy for those categories of staff whose professional activities have a material impact on the undertaking's risk profile is responsible for the oversight of its implementation;
  - e there shall be clear, transparent and effective governance with regard to remuneration, including the oversight of the remuneration policy;
  - f an independent remuneration committee shall be created, if appropriate in relation to the significance of the insurance or reinsurance undertakings in terms of size and internal organisation, in order to periodically support the administrative, management or

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- supervisory body in overseeing the design of the remuneration policy and remuneration practices, their implementation and operation;
  - g the remuneration policy shall be disclosed to each member of the undertaking's staff.
- 2 The specific arrangements referred to in point (c) of paragraph 1c shall comply with all of the following principles:
- a where remuneration schemes include both fixed and variable components, such components shall be balanced so that the fixed or guaranteed component represents a sufficiently high proportion of the total remuneration to avoid employees being overly dependent on the variable components and to allow the undertaking to operate a fully flexible bonus policy, including the possibility of paying no variable component;
  - b where variable remuneration is performance-related, the total amount of the variable remuneration is based on a combination of the assessment of the performance of the individual and of the business unit concerned and of the overall result of the undertaking or the group to which the undertakings belongs;
  - c the payment of a substantial portion of the variable remuneration component, irrespective of the form in which it is to be paid, shall contain a flexible, deferred component that takes account of the nature and time horizon of the undertaking's business: that deferral period shall not be less than three years and the period shall be correctly aligned with the nature of the business, its risks, and the activities of the employees in question;
  - d financial and also non-financial criteria shall be taken into account when assessing an individual's performance;
  - e the measurement of performance, as a basis for variable remuneration, shall include a downwards adjustment for exposure to current and future risks, taking into account the undertaking's risk profile and the cost of capital;
  - f termination payments shall be related to performance achieved over the whole period of activity and be designed in a way that does not reward failure;
  - g persons subject to the remuneration policy shall commit to not using any personal hedging strategies or remuneration and liability-related insurance which would undermine the risk alignment effects embedded in their remuneration arrangement.
  - h The variable part of remuneration of the staff engaged in the functions referred to in Articles 269 to 272 shall be independent from the performance of the operational units and areas that are submitted to their control;
- 3 The remuneration policy shall be design in such a way as to take into account the internal organization of the insurance or reinsurance undertaking, and the nature, scale and complexity of the risks inherent in its business.

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## CHAPTER X

### CAPITAL ADD-ON

#### SECTION 1

#### *Circumstances for imposing a capital add-on*

##### *Article 276*

#### **Assessment of a significant deviation as regards the SCR**

<sup>F129</sup>... In concluding that the risk profile of an insurance or reinsurance undertaking deviates significantly from the assumptions underlying the Solvency Capital Requirement as calculated using the standard formula or an internal model, supervisory authorities shall take into account all relevant factors including all of the following:

- (a) the nature, type and size of the deviation;
- (b) the likelihood and severity of any adverse impact on policyholders and beneficiaries;
- (c) the level of sensitivity of the assumptions to which the deviation relates;
- (d) the anticipated duration and volatility of the deviation over the duration of the deviation.

#### **Textual Amendments**

**F129** Words in [Art. 276](#) 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(41)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)

##### *Article 277*

#### **Assessment of a significant deviation as regards the governance**

[<sup>F130</sup>In] concluding that the system of governance of an insurance or reinsurance undertaking deviates significantly from the standards laid down in Title I, Chapter IV, Section 2 of that Directive, supervisory authorities shall take into account all relevant factors including all of the following:

- (a) the effect of the deviation from the governance standards as laid down in Title I, Chapter IV, Section 2 of Directive 2009/138/EC on the sound and prudent management of the business and whether the deviation arises from an inadequate implementation of a requirement relating to the system of governance or a failure to implement such a requirement;
- (b) the likelihood and severity of any adverse impact on policyholders and beneficiaries;
- (c) the different ways of organising an effective system of governance which is proportionate to the nature, scale and complexity of the risks inherent in the business of the undertaking;



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- (d) the probable financial loss the undertaking could incur as a consequence of the deviation;
- (e) the anticipated duration of the deviation.

#### Textual Amendments

**F130** Word in Art. 277 substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(42)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)

### Article 278

#### Assessment of a significant deviation as regards adjustments to the relevant risk-free rate and transitional measures

1 <sup>F131</sup>In] concluding that the risk profile of an insurance or reinsurance undertaking deviates significantly from the assumptions underlying the matching adjustment referred to in Article 77b of that Directive, the volatility adjustment referred to in Article 77d of that Directive or the transitional measures referred to in Article 308c and 308d of that Directive, supervisory authorities shall take into account all relevant factors including all of the following:

- a the nature, type and size of the deviation;
- b the likelihood and severity of any adverse impact on policyholders and beneficiaries;
- c the level of sensitivity of the assumptions to which the deviation relates;
- d the anticipated duration and volatility of the deviation over the duration of the deviation;
- e the impact of the deviation on the Solvency Capital Requirement and own funds of the undertaking.

2 With respect to the matching adjustment and transitional measures and <sup>F132</sup>... the volatility adjustment, <sup>F133</sup>... where supervisory authorities have allowed an insurance or reinsurance undertaking to use one of these adjustments or transitional measures, they may impose a capital add-on <sup>F134</sup>... only in circumstances where the deviation from the assumptions underlying the adjustments or transitional measures is of a temporary nature and does not justify revoking the supervisory approval for the use of the adjustment or the transitional measure.

#### Textual Amendments

**F131** Word in Art. 278(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(43)(a)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)

**F132** Words in Art. 278(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), **11(43)(b)(i)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)

**F133** Words in Art. 278(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), **11(43)(b)(ii)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)

**F134** Words in Art. 278(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), **11(43)(b)(iii)** (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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## Article 279

### Add-ons in relation to deviations from Solvency Capital Requirement assumptions

1 Where the modified Solvency Capital Requirement as calculated under Article 282(a) exceeds the Solvency Capital Requirement as calculated under 282(b) by 10 percent or more, supervisory authorities shall conclude that the risk profile of the insurance or reinsurance undertaking deviates significantly from the assumptions underlying the Solvency Capital Requirement <sup>F135</sup>..., unless they have strong evidence that this is not the case on the basis of the factors set out in article 276.

2 Where the modified Solvency Capital Requirement as calculated in Article 282(a) exceeds the Solvency Capital Requirement as calculated in 282(b) by 15 percent or more, supervisory authorities shall conclude that the risk profile of the insurance or reinsurance undertaking deviates significantly from the assumptions underlying the Solvency Capital Requirement <sup>F135</sup>....

#### Textual Amendments

**F135** Words in [Art. 279](#) 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(44)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)

## Article 280

### Assessment of the requirement to use an internal model

1 [<sup>F136</sup>The] circumstances in which the requirement to use an internal model is inappropriate include those where the estimated financial and other resources required to develop the internal model are disproportionate to the size of the deviation of the risk profile of the undertaking from the assumptions underlying the Solvency Capital Requirement.

2 [<sup>F136</sup>The] requirement to use an internal model is ineffective where no internal model has been developed or where the developed internal model fails to meet the general conditions for the approval of full and partial internal models as set out in Title I, Chapter VI, Section 4, Subsections 1 and 3 of Directive 2009/138/EC.

#### Textual Amendments

**F136** Word in [Art. 280](#) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(45)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)

## Article 281

### Appropriate timeframe for adapting the internal model

[<sup>F137</sup>In] concluding that the adaptation of the internal model to better reflect the given risk profile has failed or that the application of other measures is unlikely to

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improve deficiencies, supervisory authorities shall take account of all relevant factors in determining an appropriate timeframe, including the likelihood and severity of any adverse impact on policy holders and beneficiaries. That timeframe shall not exceed 6 months.

#### Textual Amendments

**F137** Word in [Art. 281](#) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/407), regs. 1(2), **11(46)** (as amended by [S.I. 2020/1385](#), regs. 1(2), [54\(2\)](#) and with savings in [S.I. 2019/680](#), reg. 11)

## SECTION 2

### *Methodologies for calculating capital add-ons*

#### *Article 282*

#### **Calculation of add-ons in relation to deviations from SCR assumptions**

For the purposes of imposing a capital add-on [<sup>F138</sup>in relation to deviations from SCR assumptions], supervisory authorities shall calculate the capital add-on as the difference, at a given point in time, between the following:

- (a) the Solvency Capital Requirement of the insurance or reinsurance undertaking, excluding any previous or simultaneous capital add-on, that would be calculated if the standard formula or internal model, as appropriate, were modified so as to reflect the actual risk profile of the insurance or reinsurance undertaking and to ensure compliance with Article 101(3) of Directive 2009/138/EC;
- (b) the Solvency Capital Requirement of the insurance or reinsurance undertaking, excluding any previous or simultaneous capital add-on.

#### Textual Amendments

**F138** Words in [Art. 282](#) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/407), regs. 1(2), **11(47)** (as amended by [S.I. 2020/1385](#), regs. 1(2), [54\(2\)](#) and with savings in [S.I. 2019/680](#), reg. 11)

#### *Article 283*

#### **Scope and approach of modifications as regards a deviation from SCR assumptions**

1 In calculating the amount referred to in Article 282(a), supervisory authorities shall consider the aspects of the standard formula or the internal model which gave rise to the deviation of the risk profile assumed under the standard formula or the internal model from the actual risk profile of the undertaking including, where relevant, quantifiable risks not taken into account by the standard formula or the internal model, the structure of the formula or the model, aggregation methods, parameters, and assumptions.

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

2 For the purposes of paragraph 1, supervisory authorities shall modify the assumptions and parameters underlying the Solvency Capital Requirement as calculated using the standard formula or internal model in order for those assumptions or parameters to properly reflect the actual risk profile of the insurance or reinsurance undertaking and to ensure compliance with Article 101(3) of Directive 2009/138/EC.

3 Where the modifications referred to in paragraph 2 are insufficient or inappropriate to calculate the amount referred to in Article 282(a), alternative methodologies which go beyond modifying assumptions or parameters shall be used for the purposes of the calculation referred to in Article 282(a).

4 Any modification referred to in paragraph 2 or alternative methodology referred to in paragraph 3 shall use adequate, applicable and relevant actuarial and statistical techniques and shall be based on accurate, complete and appropriate data of the undertaking, or where these are not available, data which is directly relevant for the operations of that undertaking.

5 Where alternative methodologies referred to in paragraph 3 are insufficient or inappropriate, supervisory authorities may calculate the Solvency Capital Requirement for the purposes of Article 282(a) by comparing the Solvency Capital Requirements of undertakings with similar risk profiles.

6 For the purposes of paragraphs 4 and 5, supervisory authorities may use information relating to other insurance or reinsurance undertakings with similar risk profiles provided that the supervisory authorities ensure that the reasons for their decision to set a capital add-on are stated <sup>F139</sup>... and that this statement will comply with the professional secrecy requirements in [<sup>F140</sup>section 348 of the Financial Services and Markets Act 2000].

7 Supervisory authorities shall not set off aspects of the risk profile deviation, which indicate that a lower Solvency Capital Requirement would better reflect the insurance or reinsurance undertaking's actual risk profile, against the other aspects which indicate that a higher Solvency Capital Requirement is appropriate, unless the insurance or reinsurance undertaking satisfies all of the following requirements:

- a a modification or a methodology exists which complies with the requirements set out in paragraph 4 to quantify the impact on the amount referred to in Article 282(a) of the aspects which indicate a lower Solvency Capital Requirement;
- b it would be inappropriate to address the aspects which indicate a lower Solvency Capital Requirement by replacing standard parameters by parameters specific to the undertaking in accordance with Article 104(7) of Directive 2009/138/EC or by using an internal model in accordance with Article 112 of that Directive;
- c the overall Solvency Capital Requirement that would result after setting off the risk profile deviations against each other complies with Article 101(3) of Directive 2009/138/EC.

#### Textual Amendments

**F139** Words in Art. 283(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), **11(48)(a)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)

**F140** Words in Art. 283(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(48)(b)** (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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## Article 284

### Calculation of add-ons in relation to adjustments to the relevant risk-free rate or transitional measures

For the purposes of imposing a capital add-on [<sup>F141</sup>in relation to assumptions underlying the relevant risk-free rate or transitional measures], supervisory authorities shall calculate the capital add-on as the sum, at a given point in time, of the following amounts:

- (a) the negative of the amount of eligible own funds that would be calculated if the adjustment or transitional measure was modified in a manner that the assumptions underlying the adjustment or transitional measure would fit the actual assets, liabilities and risk profile of the insurance or reinsurance undertaking;
- (b) the amount of the Solvency Capital Requirement, excluding any previous or simultaneous capital add-on, that would be calculated if the adjustment or transitional measure was modified in a manner that the assumptions underlying the adjustment or transitional measure would fit the actual assets, liabilities and risk profile of the insurance or reinsurance undertaking, and ensure compliance with Article 101(3) of Directive 2009/138/EC;
- (c) the amount of eligible own funds;
- (d) the negative of the amount of the Solvency Capital Requirement, excluding any previous or simultaneous capital add-on, of the insurance or reinsurance undertaking.

#### Textual Amendments

**F141** Words in [Art. 284](#) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/407), regs. 1(2), **11(49)** (as amended by [S.I. 2020/1385](#), regs. 1(2), [54\(2\)](#) and with savings in [S.I. 2019/680](#), reg. 11)

## Article 285

### Scope and approach of modifications as regards adjustments to the relevant risk-free rate and transitional measures

1 In calculating the amounts referred to in Article 284(a) and (b), supervisory authorities shall consider the features of the undertaking's assets, liabilities or risk profile which gave rise to the deviation from the assumptions underlying the adjustment or transitional measure.

2 For the purposes of paragraph 1, supervisory authorities shall modify the adjustment or transitional measure and the calculation of the Solvency Capital Requirement in a manner that the assumptions underlying the adjustment or transitional measure would fit the actual assets, liabilities and risk profile of the insurance or reinsurance undertaking, and ensure compliance with Article 101(3) of Directive 2009/138/EC;

3 Any modification referred to in paragraph 2 shall use adequate, applicable and relevant actuarial and statistical techniques and shall be based on accurate, complete and appropriate data of the undertaking, or where these are not available, data which is directly relevant for the operations of that undertaking.

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## Article 286

### Calculation of add-ons in relation to deviations from governance standards

For the purposes of calculating a capital add-on [<sup>F142</sup>in relation to deviations from governance standards], supervisory authorities shall take into account all relevant factors including all of the following:

- (a) where appropriate, the factors referred to in Article 277;
- (b) where appropriate, capital add-ons set previously for comparable deviations of other insurance or reinsurance undertakings with similar risk profiles provided that supervisory authorities ensure that the reasons for their decision to set a capital add-on are stated <sup>F143</sup>... and this statement complies with the professional secrecy requirements set out in [<sup>F144</sup>section 348 of the Financial Services and Markets Act 2000].

#### Textual Amendments

**F142** Words in [Art. 286](#) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(50)(a)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)

**F143** Words in [Art. 286\(b\)](#) 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(50)(b)(i)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)

**F144** Words in [Art. 286\(b\)](#) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(50)(b)(ii)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)

## Article 287

### Apportionment of add-ons for undertakings which simultaneously pursue life and non-life insurance activities

1 When calculating a capital add-on in relation to an insurance undertaking [<sup>F145</sup>that simultaneously pursues life and non-life insurance activities], supervisory authorities shall calculate a notional life capital add-on and a notional non-life capital add-on.

2 Where the causes of the relevant deviations can be objectively apportioned between the life insurance activity and the non-life insurance activity, supervisory authorities shall calculate the notional life capital add-on and the notional non-life capital add-on according to the same apportionment.

3 Where an apportionment in accordance with paragraph 2 is not possible, supervisory authorities shall calculate the notional life capital add-on and notional non-life capital add-on in the same way as the apportionment between the notional life Minimum Capital Requirement and the notional non-life Minimum Capital Requirement as referred to in Article 74(2) of Directive 2009/138/EC.



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### Textual Amendments

**F145** Words in [Art. 287\(1\)](#) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(51)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)

## CHAPTER XI

### EXTENSION OF THE RECOVERY PERIOD

#### Article 288

#### Assessment of exceptional adverse situations

For the purposes of declaring the existence of an exceptional adverse situation affecting insurance and reinsurance undertakings representing a significant share of the market or affected lines of business, as referred to in [<sup>F146</sup> rule 3.2 of the Undertakings in Difficulties part, and rule 4.4 of the Group Supervision part, of the PRA Rulebook], [<sup>F147</sup> the Prudential Regulation Committee of the Bank of England] shall take into account all of the following factors and criteria:

- (a) the impact of possible subsequent decisions by supervisory authorities to extend the recovery period, on financial markets, on the availability of insurance and reinsurance products and on policy holders and beneficiaries;
- (b) the number, size and market share of the insurance and reinsurance undertakings affected by the exceptional adverse situation and whether the size and nature of those undertakings could, when taken together, have a negative effect on the financial markets or on insurance and reinsurance markets;
- (c) possible pro-cyclical effects of re-establishing compliance with the Solvency Capital Requirement, including distressed sales of assets on financial markets;
- (d) the possibility for insurance and reinsurance undertakings to raise additional own funds in financial markets;
- (e) the availability of an active market for assets held by insurance and reinsurance undertakings and the liquidity of that market;
- (f) the capacity of the reinsurance market to provide reinsurance or retrocession cover;
- (g) the availability in financial markets of adequate risk mitigation techniques, including financial instruments;
- (h) the availability in financial markets of other means to reduce the risk-exposure of insurance and reinsurance undertakings.

### Textual Amendments

**F146** Words in [Art. 288](#) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(52)(a)** (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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**F147** Words in Art. 288 substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(52)(b)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)

## Article 289

### Factors and criteria to determine the extension of the recovery period

For the purposes of deciding on an extension of the period referred to in Article 138(4) of Directive 2009/138/EC and determining its length for a given insurance or reinsurance undertaking, the supervisory authority shall take into account the factors and criteria mentioned in points (c) to (h) of Article 288 of this Regulation and the following factors and criteria specific to the undertaking:

- (a) the impact of an extension on policy holders and beneficiaries of the insurance and reinsurance undertaking;
- (b) the extent to which the insurance or reinsurance undertaking is affected by the exceptional adverse situation;
- (c) the means available to the undertaking to re-establish compliance with the Solvency Capital Requirement and the existence of a realistic recovery plan;
- (d) the causes and the degree of non-compliance with the Solvency Capital Requirement;
- (e) the composition of own funds held by the insurance or reinsurance undertaking;
- (f) the composition of the assets held by the insurance or reinsurance undertaking;
- (g) the nature and duration of technical provisions and other liabilities of the insurance or reinsurance undertaking;
- (h) when applicable, the availability of financial support from other undertakings of the group to which the insurance or reinsurance undertaking belongs;
- (i) any measures taken by the insurance or reinsurance undertaking to limit the outflow of capital and the deterioration of its solvency position.

## CHAPTER XII

### PUBLIC DISCLOSURE

#### SECTION I

#### *Solvency and financial condition report: structure and contents*

#### Article 290

##### Structure

1 The solvency and financial condition report shall follow the structure set out in Annex XX and disclose the information referred to in Articles 292 to 298 of this Regulation.



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2 The report shall contain narrative information in quantitative and qualitative form supplemented, where appropriate, with quantitative templates.

#### *Article 291*

### **Materiality**

For the purposes of this Chapter, the information to be disclosed in the solvency and financial condition report shall be considered as material if its omission or misstatement could influence the decision-making or the judgement of the users of that document, including the supervisory authorities.

#### *Article 292*

### **Summary**

1 The solvency and financial condition report shall include a clear and concise summary. The summary of the report shall be understandable to policy holders and beneficiaries.

2 The summary of the report shall highlight any material changes to the insurance or reinsurance undertaking's business and performance, system of governance, risk profile, valuation for solvency purposes and capital management over the reporting period.

#### *Article 293*

### **Business and performance**

1 The solvency and condition report shall include all of the following information regarding the business of the insurance or reinsurance undertaking:

- a the name and legal form of the undertaking;
- b the name and contact details of the supervisory authority responsible for financial supervision of the undertaking and, where applicable, the name and contact details of the group supervisor of the group to which the undertaking belongs;
- c the name and contact details of the external auditor of the undertaking;
- d a description of the holders of qualifying holdings in the undertaking;
- e where the undertaking belongs to a group, details of the undertaking's position within the legal structure of the group;
- f the undertaking's material lines of business and material geographical areas where it carries out business;
- g any significant business or other events that have occurred over the reporting period that have had a material impact on the undertaking.

2 The solvency and financial condition report shall include qualitative and quantitative information on the insurance or reinsurance undertaking's underwriting performance, at an aggregate level and by material line of business and material geographical areas where it carries out business over the reporting period, together with a comparison of the information with that reported on the previous reporting period, as shown in the undertaking's financial statements.

3 The solvency and financial condition report shall include all of the following qualitative and quantitative information regarding the performance of the investments of the insurance or reinsurance undertaking over the reporting period together with a comparison of the

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information with that reported on the previous reporting period, as shown in that undertaking's financial statements:

- a information on income and expenses arising from investments by asset class and, where necessary for a proper understanding of the income and expenses, the components of such income and expenses;
- b information about any gains and losses recognised directly in equity;
- c information about any investments in securitisation.

4 The solvency and financial condition report shall describe the other material income and expenses of the insurance or reinsurance undertaking incurred over the reporting period together with a comparison of the information with that reported on the previous reporting period, as shown in that undertaking's financial statements.

5 The solvency and financial condition report shall include in a separate section any other material information regarding their business and performance of the insurance or reinsurance undertaking.

#### *Article 294*

### **System of governance**

1 The solvency and financial condition report shall include all of the following information regarding the system of governance of the insurance or reinsurance undertaking:

- a the structure of the undertaking's administrative, management or supervisory body, providing a description of its main roles and responsibilities and a brief description of the segregation of responsibilities within these bodies, in particular whether relevant committees exist within them, as well as a description of the main roles and responsibilities of key functions;
- b any material changes in the system of governance that have taken place over the reporting period;
- c information on the remuneration policy and practices regarding administrative, management or supervisory body and, unless otherwise stated, employees, including:
  - (i) principles of the remuneration policy, with an explanation of the relative importance of the fixed and variable components of remuneration;
  - (ii) information on the individual and collective performance criteria on which any entitlement to share options, shares or variable components of remuneration is based;
  - (iii) a description of the main characteristics of supplementary pension or early retirement schemes for the members of the administrative, management or supervisory body and other key function holders;
- d information about material transactions during the reporting period with shareholders, with persons who exercise a significant influence on the undertaking, and with members of the administrative, management or supervisory body.

2 The solvency and financial condition report shall include all of the following information regarding the 'fit and proper' policy of the insurance or reinsurance undertaking:

- a a description of the undertaking's specific requirements concerning skills, knowledge and expertise applicable to the persons who effectively run the undertaking or have other key functions;

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- b a description of the undertaking's process for assessing the fitness and the propriety of the persons who effectively run the undertaking or have other key functions.
- 3 The solvency and financial condition report shall include all of the following information regarding the risk management system of the insurance or reinsurance undertaking:
  - a a description of the undertaking's risk management system comprising strategies, processes and reporting procedures, and how it is able to effectively identify, measure, monitor, manage and report, on a continuous basis, the risks on an individual and aggregated level, to which the undertaking is or could be exposed;
  - b a description of how the risk management system including the risk management function are implemented and integrated into the organisational structure and decision-making processes of the undertaking.
- 4 The solvency and financial condition report shall include all of the following information regarding the process the insurance or reinsurance undertaking has adopted to fulfil its obligation to conduct an own risk and solvency assessment:
  - a a description of the process undertaken by the undertaking to fulfil its obligation to conduct an own risk and solvency assessment as part of its risk management system including how the own risk and solvency assessment is integrated into the organisational structure and decision making processes of the undertaking;
  - b a statement detailing how often the own risk and solvency assessment is reviewed and approved by the undertaking's administrative, management or supervisory body;
  - c a statement explaining how the undertaking has determined its own solvency needs given its risk profile and how its capital management activities and its risk management system interact with each other.
- 5 The solvency and financial condition report shall include all of the following information regarding the internal control system of the insurance or reinsurance undertaking:
  - a a description of the undertaking's internal control system;
  - b a description of how the compliance function is implemented.
- 6 The solvency and financial condition report shall include all of the following information regarding the internal audit function of the insurance or reinsurance undertaking:
  - a a description of how the undertaking's internal audit function is implemented;
  - b a description of how the undertaking's internal audit function maintains its independence and objectivity from the activities it reviews.
- 7 The solvency and financial condition report shall include a description of how the actuarial function of the insurance or reinsurance undertaking is implemented.
- 8 The solvency and financial condition report shall include a description of the outsourcing policy of the insurance or reinsurance undertaking, that undertaking's outsourcing of any critical or important operational functions or activities and the jurisdiction in which the service providers of such functions or activities are located.
- 9 The solvency and financial condition report shall include an assessment of the adequacy of the system of governance of the insurance or reinsurance undertaking to the nature, scale and complexity of the risks inherent in its business.
- 10 The solvency and financial condition report shall include in a separate section any other material information regarding the system of governance of the insurance or reinsurance undertaking.

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## Article 295

### Risk profile

1 The solvency and financial condition report shall include qualitative and quantitative information regarding the risk profile of the insurance or reinsurance undertaking, in accordance with paragraphs 2 to 7, separately for the following categories of risk:

- a underwriting risk;
- b market risk;
- c credit risk;
- d liquidity risk;
- e operational risk;
- f other material risks.

2 The solvency and financial condition report shall include the following information regarding the risk exposure of the insurance or reinsurance undertaking, including the exposure arising from off-balance sheet positions and the transfer of risk to special purpose vehicles:

- a a description of the measures used to assess these risks within that undertaking, including any material changes over the reporting period;
- b a description of the material risks that that undertaking is exposed to, including any material changes over the reporting period.
- c a description of how assets have been invested in accordance with the ‘prudent person principle’ set out in Article 132 of Directive 2009/138/EC so that the risks mentioned in that Article and their proper management are addressed in that description.

3 With regard to risk concentration, the solvency and financial condition report shall include a description of the material risk concentrations to which the insurance or reinsurance undertaking is exposed.

4 With regard to risk mitigation, the solvency and financial condition report shall include a description of the techniques used for mitigating risks, and the processes for monitoring the continued effectiveness of these risk-mitigation techniques.

5 With regard to liquidity risk, the solvency and financial condition report shall include the total amount of the expected profit included in future premiums as calculated in accordance with Article 260(2).

6 With regard to risk sensitivity the solvency and financial condition report shall include a description of the methods used, the assumptions made and the outcome of stress testing and sensitivity analysis for material risks and events.

7 The solvency and financial condition report shall include in a separate section any other material information regarding their risk profile of the insurance or reinsurance undertaking.

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## Article 296

### Valuation for solvency purposes

1 The solvency and financial condition report shall include all of the following information regarding the valuation of the assets of the insurance or reinsurance undertaking for solvency purposes:

- a separately for each material class of assets, the value of the assets, as well as a description of the bases, methods and main assumptions used for valuation for solvency purposes;
- b separately for each material class of assets, a quantitative and qualitative explanation of any material differences between the bases, methods and main assumptions used by that undertaking for the valuation for solvency purposes and those used for its valuation in financial statements.

2 The solvency and financial condition report shall include all of the following information regarding the valuation of the technical provisions of the insurance or reinsurance undertaking for solvency purposes:

- a separately for each material line of business the value of technical provisions, including the amount of the best estimate and the risk margin, as well as a description of the bases, methods and main assumptions used for its valuation for solvency purposes;
- b a description of the level of uncertainty associated with the value of technical provisions;
- c separately for each material line of business, a quantitative and qualitative explanation of any material differences between the bases, methods and main assumptions used by that undertaking for the valuation for solvency purposes and those used for their valuation in financial statements;
- d where the matching adjustment referred to in Article 77b of Directive 2009/138/EC is applied, a description of the matching adjustment and of the portfolio of obligations and assigned assets to which the matching adjustment is applied, as well as a quantification of the impact of a change to zero of the matching adjustment on that undertaking's financial position, including on the amount of technical provisions, the Solvency Capital Requirement, the Minimum Capital Requirement, the basic own funds and the amounts of own funds eligible to cover the Minimum Capital Requirement and the Solvency Capital Requirement;
- e a statement on whether the volatility adjustment referred to in Article 77d of Directive 2009/138/EC is used by the undertaking and quantification of the impact of a change to zero of the volatility adjustment on that undertaking's financial position, including on the amount of technical provisions, the Solvency Capital Requirement, the Minimum Capital Requirement, the basic own funds and the amounts of own funds eligible to cover the Minimum Capital Requirement and the Solvency Capital Requirement;
- f a statement on whether the transitional risk-free interest rate-term structure referred to in Article 308c of Directive 2009/138/EC is applied and a quantification of the impact of not applying the transitional measure on the undertaking's financial position, including on the amount of technical provisions, the Solvency Capital Requirement, the Minimum Capital Requirement, the basic own funds and the amounts of own funds eligible to cover the Minimum Capital Requirement and the Solvency Capital Requirement;
- g a statement on whether the transitional deduction referred to in Article 308d of Directive 2009/138/EC is applied and a quantification of the impact of not applying the deduction measure on the undertaking's financial position, including on the amount of technical

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provisions, the Solvency Capital Requirement, the Minimum Capital Requirement, the basic own funds and the amounts of own funds eligible to cover the Minimum Capital Requirement and the Solvency Capital Requirement.

h a description of the following:

- (i) the recoverables from reinsurance contracts and special purpose vehicles;
- (ii) any material changes in the relevant assumptions made in the calculation of technical provisions compared to the previous reporting period.

3 The solvency and financial condition report shall include all of the following information regarding the valuation of the other liabilities of the insurance or reinsurance undertaking for solvency purposes:

- a separately for each material class of other liabilities the value of other liabilities as well as a description of the bases, methods and main assumptions used for their valuation for solvency purposes;
- b separately for each material class of other liabilities, a quantitative and qualitative explanation of any material differences with the valuation bases, methods and main assumptions used by the undertaking for the valuation for solvency purposes and those used for their valuation in financial statements.

[<sup>F23</sup>4 The solvency and financial condition report shall include information on the areas set out in Article 263 in complying with the disclosure requirements of the insurance or reinsurance undertaking as laid down in paragraphs 1 and 3 of this Article.]

5 The solvency and financial condition report shall include in a separate section any other material information regarding the valuation of assets and liabilities for solvency purposes.

#### Textual Amendments

**F23** Substituted by [Commission Delegated Regulation \(EU\) 2016/467 of 30 September 2015 amending Commission Delegated Regulation \(EU\) 2015/35 concerning the calculation of regulatory capital requirements for several categories of assets held by insurance and reinsurance undertakings \(Text with EEA relevance\)](#).

### Article 297

#### Capital management

1 The solvency and financial condition report shall include all of the following information regarding the own funds of the insurance or reinsurance undertaking:

- a information on the objectives, policies and processes employed by the undertaking for managing its own funds, including information on the time horizon used for business planning and on any material changes over the reporting period;
- b separately for each tier, information on the structure, amount and quality of own funds at the end of the reporting period and at the end of the previous reporting period, including an analysis of the significant changes in each tier over the reporting period;
- c the eligible amount of own funds to cover the Solvency Capital Requirement, classified by tiers;
- d the eligible amount of basic own funds to cover the Minimum Capital Requirement, classified by tiers;

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- e a quantitative and qualitative explanation of any material differences between equity as shown in the undertaking's financial statements and the excess of assets over liabilities as calculated for solvency purposes;
  - f for each basic own-fund item that is subject to the transitional arrangements referred to in Articles 308b(9) and 308b(10) of Directive 2009/138/EC, a description of the nature of the item and its amount;
  - g for each material item of ancillary own funds, a description of the item, the amount of the ancillary own-fund item and, where a method by which to determine the amount of the ancillary own-fund item has been approved, that method as well as the nature and the names of the counterparty or group of counterparties for the items referred to in points (a), (b) and (c) of Article 89(1) of Directive 2009/138/EC;
  - h a description of any item deducted from own funds and a brief description of any significant restriction affecting the availability and transferability of own funds within the undertaking [<sup>F28</sup>];
- [<sup>F12</sup>i information regarding deferred taxes that shall contain as a minimum all of the following:
- (i) a description of the calculated amount of deferred tax assets without assessing their probable utilisation, and the extent to which those deferred tax assets have been recognised;
  - (ii) for deferred tax assets which have been recognised, a description of the assets likely to be utilised by reference to probable future taxable profit and by reference to the reversion of deferred tax liabilities relating to income taxes levied by the same taxation authority;
  - (iii) with regard to net deferred taxes assets calculated as the difference between the amount of deferred tax assets which has been recognised and the amount of deferred tax liabilities, all of the following information:
    - confirmation that those net deferred tax assets are available as basic own-fund items classified as Tier 3 in accordance with Article 76(a) (iii);
    - a description of the amount of those net deferred tax assets that are recognised as eligible own funds, applying the eligibility limits set out in Article 82;
    - where the amount of deferred tax assets is material, a description of the underlying assumptions used for the projection of probable future taxable profit for the purposes of Article 15.]

For the purposes of paragraph (g), the names of the counterparties shall not be disclosed where such disclosure is legally not possible or impracticable or where the counterparties concerned are not material.

2 The solvency and financial condition report shall include all of the following information regarding the Solvency Capital Requirement and the Minimum Capital Requirement of the insurance or reinsurance undertaking:

- a the amounts of the undertaking's Solvency Capital Requirement and the Minimum Capital Requirement at the end of the reporting period, accompanied, where applicable, by an indication that the final amount of the Solvency Capital Requirement is still subject to supervisory assessment;
- b the amount of the undertaking's Solvency Capital Requirement split by risk modules where that undertaking applies the standard formula, and by risk categories where the undertaking applies an internal model;

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- c information on whether and for which risk modules and sub-modules of the standard formula that undertaking is using simplified calculations;
  - d information on whether and for which parameters of the standard formula that undertaking is using undertaking-specific parameters pursuant to Article 104(7) of Directive 2009/138/EC;
  - <sup>F148</sup>e .....  
    - f <sup>F149</sup>... the impact of any undertaking-specific parameters that undertaking is required to use in accordance with Article 110 of that Directive and the amount of any capital add-on applied to the Solvency Capital Requirement, together with concise information on its justification by the supervisory authority concerned;
    - g information on the inputs used by the undertaking to calculate the Minimum Capital Requirement;
    - h any material change to the Solvency Capital Requirement and to the Minimum Capital Requirement over the reporting period, and the reasons for any such change [<sup>F28</sup>];
  - [<sup>F12</sup>i information regarding the loss-absorbing capacity of deferred taxes that shall contain as a minimum all of the following:
    - (i) the amount with which the Solvency Capital Requirement has been adjusted for the loss-absorbing capacity of deferred taxes, and a description of the deferred tax liabilities, carry-back and probable future taxable profit used to demonstrate likely utilisation;
    - (ii) where the amount of deferred tax assets is material, a description of the underlying assumptions used for the projection of probable future taxable profit for the purposes of Article 207.]
- 3 The solvency and financial condition report shall include all of the following information regarding the option set out in Article 304 of Directive 2009/138/EC:
- a an indication that that undertaking is using the duration-based equity risk sub-module set out in that Article for the calculation of its Solvency Capital Requirement, after approval from its supervisory authority;
  - b the amount of the capital requirement for the duration-based equity risk sub-module resulting from such use.
- 4 Where an internal model is used to calculate the Solvency Capital Requirement, the solvency and financial condition report shall also include all of the following information:
- a a description of the various purposes for which that undertaking is using its internal model;
  - b a description of the scope of the internal model in terms of business units and risk categories;
  - c where a partial internal model is used, a description of the technique which has been used to integrate any partial internal model into the standard formula including, where relevant, a description of alternative techniques used;
  - d a description of the methods used in the internal model for the calculation of the probability distribution forecast and the Solvency Capital Requirement;
  - e an explanation, by risk module, of the main differences in the methodologies and underlying assumptions used in the standard formula and in the internal model;
  - f the risk measure and time period used in the internal model, and where they are not the same as those set out in Article 101(3) of Directive 2009/138/EC, an explanation of why the Solvency Capital Requirement calculated using the internal model provides policy holders and beneficiaries with a level of protection equivalent to that set out in Article 101 of that Directive;



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g a description of the nature and appropriateness of the data used in the internal model.

5 The solvency and financial condition report shall include all of the following information regarding any non-compliance with the Minimum Capital Requirement or significant non-compliance with the Solvency Capital Requirement of the insurance or reinsurance undertaking:

- a regarding any non-compliance with that undertaking's Minimum Capital Requirement: the period and maximum amount of each non-compliance during the reporting period, an explanation of its origin and consequences, any remedial measures taken, as provided for under Article 51(1)(e)(v) of Directive 2009/138/EC and an explanation of the effects of such remedial measures;
- b where non-compliance with the undertaking's Minimum Capital Requirement has not been subsequently resolved: the amount of the non-compliance at the reporting date;
- c regarding any significant non-compliance with the undertaking's Solvency Capital Requirement during the reporting period: the period and maximum amount of each significant non-compliance and, in addition to the explanation of its origin and consequences as well as any remedial measures taken, as provided for under Article 51(1)(e)(v) of Directive 2009/138/EC and an explanation of the effects of such remedial measures;
- d where a significant non-compliance with the undertaking's Solvency Capital Requirement has not been subsequently resolved: the amount of the non-compliance at the reporting date.

6 The solvency and financial condition report shall include in a separate section any other material information regarding the capital management of the insurance or reinsurance undertaking.

#### Textual Amendments

- F12** 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).
- F28** 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).
- F148** Art. 297(2)(e) 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(53)(a)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F149** Words in Art. 297(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), **11(53)(b)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)

#### Article 298

#### Additional voluntary information

Where insurance and reinsurance undertakings disclose publicly, <sup>F150</sup>... any information or explanation related to their solvency and financial condition whose public disclosure is not legally required these undertakings shall ensure that such additional information

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is consistent with any information provided to the supervisory authorities pursuant to Article 35 of that Directive.

#### Textual Amendments

**F150** Words in [Art. 298](#) 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(54)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)

### SECTION 2

#### *Solvency and financial condition report: non-disclosure of information*

##### *Article 299*

1 Where supervisory authorities permit insurance and reinsurance undertakings, in accordance with [<sup>F151</sup>part 4.1 of the Reporting part of the PRA Rulebook], not to disclose certain information, such permission shall remain valid only for as long as the reason for non-disclosure continues to exist.

2 Insurance and reinsurance undertakings shall notify supervisory authorities as soon as the reason for any permitted non-disclosure ceases to exist.

#### Textual Amendments

**F151** Words in [Art. 299](#) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(55)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)

### SECTION 3

#### *Solvency and financial condition report: deadlines, means of disclosure and updates*

##### *Article 300*

##### **Deadlines**

1 Insurance and reinsurance undertakings shall disclose their solvency and financial condition report within the deadlines set out in Article 308b(6) of Directive 2009/138/EC and, after the end of the transitional period set out in that Article, no later than 14 weeks after the undertaking's financial year end.

2 As soon as the solvency and financial condition report, as well as any updated version of that report, is disclosed by insurance and reinsurance undertakings it shall be submitted to the supervisory authorities.

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## Article 301

### Means of disclosure

1 Where insurance and reinsurance undertakings own and maintain a website related to their business, the solvency and financial condition report shall be disclosed on that website.

2 Where insurance and reinsurance undertakings do not own and maintain a website but are a member of a trade association which does own and maintain a website, the solvency and financial condition report shall, where permitted by that trade association, be disclosed on the website of that association.

3 Where insurance and reinsurance undertakings disclose their solvency and financial condition report on a website in accordance with paragraph 1 or 2, that report shall remain available on that website for at least five years after the disclosure date referred to in Article 300(1).

4 Where insurance and reinsurance undertakings do not disclose their solvency and financial condition report on a website in accordance with paragraphs 1 and 2, they shall send an electronic copy of their report to any person who, within five years of the disclosure date referred to in Article 300(1) requests the report. Insurance and reinsurance undertakings shall send the report within 10 working days from that request.

5 Insurance and reinsurance undertakings shall, irrespective of whether the undertaking's report has been made available on a website in accordance with paragraph 1 or 2, send, to any person who so requests within two years of the disclosure date referred to in Article 300(1), a printed copy of their report within 20 working days from that request.

6 Insurance and reinsurance undertakings shall submit to the supervisory authorities their solvency and financial condition report, and any updated version of that report thereto, in electronic form.

## Article 302

### Updates

1 Where insurance and reinsurance undertakings have to disclose publicly, in accordance with Article 54(1) of Directive 2009/138/EC, appropriate information on the nature and effects of any major development significantly affecting the relevance of their solvency and financial condition report, the undertaking shall publish an updated version of that report in accordance with paragraph 2 of this Article. Articles 290 to 299 of this Regulation shall apply to that updated version.

2 Without prejudice to any disclosure which shall be immediately provided by insurance and reinsurance undertakings in accordance with the requirements of Article 54(1) of Directive 2009/138/EC, any updated version of the solvency and financial condition report shall be disclosed as soon as possible after the major development referred to in paragraph 1 of this Article, in accordance with the provisions set out in Article 301 of this Regulation.

3 Notwithstanding paragraphs 1 and 2, insurance and reinsurance undertakings may decide, for the purposes of paragraph 5 of Article 301, to disclose appropriate information on the nature and effects of any major development significantly affecting the relevance of their

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solvency and financial condition report in the form of amendments supplementing the initial report.

### *Article 303*

#### **Transitional arrangements on comparative information**

Where a comparison of the information with that reported on the previous reporting period is required in accordance with this Chapter, insurance and reinsurance undertakings shall comply with such a requirement only where the previous reporting period covers a period after the date of application of Directive 2009/138/EC.

## CHAPTER XIII

### **REGULAR SUPERVISORY REPORTING**

#### *SECTION I*

#### *Elements and contents*

### *Article 304*

#### **Elements of the regular supervisory reporting**

1 The information which supervisory authorities require insurance and reinsurance undertakings to submit at predefined periods <sup>F152</sup>... shall comprise the following:

- a the solvency and financial condition report disclosed by the insurance or reinsurance undertaking in accordance with Article 300 of this Regulation, together with any equivalent information disclosed publicly under other legal or regulatory requirements to which the solvency and financial condition report refers to as well as any updated version of that report disclosed in accordance with Article 302 of this Regulation;
- b the regular supervisory report comprising the information referred to in Articles 307 to 311 of this Regulation. It shall also present any information referred to in Articles 293 to 297 of this Regulation which supervisory authorities have permitted insurance and reinsurance undertakings not to disclose in their solvency and financial condition report <sup>F153</sup>.... The regular supervisory report shall follow the same structure as the one set out in Annex XX for the solvency and financial condition report;
- c the own-risk and solvency assessment supervisory report ('ORSA supervisory report') comprising the results of each regular own risk and solvency assessment performed by the insurance and reinsurance undertakings in accordance with Article 45(6) of Directive 2009/138/EC, whenever an own-risk and solvency assessment is performed in accordance with Article 45(5) of that Directive;
- d annual and quarterly quantitative templates specifying in greater detail and supplementing the information presented in the solvency and financial condition report and in the regular supervisory report, taking into account possible limitations and exemptions in accordance with [<sup>F154</sup>a direction by the PRA under section 138A of the Financial Services and Markets Act 2000]. To the extent that undertakings are exempted from quarterly reporting obligations in accordance with [<sup>F154</sup>a direction by the PRA under section 138A of the Financial Services and Markets Act 2000] they

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shall submit annual quantitative templates only. Annual reporting obligations shall not include reporting on an item-by-item basis where undertakings are exempted from it according to <sup>F154</sup>a direction by the PRA under section 138A of the Financial Services and Markets Act 2000].

2 The regular supervisory report shall include a summary which shall in particular highlight any material changes that have occurred in the undertaking's business and performance, system of governance, risk profile, valuation for solvency purposes and capital management over the reporting period, and provide a concise explanation of the causes and effects of such changes. The summary shall include information on the own risk and solvency assessment for the purposes of Article 45(6) of Directive 2009/138/EC.

3 The scope of the quarterly quantitative templates shall be narrower than that of the annual quantitative templates.

4 Paragraph 1 shall be without prejudice to the power of supervisory authorities to require insurance and reinsurance undertakings to communicate on a regular basis any other information prepared under the responsibility of — or at the request of — the administrative, management or supervisory body of those undertakings.

#### Textual Amendments

- F152** Words in [Art. 304\(1\)](#) 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), **11(56)(a)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)
- F153** Words in [Art. 304\(1\)\(b\)](#) 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), **11(56)(b)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)
- F154** Words in [Art. 304\(1\)\(d\)](#) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(56)(c)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)

#### Article 305

##### Materiality

For the purposes of this Chapter, the information submitted to supervisors shall be considered as material where its omission or misstatement could influence the decision-making or judgement of the supervisory authorities.

#### Article 306

##### Own-risk and solvency assessment supervisory report

The ORSA supervisory report shall present all of the following:

- (a) the qualitative and quantitative results of the own risk and solvency assessment and the conclusions drawn by the insurance or reinsurance undertaking from those results;
- (b) the methods and main assumptions used in the own risk and solvency assessment;

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- (c) information on the undertaking's overall solvency needs and a comparison between those solvency needs, the regulatory capital requirements and the undertaking's own funds;
- (d) qualitative information on, and where significant deviations have been identified a quantification of the extent to which quantifiable risks of the undertakings are not reflected in the calculation of the Solvency Capital Requirement;

### Article 307

#### Business and performance

1 The regular supervisory report shall include all of the following information regarding the business of the insurance or reinsurance undertaking:

- a the main trends and factors that contribute to the development, performance and position of the undertaking over its business planning time period including the undertaking's competitive position and any significant legal or regulatory issues;
- b a description of the business objectives of the undertaking, including the relevant strategies and time frames.

2 The regular supervisory report shall include all of the following qualitative and quantitative information regarding the underwriting performance of the insurance or reinsurance undertaking, as shown in the undertaking's financial statements:

- a information on the undertaking's underwriting income and expenses by material line of business and material geographical areas where it writes business during the reporting period, a comparison of the information with that reported on the previous reporting period and the reasons for any material changes;
- b an analysis of the undertaking's overall underwriting performance during the reporting period;
- c information on the undertaking's underwriting performance by line of business during the reporting period against projections, and significant factors affecting deviations from these projections;
- d projections of the undertaking's underwriting performance, with information on significant factors that might affect such underwriting performance, over its business planning time period;
- e information on any material risk mitigation techniques purchased or entered into during the reporting period.

3 The regular supervisory report shall include all of the following qualitative and quantitative information regarding the performance of the investments of the insurance or reinsurance undertaking, as shown in the undertaking's financial statements:

- a information on income and expenses with respect to investment activities during the last reporting period, a comparison of the information with that reported on the previous reporting period and reasons for any material changes;
- b an analysis of the undertaking's overall investment performance during the reporting period and also by relevant asset class;
- c projections of the undertaking's expected investment performance, with information on significant factors that might affect such investment performance, over its business planning time period;

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- d the key assumptions which the undertaking makes in its investment decisions with respect to the movement of interest rates, exchange rates, and other relevant market parameters, over its business planning time period;
  - e information about any investments in securitisation, and the undertaking's risk management procedures in respect of such securities or instruments.
- 4 The regular supervisory report shall include information of any material income and expenses, other than underwriting or investment income and expenses, over the undertaking's business planning time period.
- 5 The regular supervisory report shall include any other material information regarding their business and performance.

### Article 308

#### System of governance

- 1 The regular supervisory report shall include all of the following information regarding the insurance or reinsurance undertaking's system of governance:
- a information allowing the supervisory authorities to gain a good understanding of the system of governance within the undertaking, and to assess its appropriateness to the undertaking's business strategy and operations;
  - b information relating to the undertaking's delegation of responsibilities, reporting lines and allocation of functions;
  - c the remuneration entitlements of the members of the administrative, management or supervisory body, over the reporting period and a comparison of the information with that reported on the previous reporting period and the reasons for any material changes.
- 2 The regular supervisory report shall include all of the following information regarding the compliance of the insurance or reinsurance undertaking with fit and proper requirements:
- a in accordance with the requirements set out in Article 42 of Directive 2009/138/EC, a list of the persons in the undertaking that are responsible for key functions;
  - b information on the policies and processes established by the undertaking to ensure that those persons are fit and proper.
- 3 The regular supervisory report shall include all of the following information regarding the risk management system of the insurance or reinsurance undertaking:
- a information on the undertaking's risk management strategies, objectives, processes and reporting procedures for each category of risk;
  - b information on significant risks that the undertaking is exposed to over the life-time of its insurance and reinsurance obligations, and how these have been captured in its overall solvency needs;
  - c information on any material risks that the undertaking has identified and that are not fully included in the calculation of the Solvency Capital Requirement as set out in Article 101(4) of Directive 2009/138/EC;
  - d information on how the undertaking fulfils its obligation to invest all its assets in accordance with the 'prudent person principle' set out in Article 132 of Directive 2009/138/EC;
  - e information on how the undertaking verifies the appropriateness of credit assessments from external credit assessments institutions including how and the extent to which credit assessments from external credit assessments institutions are used;

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- f results of the assessments regarding the extrapolation of the risk-free rate, the matching adjustment and the volatility adjustment, as referred to in Article 44(2a) of Directive 2009/138/EC.
- 4 The regular supervisory report shall include all of the following information regarding the own risk and solvency assessments which were performed over the reporting period by the insurance or reinsurance undertaking:
- a a description of how the own risk and solvency assessment is performed, internally documented and reviewed;
  - b a description of how the own risk and solvency assessment is integrated into the management process and into the decision-making process of the undertaking.
- 5 The regular supervisory report shall include all of the following information regarding the internal control system of the insurance or reinsurance undertaking:
- a information on the key procedures that the internal control system includes;
  - b information on the activities performed in accordance with Article 46(2) of Directive 2009/138/EC during the reporting period;
  - c information on the undertaking's compliance policy prepared pursuant to Article 270 of this Regulation, the process for reviewing that policy, the frequency of review and any significant changes to that policy during the reporting period.
- 6 The regular supervisory report shall include all of the following information regarding the internal audit function of the insurance or reinsurance undertaking:
- a a description of internal audits performed during the reporting period, with a summary of the material findings and recommendations reported to the undertaking's administrative, management or supervisory body, and any action taken with respect to these findings and recommendations;
  - b a description of the undertaking's internal audit policy, the process for reviewing that policy, the frequency of review and any significant changes to that policy during the reporting period;
  - c a description of the undertaking's audit plan, including future internal audits and the rationale for these future audits;
  - d where the persons carrying out the internal audit function assume other key functions in accordance with Article 271(2), an assessment, in qualitative and quantitative terms, of the criteria set out in points (a) and (b) of Article 271(2).
- 7 With regard to the actuarial function the regular supervisory report shall include an overview of the activities undertaken by the actuarial function in each of its areas of responsibility during the reporting period, describing how the actuarial function contributes to the effective implementation of the undertaking's risk management system.
- 8 The regular supervisory report shall include all of the following information regarding outsourcing:
- a where the undertaking outsources any critical or important operational functions or activities, the rationale for the outsourcing and evidence that appropriate oversight and safeguards are in place;
  - b information on the service providers to whom any critical or important operational functions or activities have been outsourced and on how the undertaking ensures that the service providers comply with Article 274(3)(a).
  - c a list of the persons responsible for the outsourced key functions in the service provider.
- 9 The regular supervisory report shall include any other material information regarding the system of governance of the insurance or reinsurance undertaking.



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## Article 309

### Risk profile

1 The regular supervisory report shall include qualitative and quantitative information regarding the risk profile of the insurance and reinsurance undertaking, in accordance with paragraphs 2 to 9, separately for all of the following categories of risk:

- a underwriting risk;
- b market risk;
- c credit risk;
- d liquidity risk;
- e operational risk;
- f other material risks.

2 The regular supervisory report shall include all of the following information regarding the risk exposure of the insurance or reinsurance undertaking, including the exposure arising from off-balance sheet positions and the transfer of risk to special purpose vehicles:

- a an overview of any material risk exposures anticipated over the business planning time period given the undertaking's business strategy, and how these risk exposures will be managed;
- b where the undertaking sells or re-pledges collateral, within the meaning of Article 214 of this Regulation, the amount of that collateral, valued in accordance with Article 75 of Directive 2009/138/EC;
- c where the undertaking has provided collateral, within the meaning of Article 214, the nature of the collateral, the nature and value of assets provided as collateral and the corresponding actual and contingent liabilities created by that collateral arrangement;
- d information on the material terms and conditions associated with the collateral arrangement;
- e a complete list of assets and how those assets have been invested in accordance with the 'prudent person principle' set out in Article 132 of Directive 2009/138/EC;
- f where the undertaking has entered into securities lending or borrowing transactions, repurchase or reverse repurchase agreements as referred to in Article 4(1)(82) of Regulation (EU) No 575/2013, including liquidity swaps, information on their characteristics and volume;
- g where the undertaking sells variable annuities, information on guarantee riders and hedging of the guarantees.

3 The regular supervisory report shall include information regarding the volume and nature of the loan portfolio of the insurance or reinsurance undertaking.

4 With respect to risk concentration the regular supervisory report shall include information on the material risk concentrations to which the undertaking is exposed to and an overview of any future risk concentrations anticipated over the business planning time period given that undertaking's business strategy, and how these risk concentrations will be managed.

5 The regular supervisory report shall include all the following information regarding the risk-mitigation techniques of the insurance or reinsurance undertaking:

- a information on the techniques currently used to mitigate risks, and a description of any material risk-mitigation techniques that the undertaking is considering purchasing or

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- entering into over the business planning time period given the undertaking's business strategy, and the rationale for and effect of such risk mitigation techniques;
- b where the insurance or reinsurance undertaking holds collateral, within the meaning of Article 214 of this Regulation:
- (i) the value of the collateral in accordance with Article 75 of Directive 2009/138/EC;
  - (ii) information on the material terms and conditions associated with the collateral arrangement.
- 6 With respect to the liquidity risk, the regular supervisory report shall include in particular information of the insurance or reinsurance undertaking regarding the expected profit included in future premiums as calculated in accordance with Article 260(2) of this Regulation for each line of business, the result of the qualitative assessment referred to in Article 260(1)(d)(ii) and a description of the methods and main assumptions used to calculate the expected profit included in future premiums;
- 7 The regular supervisory report shall include all of the following information regarding the risk sensitivity of the insurance or reinsurance undertaking:
- a a description of the relevant stress tests and scenario analysis referred to in Article 259(3), carried out by the undertaking including their outcome;
  - b a description of the methods used and the main assumptions underlying those stress tests and scenario analysis.
- 8 The regular supervisory report shall include information regarding quantitative data which is necessary for determining dependencies between the risks covered by the risk modules or sub-modules and of the Basic Solvency Capital Requirement.
- 9 The regular supervisory report shall include any other material information regarding their risk profile of the insurance or reinsurance undertaking.

### Article 310

#### Valuation for solvency purposes

- 1 The regular supervisory report shall include any important information, other than that already disclosed in the solvency and financial condition report of the insurance or reinsurance undertaking, regarding the valuation of its assets, technical provisions and other liabilities for solvency purposes.
- 2 The regular supervisory report shall include a description of:
- a the relevant assumptions about future management actions;
  - b the relevant assumptions about policyholder behaviour.
- 3 The regular supervisory report shall include information on the areas set out in Article 263 of this Regulation in complying with the reporting requirements of the insurance or reinsurance undertaking in relation to valuation for solvency purposes.
- 4 Where insurance or reinsurance undertakings value assets or liabilities based on the valuation methods they use to prepare their financial statements in accordance with Article 9(4) of this Regulation, they shall report an assessment, in qualitative and quantitative terms, of the criterion set out in Article 9(4)(d).

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**Changes to legislation:** Commission Delegated Regulation (EU) 2015/35 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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## Article 311

### Capital management

1 The regular supervisory report shall include all of the following information regarding the own funds of the insurance or reinsurance undertaking:

- a information on the material terms and conditions of the main items of own funds held by the undertaking;
- b the expected developments of the undertaking's own funds over its business planning time period given the undertaking's business strategy, and appropriately stressed capital plans and whether there is any intention to repay or redeem any own-fund item or plans to raise additional own funds;
- c the undertaking's plans on how to replace basic own-fund items that are subject to the transitional arrangements referred to in Article 308b(9) and (10) of Directive 2009/138/EC over the timeframe referred to in that Article<sup>[F28;]</sup>
- <sup>[F12]</sup>d information regarding deferred taxes that shall contain as a minimum all of the following:
  - (i) a description of the calculated amount of deferred tax assets without assessing their probable utilisation, and the extent to which those deferred tax assets have been recognised;
  - (ii) for the deferred tax assets which have been recognised, a description of the amounts being recognised as likely to be utilised by reference to probable future taxable profit and by reference to the reversion of deferred tax liabilities relating to income taxes levied by the same taxation authority;
  - (iii) a detailed description of the underlying assumptions used for the projection of probable future taxable profit for the purposes of Article 15;
  - (iv) an analysis of the sensitivity of the net deferred tax assets to changes in the underlying assumptions referred to in point (iii).]

2 The regular supervisory report shall include all of the following information regarding the Solvency Capital Requirement and the Minimum Capital Requirement of the insurance or reinsurance undertaking:

- a quantitative information on the undertaking's Solvency Capital Requirement split by risk modules where the undertaking applies the standard formula, and by risk categories where the undertaking applies an internal model;
- b the expected developments of the undertaking's anticipated Solvency Capital Requirement and Minimum Capital Requirement over its business planning time period given the undertaking's business strategy;
- c an estimate of the undertaking's Solvency Capital Requirement determined in accordance with the standard formula, where the supervisory authority requires the undertaking to provide that estimate pursuant to Article 112(7) of Directive 2009/138/EC<sup>[F28;]</sup>
- <sup>[F12]</sup>d for the future profit projected for the purpose of the loss-absorbing capacity of deferred taxes in accordance with Article 207:
  - (i) a description, and the relevant amount of each of the components used to demonstrate a positive value of the increase in deferred tax assets;

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- (ii) a detailed description of the underlying assumptions used for the projection of probable future taxable profit for the purposes of Article 207;
- (iii) an analysis of the sensitivity of the value of the adjustment to changes in the underlying assumptions referred to in point (ii).]

3 Where an internal model is used to calculate the Solvency Capital Requirement, the regular supervisory report shall also include all of the following information:

- a the results of the review of the causes and sources of profits and losses, required by Article 123 of Directive 2009/138/EC, for each major business unit and how the categorisation of risk chosen in the internal model explains those causes and sources of profits and losses;
- b information on whether, and if so to what extent, the risk profile of the undertaking deviates from the assumptions underlying the undertaking's internal model;
- c information about future management actions used in the calculation of the Solvency Capital Requirement.

4 Where undertaking-specific parameters are used to calculate the Solvency Capital Requirement, or a matching adjustment is applied to the relevant risk-free interest term structure, the regular supervisory report shall include information regarding whether there have been changes to the information included in the application for approval of the undertaking-specific parameters or matching adjustment that are relevant for the supervisory assessment of the application.

5 The regular supervisory report shall include information on any reasonably foreseeable risk of non-compliance with the undertaking's Minimum Capital Requirement or Solvency Capital Requirement, and the undertaking's plans for ensuring that compliance with each is maintained.

6 The regular supervisory report shall include any other material information regarding the capital management of the insurance or reinsurance undertaking.

#### Textual Amendments

- F12** 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 \(Solvency II\) \(Text with EEA relevance\)](#).
- F28** 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 \(Solvency II\) \(Text with EEA relevance\)](#).

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## SECTION 2

### **Deadlines and means of communication**

#### *Article 312*

##### **Deadlines**

- 1 Insurance and reinsurance undertakings shall submit to the supervisory authorities:
  - a the regular supervisory report referred to in Article 304(1)(b) of this Regulation at least every 3 years within the deadlines set out in Article 308b(5) of Directive 2009/138/EC and, after the end of the transitional period set out in that Article, no later than 14 weeks after the undertaking's financial year in question ends;
  - b the ORSA supervisory report referred to in Article 304(1)(c) within 2 weeks after concluding the assessment.
  - c the annual quantitative templates referred to in Article 304(1)(d) of this Regulation within the deadlines set out in article 308b(5) of Directive 2009/138/EC and, after the end of the transitional period set out in that Article, no later than 14 weeks after the undertaking's financial year end.
  - d the quarterly quantitative templates referred to in Article 304(1)(d) of this Regulation within the deadlines set out in article 308b(7) of Directive 2009/138/EC and, after the end of the transitional period set out in that Article, no later than five weeks related to any quarter ending.
- 2 Supervisory authorities may require an insurance or reinsurance undertaking to submit its regular supervisory report at the end of any financial year of the undertaking, subject to the deadlines set out in paragraph 1(a).
- 3 Where there is no requirement for a regular supervisory report to be submitted in relation to a given financial year, insurance and reinsurance undertakings shall nevertheless submit to their supervisory authority a report which sets out any material changes that have occurred in the undertaking's business and performance, system of governance, risk profile, valuation for solvency purposes and capital management over the given financial year, and provide a concise explanation about the causes and effects of such changes. That report shall be submitted within the deadlines set out in paragraph 1(a).

#### *Article 313*

##### **Means of communication**

Insurance and reinsurance undertakings shall submit the information referred to in Article 312(1) in electronic form.

#### <sup>F155</sup>*Article 314*

##### **Transitional information requirements**

.....

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

#### Textual Amendments

**F155** Arts. 314-317 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(57)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)

## CHAPTER XIV

### TRANSPARENCY AND ACCOUNTABILITY OF SUPERVISORY AUTHORITIES

#### <sup>F155</sup>Article 315

#### Confidential information

#### Textual Amendments

**F155** Arts. 314-317 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(57)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)

#### <sup>F155</sup>Article 316

#### Aggregate statistical data

#### Textual Amendments

**F155** Arts. 314-317 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(57)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)

#### <sup>F155</sup>Article 317

#### Means of disclosure

#### Textual Amendments

**F155** Arts. 314-317 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(57)** (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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## CHAPTER XV

### SPECIAL PURPOSE VEHICLES

#### SECTION I

#### **Authorization**

##### *Article 318*

The authorisation of a special purpose vehicle by the supervisory authority <sup>F156</sup>... shall be subject to all of the following conditions:

- (a) the special purpose vehicle assumes risks from an insurance or reinsurance undertaking through reinsurance contracts or assumes insurance risks through similar arrangements;
- (b) where the special purpose vehicle assumes risks from more than one insurance or reinsurance undertaking, the solvency of that special purpose vehicle is not adversely affected by winding-up proceedings of any one of those insurance or reinsurance undertakings;
- (c) the contractual arrangements relating to the transfer of risk from an insurance or reinsurance undertaking to the special purpose vehicle and the investment in assets by the special purpose vehicle fulfil the conditions set out in Articles 319 to 321;
- (d) the persons that effectively run the special purpose vehicle satisfy the requirements referred to in Article 322;
- (e) the shareholders or members having a qualifying holding within the meaning of Article 13(21) of Directive 2009/138/EC in the special purpose vehicle satisfy the conditions set out in Article 323;
- (f) the special purpose vehicle has an effective system of governance and meets the requirements set out in Article 324;
- (g) the special purpose vehicle is capable of meeting the requirements referred to in Article 325;
- (h) the special purpose vehicle satisfies the requirements set out in Articles 326 and 327.

#### **Textual Amendments**

**F156** Words in [Art. 318](#) 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(58)** (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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## SECTION 2

### **Mandatory contract conditions**

#### *Article 319*

#### **Fully Funded**

The contractual arrangements relating to the transfer of risk from an insurance or reinsurance undertaking to a special purpose vehicle shall ensure that the special purpose vehicle is at all times fully funded in accordance with Article 326.

#### *Article 320*

#### **Effective transfer of risk**

1 The contractual arrangements relating to the transfer of risk from an insurance or reinsurance undertaking to a special purpose vehicle and from the special purpose vehicle to the providers of debt or financing shall ensure all of the following:

- a the transfer of risk is effective in all circumstances;
- b the extent of risk transfer is clearly defined and incontrovertible.

2 The transfer of risk shall not be deemed to be effective in all circumstances where there are connected transactions which could undermine the effective transfer of risk.

#### *Article 321*

#### **Rights of the providers of debt or financing mechanisms**

The contractual arrangements relating to the transfer of risk from an insurance or reinsurance undertaking to a special purpose vehicle and from the special purpose vehicle to the providers of debt or finance shall ensure all of the following:

- (a) the claims of the providers of debt or financing mechanisms are at all times subordinated to the reinsurance obligations of the special purpose vehicle to the insurance or reinsurance undertaking;
- (b) no payments are made to the providers of debt or financing, if following those payments the special purpose vehicle would no longer be fully funded;
- (c) the providers of debt or finance to the special purpose vehicle have no rights of recourse to the assets of the insurance or reinsurance undertaking;
- (d) the providers of debt or finance to the special purpose vehicle have no rights to apply for the winding-up of the special purpose vehicle.



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## SECTION 3

### *System of governance*

#### *Article 322*

#### **Fit and proper requirements of persons who effectively run a special purpose vehicle**

- 1 All persons who effectively run a special purpose vehicle shall at all times fulfil the requirements set out in Article 42(1) of Directive 2009/138/EC.
- 2 Special purpose vehicles shall notify the supervisory authorities of the identity of the persons who effectively run the special purpose vehicle and demonstrate to the supervisory authorities that those persons meet the requirements set out in Article 42(1) of Directive 2009/138/EC.
- 3 Special purpose vehicles shall notify the supervisory authorities of any changes in the identity of the persons who effectively run the special purpose vehicle and provide the supervisory authorities with all information needed to assess whether any new persons appointed to run the special purpose vehicle are fit and proper in accordance with Article 42(1) of Directive 2009/138/EC.
- 4 Special purpose vehicles shall notify the supervisory authorities if any of the persons who effectively run a special purpose vehicle have been replaced because they no longer fulfil the requirements set out in Article 42(1) of Directive 2009/138/EC.

#### *Article 323*

#### **Fit and proper requirements for shareholders or members with a qualifying holding**

- 1 The assessment of whether the shareholders or members having a qualifying holding within the meaning of Article 13(21) of Directive 2009/138/EC in a special purpose vehicle are fit and proper shall take into account all of the following criteria:
  - a the reputation and integrity of the shareholder or member having a qualifying holding in the special purpose vehicle;
  - b the financial soundness of the shareholder or member having a qualifying holding in the special purpose vehicle;
  - c the level of influence that the shareholder or member having a qualifying holding in the special purpose vehicle will exercise over the special purpose vehicle;
  - d whether there are reasonable grounds to suspect that, in connection with the qualifying holding of the shareholder or members having a qualifying holding in the special purpose vehicle, money laundering or terrorist financing within the meaning of Article 1 of Directive 2005/60/EC of the European Parliament and of the Council<sup>(16)</sup> is being or has been committed or attempted, or that the qualifying holding could increase the risk thereof.
- 2 Special purpose vehicles shall notify the supervisory authorities of the identity of the persons who are shareholders or members having a qualifying holding in the special purpose vehicle.

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### Article 324

#### **Sound administrative and accounting procedures, adequate internal control mechanisms and risk-management requirements**

- 1 Special purpose vehicles shall have an effective system of governance which provides for sound and prudent management of the special purpose vehicle and that is appropriate to the nature, scale and complexity of the risks it assumes and the uses for which it is authorised.
- 2 The system of governance of the special purpose vehicle shall consist of all of the following:
  - a written policies in relation to at least risk management, internal control, administrative and accounting procedures and, where relevant, outsourcing; the written policies shall comprise policies relating to the areas set out in Article 44(2)(a) to (f) of Directive 2009/138/EC to the extent that these are relevant taking into account the uses of the special purpose vehicle;
  - b effective internal controls to ensure that the mandatory contract conditions in Section 2 and the requirements in Section 5 are fulfilled on an ongoing basis;
  - c an effective risk-management system comprising processes and reporting procedures necessary to identify, measure, monitor, manage and report, on an ongoing basis the risk to which the special purpose vehicle could be exposed.
- 3 Special purpose vehicles shall ensure that the policies referred to in point (a) of paragraph 2 are implemented effectively.

### SECTION 4

#### **Supervisory reporting**

### Article 325

#### **Supervisory reporting**

- 1 The supervisory authorities <sup>F157</sup>... may request such information from the special purpose vehicle as is necessary in order to supervise the special purpose vehicle.
- 2 Special purpose vehicles shall report all of the following information to the supervisory authorities <sup>F158</sup>...:
  - a the value of the assets of the special purpose vehicle valued in accordance with Article 75 of Directive 2009/138/EC distinguished by material class and a description of the basis, methods and assumptions used for their valuation;
  - b the aggregate maximum risk exposure of the special purpose vehicle and a description of the basis, methods and assumptions used for the determination of the aggregate maximum risk exposure;
  - c conflicts of interest between the special purpose vehicle, the insurance or reinsurance undertakings and the providers of debt or finance;
  - d significant transactions entered into by the special purpose vehicle during the last reporting period.

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3 Special purpose vehicles shall submit the report referred to in paragraph 2 at least annually.

4 Special purpose vehicles shall submit the report referred to in paragraph 2:

- a no later than 20 weeks after the special purpose vehicle's financial year end for the financial year ending on or after 30 June 2016 but before 1 January 2017;
- b no later than 18 weeks after the special purpose vehicle's financial year end for the financial year ending on or after 1 January 2017 but before 1 January 2018;
- c no later than 16 weeks after the special purpose vehicle's financial year end for the financial year ending on or after 1 January 2018 but before 1 January 2019;
- d no later than 14 weeks after the special purpose vehicle's financial year end for financial years ending on or after 1 January 2019.

5 Special purpose vehicles shall immediately inform the supervisory authorities <sup>F159</sup> ... of any changes that could affect the compliance by the special purpose vehicle with Articles 318 to 324 and Article 326.

#### Textual Amendments

**F157** Words in [Art. 325\(1\)](#) 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), **11(59)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)

**F158** Words in [Art. 325\(2\)](#) 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), **11(59)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)

**F159** Words in [Art. 325\(5\)](#) 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(59)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)

## SECTION 5

### *Solvency requirements*

#### *Article 326*

### **Solvency requirements**

1 In order to be considered fully funded special purpose vehicles shall satisfy all of the following requirements:

- a the assets of the special purpose vehicle are valued in accordance with Article 75 of Directive 2009/138/EC;
- b the special purpose vehicle has at all times assets the value of which is equal to or exceeds the aggregate maximum risk exposure and the special purpose vehicle is able to pay the amounts it is liable for as they fall due;
- c the proceeds of the debt issuance or other financing mechanism are fully paid-in.

2 The assessment by supervisory authorities of whether the special purpose vehicle has at all times assets the value of which is equal to or exceeds the aggregate maximum risk exposure and the special purpose vehicle is able to pay the amounts it is liable for as they fall due, shall take into account all of the following:

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- a the liquidity risk of the special purpose vehicle;
- b the quantifiable risks of the special purpose vehicle;
- c the arrangements for holding assets in the special purpose vehicle.

3 The special purpose vehicle shall demonstrate to the supervisory authorities in its report referred to in Article 325(2) and on request by the supervisory authorities that it satisfies the requirements set out in paragraph 1 and it shall report on points (a) and (b) of paragraph 2.

4 Payments relating to existing insurance and reinsurance contracts, that are expected to be received in the future by the special purpose vehicle from the insurance or reinsurance undertaking that has transferred risk to the special purpose vehicle, may be included in the assets of the special purpose vehicle, provided that all of the following requirements are met:

- a the future liabilities of the special purpose vehicle to the providers of debt or finance only arise subject to the receipt of the payments from the insurance or reinsurance undertaking that has transferred risk to the special purpose vehicle;
- b there is no scenario under which the basic own funds of the insurance or reinsurance undertaking which has transferred risks to the special purpose vehicle would be negatively affected by the payment not being received by the special purpose vehicle;
- c the special purpose vehicle continues to meet the conditions set out in paragraph 1 in the event that the payments from the insurance or reinsurance undertaking that has transferred risk to the special purpose vehicle are not received;
- [<sup>F28</sup>d the payments do not relate to expenses that are excluded from the aggregate maximum risk exposure as defined in point (44) of Article 1.]

#### Textual Amendments

- F28** 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 \(Solvency II\) \(Text with EEA relevance\).](#)

### Article 327

#### Solvency requirements on investments

Special purpose vehicles shall invest all their assets in accordance with all of the following requirements:

- (a) with respect to the whole portfolio of assets, special purpose vehicles shall only invest in assets and instruments whose risk the special purpose vehicle can properly identify, measure, monitor, manage, control and report;
- (b) assets shall be invested in such a manner as to ensure the security, quality, liquidity and profitability of the portfolio as a whole. In addition the localisation of those assets shall be such as to ensure their availability;
- (c) all assets shall be invested in a manner appropriate to the nature and duration of the special purpose vehicle's liabilities. All assets shall be invested in the best interest of the insurance and reinsurance undertakings transferring risks to the special purpose vehicle;

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- (d) the use of derivative instruments shall be possible insofar as they contribute to a reduction of risks or facilitate efficient portfolio management;
- (e) investments and assets which are not admitted to trading on a regulated financial market shall be kept to prudent levels;
- (f) assets shall be properly diversified in such a way as to avoid excessive reliance on any particular asset, issuer or group of undertakings, or geographical area and excessive accumulation of risk in the portfolio as a whole;
- (g) investments in assets issued by the same issuer, or by issuers belonging to the same group, shall not expose the special purpose vehicle to excessive risk concentration.

#### Editorial Information

- X1** Substituted by [Corrigendum to 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 \(Solvency II\) \(Official Journal of the European Union L 12 of 17 January 2015\)](#).

## TITLE II

### INSURANCE GROUPS

#### CHAPTER I

#### SOLVENCY CALCULATION AT GROUP LEVEL

##### SECTION 1

##### *Group solvency: choice of calculation method and general principles*

##### *Article 328*

##### **Choice of method**

1 In assessing whether the exclusive application of method 1 is not appropriate, thus allowing the group solvency to be calculated in accordance with method 2 or a combination of methods 1 and 2 [<sup>F160</sup>in accordance with rules 11.1 to 13.2 of the Group Supervision part of the PRA Rulebook], the group supervisor shall, in consultation with <sup>F161</sup>... the participating insurance or reinsurance undertaking or the insurance holding company or the mixed financial holding company, consider all of the the following elements:

- a whether the amount and quality of information available in relation to a related undertaking would not be sufficient for it to be subject to method 1;
- b whether a related undertaking is not covered by a group internal model, in the cases where a group internal model, approved in accordance with [<sup>F162</sup>regulations 48 and 49 of the Solvency 2 Regulations 2015], is used for the calculation of the consolidated group Solvency Capital Requirement;

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- c whether, for the purposes of paragraph (b), the risks that are not captured in the group internal model are immaterial in relation to the overall risk profile of the group;
- d whether the use of method 1 in relation to a related undertaking or several related undertakings would be overly burdensome and the nature, scale and complexity of the risks of the group are such that the use of method 2 in relation to that related undertaking or those related undertakings does not materially affect the results of the group solvency calculation;
- e whether intra-group transactions are not significant both in terms of volume and value of the transaction;
- f where the group includes third country related insurance or reinsurance undertakings, whether <sup>F163</sup>... the solvency regimes of those third countries [<sup>F164</sup>have been determined to be] equivalent or provisionally equivalent.

2 The method or combination of methods chosen shall be applied in a consistent manner over time. The group supervisor shall require the participating insurance or reinsurance undertaking or the insurance holding company or the mixed financial holding company to revert to method 1 in relation to any related undertaking where the use of method 2 or a combination of methods 1 and 2 is no longer justified considering the elements referred to in paragraph 1.

#### Textual Amendments

- F160** Words in Art. 328(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(60)(a)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F161** Words in Art. 328(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), **11(60)(b)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F162** Words in Art. 328(1)(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(60)(c)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F163** Words in Art. 328(1)(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), **11(60)(d)(i)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F164** Words in Art. 328(1)(f) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(60)(d)(ii)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)

### Article 329

#### Treatment of specific related undertakings

1 Without prejudice to Article 328 and unless the book value of the relevant related undertaking has been deducted from the own funds eligible for the group solvency pursuant to [<sup>F165</sup>rule 10.6 of the Group Supervision part of the PRA Rulebook], the calculation of the group solvency shall include all of the following:

- a the capital requirements for related undertakings which are credit institutions, investment firms or financial institutions and the own fund items of those undertakings calculated according to the relevant sectoral rules referred to in Article 2(7) of Directive 2002/87/EC;

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

- b the capital requirements for related undertakings which are institutions for occupational retirement provision and the own funds items of those undertakings calculated according to Articles 17 to 17c of Directive 2003/41/EC;
- c the capital requirements for related undertakings which are UCITS management companies calculated in accordance with Article 7(1)(a) of Directive 2009/65/EC and the own funds of those undertakings calculated in accordance with point 1 of Article 2(1) of that Directive;
- d the capital requirements for related undertakings which are alternative investment fund managers calculated in accordance with Article 9 of Directive 2011/61/EU and the own funds of those undertakings calculated in accordance with Article 4(1)(ad) of that Directive;
- e the notional capital requirements and the own fund items of related undertakings which are non-regulated undertakings carrying out financial activities, where the notional capital requirement is the capital requirement with which the related undertaking would have to comply under the relevant sector rules if the undertaking were a regulated entity.

2 For the purposes of applying the provisions set out in [F166rule 14.1 of the Group Supervision part of the PRA Rulebook], where the parent insurance holding company or mixed financial holding company has issued subordinated debt or has other eligible own funds subject to the limits set out in [F167rules 4.1 and 4.2 of the Own Funds part of the PRA Rulebook], [F168rule 10.3 of the Group Supervision part of the PRA Rulebook] shall apply.

3 Special purpose vehicles, F169... to which the participating undertaking or one of its subsidiaries has transferred risk shall be excluded from the calculation of group solvency in any of the following situations:

- a the special purpose vehicle complies with the requirements set out in [F170Articles 318 to 327]F171...;
- b the special purpose vehicle is regulated by a third country supervisory authority, and complies with requirements equivalent to those set out in [F172Articles 318 to 327 of this Regulation].

For the purposes of this paragraph, [F173Articles 318 to 327 of this Regulation] shall apply at the level of the group.

#### Textual Amendments

**F165** Words in Art. 329(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(61)(a) (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)

**F166** Words in Art. 329(2) substituted (31.12.2020) by The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), 11(61)(b)(i) (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)

**F167** Words in Art. 329(2) substituted (31.12.2020) by The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), 11(61)(b)(ii) (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)

**F168** Words in Art. 329(2) substituted (31.12.2020) by The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), 11(61)(b)(iii) (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)

**F169** Words in Art. 329(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), 11(61)(c)(i) (as amended by S.I. 2020/1385, regs. 1(2), 54(2); S.I. 2019/1390, regs. 1(4), 11(3)(i); and with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)



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

- F170** Words in Art. 329(3)(a) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(61)(c)(ii)(aa)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F171** Words in Art. 329(3)(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), **11(61)(c)(ii)(bb)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F172** Words in Art. 329(3)(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(61)(c)(iii)(aa)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F173** Words in Art. 329(3)(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(61)(c)(iv)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)

### Article 330

#### Availability at group level of the eligible own funds of related undertakings

[<sup>F23</sup>1] In assessing whether certain own funds eligible to cover the Solvency Capital Requirement of a related insurance or reinsurance undertaking, a related third country insurance or reinsurance undertaking, an insurance holding company or a mixed financial holding company cannot effectively be made available to cover the group Solvency Capital Requirement, the [<sup>F174</sup>PRA] shall consider all of the following elements:

- a whether the own-fund item is subject to legal or regulatory requirements that restrict the ability of that item to absorb all types of losses wherever they arise in the group;
- b whether there are legal or regulatory requirements that restrict the transferability of assets to another insurance or reinsurance undertaking;
- c whether making those own funds available for covering the group Solvency Capital Requirement would not be possible within a maximum of 9 months;
- d whether, where method 2 is used, the own-fund item does not satisfy the requirements set out in Articles 71, 73 and 77; for this purpose, the term ‘Solvency Capital Requirement’ in those Articles shall include both the Solvency Capital Requirement of the related undertaking that has issued the own fund item and the group Solvency Capital Requirement.]

2 In the assessment referred to in the first paragraph, the [<sup>F174</sup>PRA] shall consider the restrictions that would exist on a going-concern basis.

In the assessment referred to in the first paragraph, the [<sup>F174</sup>PRA] shall also take into account any costs to the participating insurance or reinsurance undertaking or insurance holding company or mixed financial holding company, or to any related undertaking, that making such own funds available for the group is likely to entail.

3 The following items shall be assumed not to be effectively available to cover the group Solvency Capital Requirement:

- a ancillary own funds;
- b preference shares, subordinated mutual members account and subordinated liabilities;
- c an amount equal to the value of net deferred tax assets; for this purpose, the amount of deferred tax asset may be reduced by the amount of the associated deferred tax liability provided that those deferred tax assets and associated deferred tax liabilities both arise from the tax law of [<sup>F175</sup>the United Kingdom] or third country and the taxation authority of [<sup>F176</sup>the United Kingdom] or [<sup>F177</sup>that] third country permits such offsetting.



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**Changes to legislation:** Commission Delegated Regulation (EU) 2015/35 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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Where the participating undertaking can demonstrate to the satisfaction of the [F174PRA] that the assumption referred to in the first subparagraph for one of the items is inappropriate in the specific circumstances of the group, the participating undertaking may include that item in the own funds available to cover the group Solvency Capital Requirement.

4 The following items shall in any case not be considered as effectively available to cover the group Solvency Capital Requirement:

- a any minority interest in a subsidiary exceeding the contribution of that subsidiary to the group Solvency Capital Requirement, where the subsidiary is an insurance or reinsurance undertaking, a third country insurance or reinsurance undertaking, an insurance holding company or a mixed financial holding company;
- b any minority interest in a subsidiary ancillary services undertaking;
- c any restricted own funds item in ring-fenced funds as referred to in F178 ... Article 80 of this Regulation.

5 Where an own-fund item of a related insurance or reinsurance undertaking, third-country insurance or reinsurance undertaking, insurance holding company or mixed financial holding company cannot effectively be made available to cover the group Solvency Capital Requirement, this own fund item may only be included in the calculation of group solvency up to the contribution of that related insurance or reinsurance undertaking, third-country insurance or reinsurance undertaking, insurance holding company or mixed financial holding company to the group Solvency Capital Requirement.

6 Where a related insurance or reinsurance undertaking, third-country insurance or reinsurance undertaking, insurance holding company or mixed financial holding company is included in the consolidated data pursuant to points (a) or (c) of Article 335(1), its contribution to the consolidated group Solvency Capital Requirement shall reflect diversification benefits and be calculated as follows:

- a where the consolidated group Solvency Capital Requirement is calculated, in relation to that related undertaking, on the basis of the standard formula, the proportional share of the Solvency Capital Requirement of that related undertaking multiplied by a percentage corresponding to the proportion that the diversified component of the consolidated group Solvency Capital Requirement, as laid down in Article 336 (a), bears to the sum of the Solvency Capital Requirements of each of the undertakings included in the calculation of that diversified component of the consolidated group Solvency Capital Requirement;
- b where the consolidated group Solvency Capital Requirement is calculated, in relation to that related undertaking, on the basis of an internal model, the Solvency Capital Requirement of that related undertaking multiplied by a percentage corresponding to the proportion of the diversification effects at group level that are attributed to that related undertaking, determined by that internal model, provided that the sum of such percentages for all the related insurance and reinsurance undertakings, insurance holding companies or mixed financial holding companies included in the consolidated calculation based on the internal model equals 100 %.

#### Textual Amendments

- F23** Substituted by [Commission Delegated Regulation \(EU\) 2016/467 of 30 September 2015 amending Commission Delegated Regulation \(EU\) 2015/35 concerning the calculation of regulatory capital requirements for several categories of assets held by insurance and reinsurance undertakings \(Text with EEA relevance\)](#).

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

- F174** Word in Art. 330 substituted (31.12.2020) by The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), **11(62)(a)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F175** Words in Art. 330(3)(c) substituted (31.12.2020) by The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), **11(62)(b)(i)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F176** Words in Art. 330(3)(c) substituted (31.12.2020) by The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), **11(62)(b)(ii)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F177** Word in Art. 330(3)(c) inserted (31.12.2020) by The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), **11(62)(b)(iii)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F178** Words in Art. 330(4)(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), **11(62)(c)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)

## SECTION 2

### Group solvency: calculation methods

#### Article 331

#### Classification of own-fund items of related insurance and reinsurance undertakings at group level

- 1 Where an own-fund item has been classified into one of the three tiers based on the criteria set out in Title I, Chapter IV, Section 2 by a related insurance or reinsurance undertaking that is included in the calculation of the group solvency, the own-fund item shall be classified in the same tier at group level provided that all of the following additional requirements are met:
  - a undertakings comply with the requirements set out in Articles 71, 73 and 77 of this Regulation;
  - b the own-fund item is free from encumbrances and is not connected with any other transaction, which when considered with the own-fund item, could result in that own-fund item not satisfying the requirements set out in [F179 rules 3.1 – 3.3 of the Own Funds part of the PRA Rulebook] at group level.
- 2 For the purposes of point (a) of paragraph 1:
  - a the term ‘Solvency Capital Requirement’ in Articles 71, 73 and 77 of this Regulation shall mean both the Solvency Capital Requirement of the related undertaking that has issued the own-fund item and the group Solvency Capital Requirement;
  - b the term ‘Minimum Capital Requirement’ in Articles 71, 73 and 77 of this Regulation shall mean both the Minimum Capital Requirement of the undertaking that has issued the own-fund item and one of the following minimums:
    - (i) where method 1 is used, the minimum for the group Solvency Capital Requirement as calculated in accordance with the second subparagraph of [F180 rule 11.3 of the Group Supervision part of the PRA Rulebook],
    - (ii) where a combination of methods 1 and 2 is used, the minimum determined in accordance with Article 341 of this Regulation.

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

3 For the purposes of this Article, the term ‘insurance or reinsurance undertaking’ in Title I, Chapter IV, Section 2 shall mean both the participating insurance or reinsurance undertaking and the insurance or reinsurance undertaking belonging to the group that has issued the own-fund item.

4 Notwithstanding paragraph 1, where a related insurance or reinsurance undertaking has included in Tier 2 an own-fund item which would qualify for inclusion in Tier 1 in accordance with Article 73(1)(j), that classification shall not prohibit the classification of the same own-fund item in Tier 1 at group level, provided that the limit set out in Article 82(3) are complied with at group level.

#### Textual Amendments

**F179** Words in Art. 331(1)(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(63)(a)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)

**F180** Words in Art. 331(2)(b)(i) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(63)(b)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)

### Article 332

#### Classification of own-fund items of related third-country insurance or reinsurance undertakings at group level

1 Where an own-fund item has been issued by a related third-country insurance or reinsurance undertaking, the participating undertaking shall classify the own-fund item using the criteria for classification set out in Title I, Chapter IV, Section 2. provided that all of the following additional requirements are met:

- a undertakings comply with the requirements set out in Articles 71, 73 and 77 of this Regulation;
- b the own-fund item is free from encumbrances and is not connected with any other transaction, which when considered with the own-fund item, could result in that own-fund item not satisfying the requirements set out in [<sup>F181</sup>rules 3.1 to 3.3 of the PRA Rulebook on the Own Funds] at group level.

2 For the purposes of point (a) of paragraph 1:

- a the term ‘Solvency Capital Requirement’ in Articles 71, 73 and 77 of this Regulation shall mean the group Solvency Capital Requirement;
- b the term ‘Minimum Capital Requirement’ in Articles 71, 73 and 77 of this Regulation shall mean both the capital requirement, as laid down by the third country supervisory authority concerned, of the undertaking which has issued the own-fund item and one of the following minimums:
  - (i) where method 1 is used, the minimum for the group Solvency Capital Requirement as calculated in accordance with the second subparagraph of [<sup>F182</sup>rule 11.3 of the PRA Rulebook on Group Supervision];
  - (ii) where a combination of methods 1 and 2 is used, the minimum determined in accordance with Article 341 of this Regulation.

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

#### Textual Amendments

- F181** Words in Art. 332(1)(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(64)(a)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F182** Words in Art. 332(2)(b)(i) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(64)(b)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)

### Article 333

#### Classification of own-fund items of insurance holding companies, mixed financial holding companies, and subsidiary ancillary services undertakings at group level

1 Where an own-fund item has been issued by an insurance holding company, an intermediate insurance holding company, a mixed financial holding company, an intermediate mixed financial holding company or a subsidiary ancillary services undertaking, the participating undertaking shall classify the own-fund item using the criteria for classification set out in Title I, Chapter IV, Section 2 provided that all of the following requirements are met:

- a undertakings comply with the requirements set out in Articles 71, 73 and 77 of this Regulation;
- b the own-fund item is free from encumbrances and is not connected with any other transaction, which when considered with the own-fund item, could result in that own-fund item not satisfying the requirements set out in [<sup>F183</sup>rules 3.1 – 3.3 of the PRA Rulebook on Own Funds] at group level.

2 For the purposes of point (a) of paragraph 1:

- a the term ‘Solvency Capital Requirement’ in Articles 71, 73 and 77 of this Regulation shall mean the group Solvency Capital Requirement;
- b the term ‘Minimum Capital Requirement’ in Articles 71, 73 and 77 of this Regulation includes both non-compliance with the relevant minimum referred to in Article 331(2) (b) and the insolvency of the insurance holding company, intermediate insurance holding company, mixed financial holding company, intermediate mixed financial holding company or subsidiary ancillary services undertaking.

3 For the purposes of this Article, the term ‘insurance or reinsurance undertaking’ in Title I, Chapter IV, Section 2 shall mean the insurance holding company, the intermediate insurance holding company, the mixed financial holding company, the intermediate mixed financial holding company or the subsidiary ancillary services undertaking which has issued the own-fund item.

#### Textual Amendments

- F183** Words in Art. 333(1)(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(65)** (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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## Article 334

### Classification of own-fund items of residual related undertakings

1 The own-fund items of related undertakings referred to in Article 335(1)(f) shall be considered as part of the reconciliation reserve at group level.

2 Notwithstanding paragraph 1, where practicable and where the own-fund items referred to in paragraph 1 materially affect the amount of group own funds or the group solvency, the participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company shall classify these own-fund items into one of the three tiers based on the criteria set out in Title I, Chapter IV, Section 2.

## Article 335

### Method 1: determination of consolidated data

1 Consolidated data for the calculation of group solvency according to method 1 shall consist of all of the following:

- a full consolidation of data of all the insurance or reinsurance undertakings, third-country insurance or reinsurance undertakings, insurance holding companies, mixed financial holding companies and ancillary services undertakings which are subsidiaries of the parent undertaking;
- b full consolidation of data of special purpose vehicles to which the participating undertaking or one of its subsidiaries has transferred risk and which are not excluded from the scope of the group solvency calculation pursuant to Article 329(3);
- c proportional consolidation of data of the insurance or reinsurance undertakings, third-country insurance or reinsurance undertakings, insurance holding companies, mixed financial holding companies and ancillary services undertakings managed by an undertaking referred to in point (a) together with one or more undertakings not included in point (a), where those undertakings' responsibility is limited to the share of the capital they hold;
- d on the basis of the adjusted equity method in accordance with Article 13(3), data of all holdings in related insurance or reinsurance undertakings, third-country insurance or reinsurance undertakings, insurance holding companies, mixed financial holding companies which are not subsidiaries of the parent undertaking and which are not covered by points (a) and (c);

- [<sup>F184</sup>e the proportional share of the own funds of related undertakings, calculated as follows:
- i) in relation to credit institutions, investment firms and financial institutions, in accordance with [<sup>F185</sup>Part 9C rules or] the United Kingdom law which implemented Directive 2013/36/EU;
  - ii) in relation to alternative investment fund managers, in accordance with the United Kingdom law which implemented Article 4(1)(ad) of Directive 2011/61/EU;
  - iii) in relation to UCITS management companies, in accordance with the United Kingdom law which implemented point 1 of Article 2(1) of Directive 2009/65/EC;
  - iv) in relation to institutions for occupational retirement provision, in accordance with the United Kingdom law which implemented Articles 17 to 17c of Directive 2003/41/EC; and

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v) according to the own fund items of non-regulated undertakings carrying out financial activities.]

[<sup>F28f</sup> in accordance with Article 13 of this Regulation, data of all related undertakings, including ancillary service undertakings, collective investment undertakings and investments packaged as funds, other than those referred to in points (a) to (e) of this paragraph.]

2 Notwithstanding point (d) of paragraph 1 data of [<sup>F186</sup>related undertakings linked by a common management relationship as defined in regulation 2(1) of the Solvency 2 Regulations 2015] shall be included in accordance with points (a), (c), (d), (e) or (f) of the first paragraph on the basis of the determination of the proportional share by the group supervisor as referred to in Article 221(2)(a) of Directive 2009/138/EC.

3 For the purposes of the calculation of the consolidated group own funds, the data referred to in paragraphs 1 and 2 shall be net of any intra-group transaction.

#### Textual Amendments

- F28** 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 \(Solvency II\) \(Text with EEA relevance\).](#)
- F184** Art. 335(1)(e) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(66)(a)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)
- F185** Words in Art. 335(1)(e)(i) inserted (17.8.2022) by [The Financial Services Act 2021 \(Prudential Regulation of Credit Institutions and Investment Firms\) \(Consequential Amendments and Miscellaneous Provisions\) Regulations 2022 \(S.I. 2022/838\)](#), regs. 1(2), **22(2)** (with regs. 24-26)
- F186** Words in Art. 335(2) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(66)(b)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)

### Article 336

#### Method 1: Calculation of the consolidated group Solvency Capital Requirement

The consolidated group Solvency Capital Requirement shall be calculated as the sum of the following:

- (a) [<sup>F28a</sup> Solvency Capital Requirement calculated on the basis of consolidated data as referred to in points (a), (b) and (c) of Article 335(1), data of collective investment undertakings and investments packaged as funds which are subsidiaries of the parent undertaking, following the rules laid down in [<sup>F187</sup>the United Kingdom law which implemented] Title I, Chapter VI, Section 4 of Directive 2009/138/EC;]
- (b) the proportional share of the Solvency Capital Requirement of each undertaking referred to in Article 335(1)(d) of this Regulation; for a related third-country insurance or reinsurance undertaking which is not a subsidiary the Solvency Capital Requirement shall be calculated as if that undertaking had its head office in the [<sup>F188</sup>United Kingdom];
- (c) for undertakings referred to in Article 335(1)(e) of this Regulation, the proportional share of the capital requirements [<sup>F189</sup>of related undertakings, calculated as follows:



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**Changes to legislation:** Commission Delegated Regulation (EU) 2015/35 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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- i in relation to credit institutions, investment firms and financial institutions, in accordance with [F190Part 9C rules or] the United Kingdom law which implemented Directive 2013/36/EU;
  - ii in relation to alternative investment fund managers, in accordance with the United Kingdom law which implemented Article 9 of Directive 2011/61/EU;
  - iii in relation to UCITS management companies, in accordance with the United Kingdom law which implemented Article 7(1)(a) of Directive 2009/65/EC;
  - iv in relation to institutions for occupational retirement provision, in accordance with the United Kingdom law which implemented Articles 17 to 17(c) of Directive 2003/41/EC; and
  - v in relation to non-regulated undertakings carrying out financial activities, according to the notional capital requirement which is the capital requirement with which the related undertaking would have to comply under the relevant sector rules if the undertaking were a regulated entity.]
- (d) [F28for undertakings referred to in Article 335(1)(f) of this Regulation, other than undertakings covered by point (e) of this paragraph, the amount determined in accordance with Article 13, Articles 168 to 171a, Articles 182 to 187 and Article 188 of this Regulation;]
- (e) [F12for related collective investment undertakings or investments packaged as funds referred to in Article 335(1)(f) of this Regulation which are not subsidiaries of the participating insurance or reinsurance undertaking, and to which Article 84(1) of this Regulation is applied at solo level, the amount determined in accordance with Title I, Chapter V and Article 84(1) of this Regulation.]

#### Textual Amendments

- F12** 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 \(Solvency II\) \(Text with EEA relevance\)](#).
- F28** 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 \(Solvency II\) \(Text with EEA relevance\)](#).
- F187** Words in Art. 336(a) inserted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(67)(a)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F188** Words in Art. 336(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(67)(b)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F189** Words in Art. 336(c) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(67)(c)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F190** Words in Art. 336(c)(i) inserted (17.8.2022) by [The Financial Services Act 2021 \(Prudential Regulation of Credit Institutions and Investment Firms\) \(Consequential Amendments and Miscellaneous Provisions\) Regulations 2022 \(S.I. 2022/838\)](#), regs. 1(2), **22(3)** (with regs. 24-26)

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**Changes to legislation:** Commission Delegated Regulation (EU) 2015/35 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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## *[<sup>F28</sup>Article 337*

### **Method 1: determination of the local currency for the purposes of the currency risk calculation**

1 Where the consolidated group Solvency Capital Requirement is calculated, wholly or in part, on the basis of the standard formula, the local currency referred to in the first paragraph of Article 188 shall be the currency used for the preparation of the consolidated accounts.

2 Notwithstanding paragraph 1, where a material amount of the consolidated technical provisions or the consolidated group own funds is denominated in a currency other than the one used for the preparation of the consolidated accounts, that currency may be considered as the local currency referred to in the first paragraph of Article 188.]

#### **Textual Amendments**

**F28** 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 \(Solvency II\) \(Text with EEA relevance\).](#)

## *Article 338*

### **Method 1: group-specific parameters**

1 Subject to approval by the group supervisor, the consolidated group Solvency Capital Requirement may, within the framework of the standard formula, be calculated by replacing a subset of the standard parameters laid down in Article 218 by parameters specific to the group ('group-specific parameters').

2 Data used to calculate group-specific parameters shall satisfy the criteria set out in [<sup>F191</sup>regulation 47 of the Solvency 2 Regulations 2015] and Article 219 of this Regulation.

3 The standardised methods used to calculate the group-specific parameters are the methods set out in Article 220 of this Regulation.

4 For the purposes of this Article, any reference in Articles 218, 219 and 220 of this Regulation to 'undertaking-specific parameters' shall be understood as a reference to 'group-specific parameters' and any reference to 'insurance and reinsurance undertakings' shall be understood as a reference to 'the participating insurance or reinsurance company, the insurance holding company or the mixed financial holding company' applying for the use of group-specific parameters.

#### **Textual Amendments**

**F191** Words in [Art. 338\(2\)](#) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(68)** (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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## Article 339

### Method 1: best estimate

1 The consolidated best estimate of technical provisions on the basis of the consolidated data shall be equal to the sum of the following:

- a the best estimate of the participating insurance or reinsurance undertaking calculated in accordance with [<sup>F192</sup>the Valuation and Technical Provisions parts of the PRA Rulebook];
- b the proportional share referred to in [<sup>F193</sup>rule 8.2(1) of the Group Supervision part of the PRA Rulebook] of the best estimate, calculated in accordance with [<sup>F194</sup>the Valuation and Technical Provisions parts of the PRA Rulebook], of related insurance or reinsurance undertakings and third-country insurance or reinsurance undertakings referred to in Article 335 (1)(a) and (c) of this Regulation.

2 For the purposes of paragraph 1 the best estimates of the participating insurance and reinsurance undertaking and of each related insurance and reinsurance undertaking and third-country insurance and reinsurance undertakings shall be net of any intra-group transactions. In relation to intra-group reinsurance contracts, all of the following adjustments shall be made:

- a the best estimate of the undertaking that accepts risks shall not include the cash flows arising from the obligations of the intra-group reinsurance contracts;
- b the undertaking that cedes the risk shall not recognise the amounts recoverable from the intra-group reinsurance contracts.

3 For the purposes of paragraph 1, the participating insurance and reinsurance undertaking may restrict the documentation and the directory of data referred to in Article 265 to the data used in the calculation of the adjustments of the best estimate referred to in paragraph 2.

#### Textual Amendments

**F192** Words in Art. 339(1)(a) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), [11\(69\)\(a\)](#) (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)

**F193** Words in Art. 339(1)(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\(69\)\(b\)\(i\)](#) (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)

**F194** Words in Art. 339(1)(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\(69\)\(b\)\(ii\)](#) (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)

## Article 340

### Method 1: Risk margin

The consolidated risk margin of technical provisions on the basis of the consolidated data shall be equal to the sum of the following:

- (a) the risk margin of the participating insurance or reinsurance undertaking;
- (b) the proportional share, as referred to in [<sup>F195</sup>rule 8.2(1) of the Group Supervision part of the PRA Rulebook], of the risk margin of the related insurance or reinsurance

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undertakings and third-country insurance or reinsurance undertakings referred to in Article 335(1)(a) and (c) of this Regulation.

#### Textual Amendments

**F195** Words in [Art. 340\(b\)](#) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(70)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)

### Article 341

#### Combination of methods 1 and 2: minimum consolidated group Solvency Capital Requirement

Where the group supervisor decides, in accordance with [<sup>F196</sup>regulation 16 of the Solvency 2 Regulations 2015], to apply to the group a combination of methods 1 and 2, the consolidated group Solvency Capital Requirement calculated for the part of the group which is covered by method 1 shall have a minimum determined in accordance with the requirements set out in the second subparagraph of [<sup>F197</sup>rule 11.3 of the Group Supervision part of the PRA Rulebook].

#### Textual Amendments

**F196** Words in [Art. 341](#) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(71)(a)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)

**F197** Words in [Art. 341](#) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(71)(b)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)

### Article 342

#### Method 2: Elimination of intra-group creation of capital in relation to the best estimate

1 The aggregated group eligible own funds shall be adjusted to eliminate the impact of an intra-group transaction where the impact of the intra-group transaction affects the best estimates of the insurance and reinsurance undertakings in such way that the amount set out in paragraph 2 is different depending on whether the intra-group transaction is eliminated in the calculation of that amount or not.

- 2 The amount referred to in paragraph 1 shall be the sum of the following:
- a the best estimate of the participating insurance or reinsurance undertaking calculated in accordance with [<sup>F198</sup>the Valuation and Technical Provisions parts of the PRA Rulebook];
  - b the proportional share as referred to in [<sup>F199</sup>rule 8.2(2) of the Group Supervision part of the PRA Rulebook] of the best estimate, calculated in accordance with [<sup>F200</sup>the Valuation and Technical Provisions parts of the PRA Rulebook] for each related insurance and reinsurance undertaking and related third-country insurance and reinsurance undertaking.

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

## Textual Amendments

- F198** Words in Art. 342(2)(a) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/407), regs. 1(2), **11(72)(a)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F199** Words in Art. 342(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(72)(b)(i)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F200** Words in Art. 342(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(72)(b)(ii)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)

## CHAPTER II

### INTERNAL MODELS FOR THE CALCULATION OF THE CONSOLIDATED GROUP SOLVENCY CAPITAL REQUIREMENT

#### SECTION 1

#### *Full and partial internal models used to calculate only the group solvency capital requirement*

#### *Article 343*

#### **Application for the use of an internal model to calculate only the consolidated group Solvency Capital Requirement**

1 The application to calculate the consolidated group Solvency Capital Requirement using an internal model, in accordance with [<sup>F201</sup>rule 11.2 of the Group Supervision part of the PRA Rulebook], shall be submitted to the group supervisor in writing <sup>F202</sup>....

<sup>F203</sup>2 .....

<sup>F203</sup>3 .....

<sup>F203</sup>4 .....

5 In addition to the documents and information required pursuant to [<sup>F204</sup>rules 3 and 4 of the Solvency Capital Requirement – Internal Models part of the PRA Rulebook], an application to use an internal model to calculate the consolidated group Solvency Capital Requirement shall include all of the following documents and information:

a regarding the scope of the model:

- (i) a list of the related undertakings that are included in the scope of the internal model for the calculation of the consolidated group Solvency Capital Requirement; for each undertaking, the list shall include a reference to its supervisory authority, the lines of business written by the related insurance and reinsurance undertaking, the method used for the purposes of determining the consolidated data in accordance with Article 335 of this Regulation and the proportional share applied in accordance with [<sup>F205</sup>rule 8.2(1) of the Group Supervision part of the PRA Rulebook];

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- (ii) the legal and organisational structure of the group, with a description of all subsidiaries, material related undertakings <sup>F206</sup>... and significant branches within the meaning of Article 354(1) of this Regulation and information on relevant operations and transactions within the group, unless this information has not changed since the last reported group regular supervisory reporting pursuant to article 373 of this Regulation;
  - (iii) where applicable, a list of the related undertakings excluded from the scope of the partial internal model for the calculation of the consolidated group Solvency Capital Requirement, together with an explanation of the reasons for their exclusion; a description shall be provided of the methods used to assess the risks in these excluded related undertakings in order to demonstrate that the exclusion does not lead to an underestimation of the overall risks to which the group is exposed; the application shall demonstrate that the consolidated group Solvency Capital Requirement calculated using a combination of the internal model and the standard formula will adequately reflect the overall risk profile of the group;
  - (iv) for each related undertaking included in the scope of the internal model for the calculation of the consolidated group Solvency Capital Requirement, a justification of the reasons why the internal model covers a related undertaking for the calculation of the consolidated group Solvency Capital Requirement but it is not used to calculate the Solvency Capital Requirement of that related undertaking; for this purpose and in order to justify that an application is not submitted [<sup>F207</sup>under regulation 49 of the Solvency 2 Regulations 2015], the application shall include an explanation of how the internal model used to calculate the consolidated group Solvency Capital Requirement differs from and interacts with an internal model used for the calculation of the Solvency Capital Requirement of any of the related insurance or reinsurance undertakings previously approved by its supervisory authority; the participating undertaking shall provide information on any future plans to extend the use of the internal model to calculate the Solvency Capital Requirement of any related insurance or reinsurance undertaking;
- b regarding the group's capital requirements:
- (i) an estimation of the consolidated group Solvency Capital Requirement calculated with the internal model and with the standard formula for the last time prior to the application when the consolidated group Solvency Capital Requirement was calculated with the standard formula;
  - (ii) for each related undertaking, the Solvency Capital Requirement calculated with the standard formula for the last point in time prior to the application;
  - (iii) where applicable, the regulatory capital requirement for related undertakings that are also regulated undertakings, other than insurance and reinsurance undertakings, included in the scope of the internal model for the last time prior to the application when the consolidated group Solvency Capital Requirement was calculated with the standard formula;
  - (iv) an explanation of the difference between the sum of the Solvency Capital Requirements of all the related insurance and reinsurance undertakings of the group and the consolidated group Solvency Capital Requirement calculated with the internal model.

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In case an application is submitted before any Solvency Capital Requirement must be calculated, the Solvency Capital Requirements referred to in points (i), (ii) and (iii) shall be calculated for a point in time before the date of the submission of the application.

#### Textual Amendments

- F201** Words in Art. 343(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(73)(a)(i)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F202** Words in Art. 343(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), **11(73)(a)(ii)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F203** Art. 343(2)-(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(73)(b)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F204** Words in Art. 343(5) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(73)(c)(i)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F205** Words in Art. 343(5)(a)(i) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(73)(c)(ii)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F206** Words in Art. 343(5)(a)(ii) 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(73)(c)(iii)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F207** Words in Art. 343(5)(a)(iv) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(73)(c)(iv)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)

#### Article 344

#### Assessment of the application for the use of an internal model to calculate only the consolidated group Solvency Capital Requirement

**F208**<sup>1</sup> .....

**F208**<sup>2</sup> .....

3 Where applicable, the assessment of the application shall include an evaluation of whether the explanation provided in accordance with Article 343(5)(a)(iii) of the reasons for the exclusion of related undertakings from the internal model for the calculation of the group solvency is appropriate in order to demonstrate that the overall risks to which the group is exposed are not underestimated by using a partial internal model.

4 The assessment of the application shall include an evaluation of whether the justification provided in accordance with Article 343(5)(a)(iv) of the reasons why the internal model covers a related undertaking for the calculation of the consolidated group Solvency Capital Requirement but it is not used to calculate the Solvency Capital Requirement of that related undertaking, is appropriate in order to justify that an application is not submitted in accordance with the procedure laid down in [<sup>F209</sup>under regulations 48 and 49 of the Solvency 2 Regulations 2015].

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

### Textual Amendments

- F208** Art. 344(1)(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), **11(74)(a)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F209** Words in Art. 344(4) 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(74)(b)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)

## Article 345

### Decision on the application and transitional plan to extend the scope of a partial internal model used to calculate only the consolidated group Solvency Capital Requirement

[<sup>F210</sup>1 The group supervisor must provide its decision to the participating undertaking.]

<sup>F211</sup>2 .....

3 [<sup>F212</sup>The] group supervisor may require the applicant to submit a realistic transitional plan to extend the scope of the internal model.

4 When an internal model has been approved under [<sup>F213</sup>regulation 48 of the Solvency 2 Regulations 2015] for the purposes of the calculation of the consolidated group Solvency Capital Requirement, any subsequent application for permission to use the same internal model for calculating the Solvency Capital Requirement of an insurance or reinsurance undertaking in the group shall [<sup>F214</sup>be made under regulation 49 of the Solvency 2 Regulations 2015].

### Textual Amendments

- F210** Art. 345(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(75)(a)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F211** Art. 345(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), **11(75)(b)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F212** Word in Art. 345(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(75)(c)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F213** Words in Art. 345(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(75)(d)(i)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F214** Words in Art. 345(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(75)(d)(ii)** (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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## Article 346

### Use test for internal models used to calculate only the consolidated group Solvency Capital Requirement

1 Where an internal model is used to calculate the consolidated group Solvency Capital Requirement in accordance with [F215rule 11.2 of the Group Supervision part of the PRA Rulebook], the requirements set out in Articles 223 to 227 of this Regulation shall be complied with by all of the following undertakings or companies:

- a the participating undertaking which calculates the consolidated group Solvency Capital Requirement on the basis of the internal model;
- b each related insurance and reinsurance undertaking whose business is fully or partly in the scope of the internal model, only in relation to the output of the internal model at group level;
- c each related insurance holding company or mixed financial holding company whose business is fully or partly in the scope of the internal model, only in relation to the output of the internal model at group level.

2 For the purposes of paragraph 1, an insurance or reinsurance undertaking or insurance holding company or mixed financial holding company shall only comply with the requirements set out in Article 225 of this Regulation in relation to the parts of the internal model which cover the risks of that undertaking and the risks of its related undertakings.

#### Textual Amendments

**F215** Words in [Art. 346](#) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/407), regs. 1(2), [11\(76\)](#) (as amended by [S.I. 2020/1385](#), regs. 1(2), [54\(2\)](#) and with savings in [S.I. 2019/680](#), reg. 11)

## SECTION 2

### Use of a group internal model

## Article 347

### Application to use a group internal model

1 For the purposes of this Section, ‘group internal model’ shall mean an internal model used to calculate the consolidated group Solvency Capital Requirement as well as the Solvency Capital Requirement of an insurance or reinsurance undertaking in the group, as referred to in Article 231(1) of Directive 2009/138/EC.

2 An application to use a group internal model shall be provided in writing <sup>F216</sup>....

<sup>F217</sup><sub>3</sub> .....

<sup>F217</sup><sub>4</sub> .....

<sup>F217</sup><sub>5</sub> .....



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

6 An application to use a group internal model shall include the following documents and information, where applicable:

- a the documents and information required in accordance with Article 343(5) in relation to the use of an internal model for the calculation of the consolidated group Solvency Capital Requirement; in relation to Article 343(5)(a)(i), the documentation shall also include a list of all the insurance and reinsurance undertakings applying for the use of the group internal model to calculate their Solvency Capital Requirement.
- b the documents required in accordance with Title I, Chapter VI, Section 4, Sub-section 3 of Directive 2009/138/EC in relation to the use of an internal model for the calculation of the Solvency Capital Requirement of each insurance and reinsurance undertaking in the group applying for the use of the group internal model to calculate their Solvency Capital Requirement; for this purpose, the insurance or reinsurance undertaking may restrict these documents to those whose content is not already covered in the documents submitted by the participating insurance or reinsurance undertaking in accordance with point (a).

#### Textual Amendments

**F216** Words in Art. 347(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), **11(77)(a)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)

**F217** Art. 347(3)-(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(77)(b)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)

### Article 348

#### Assessment of the completeness of an application to use a group internal model

1 The group supervisor shall determine whether the application is complete within 45 days from the day of the receipt of the application. An application shall be considered as complete if it includes all the documentation set out in Article 347.

2 Where the group supervisor determines that the application is not complete, it shall immediately notify the applicant that the six month period referred to in [<sup>F218</sup>Regulation 48 of the Solvency 2 Regulations 2005] has not yet begun, specifying the documents in respect of which the application is not complete.

3 Where the group supervisor determines that the application is complete, it shall notify the applicant without delay that the application is complete and the date from which the six month period referred to in [<sup>F219</sup>Regulation 48 of the Solvency 2 Regulations 2005]. That date shall be the date on which the complete application was received.

#### Textual Amendments

**F218** Words in Art. 348(2) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(78)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)

**F219** Words in Art. 348(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(78)** (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:** Commission Delegated Regulation (EU) 2015/35 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

## Article 349

### [<sup>F220</sup>Decision] on the application and transitional plan to extend the scope of the model

<sup>F221</sup>1 .....

[<sup>F222</sup>2 The PRA must provide the applicant, and each related insurance or reinsurance undertaking applying for the use of the group internal model to calculate their Solvency Capital Requirement, with the decision.]

3 In the <sup>F223</sup>... decision, the [<sup>F224</sup>PRA] may require the applicant to submit a realistic transitional plan to extend the scope of the group internal model.

#### Textual Amendments

**F220** Word in *Art. 349* heading substituted (31.12.2020) by *The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019* (S.I. 2019/407), regs. 1(2), **11(79)(a)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)

**F221** *Art. 349(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), **11(79)(b)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)

**F222** *Art. 349(2)* substituted (31.12.2020) by *The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019* (S.I. 2019/407), regs. 1(2), **11(79)(c)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)

**F223** Word in *Art. 349(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), **11(79)(d)(i)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)

**F224** Word in *Art. 349(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(79)(d)(ii)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)

## Article 350

### Use test for group internal models

1 Where a group internal model is used, in accordance with Article 231(1) of Directive 2009/138/EC, the requirements set out in Articles 223 to 227 of this Regulation shall be complied with by the following undertakings:

- a the participating undertaking which calculates the consolidated group Solvency Capital Requirement on the basis of the group internal model, in relation to the output of the internal model at group level and in case of a participating insurance or reinsurance undertaking additionally in relation to the output of the internal model at the level of that undertaking;
- b each related insurance and reinsurance undertaking which calculates its Solvency Capital Requirement on the basis of the group internal model, both in relation to the output of the internal model at group level and at the level of the undertaking;
- c each other related insurance and reinsurance undertaking whose business is fully or partly in the scope of the group internal model, only in relation to the output of the internal model at group level;

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- d each related insurance holding company or mixed financial holding company whose business is fully or partly in the scope of the group internal model, only in relation to the output of the internal model at group level.
- 2 For the purposes of paragraph 1, an insurance or reinsurance undertaking or insurance holding company or mixed financial holding company shall only comply with the requirements set out in Article 225 of this Regulation in relation to the parts of the group internal model which cover the risks of that undertaking and the risks of its related undertakings.

F225

CHAPTER III

SUPERVISION OF GROUP SOLVENCY FOR GROUPS  
WITH CENTRALISED RISK MANAGEMENT

.....

.....

Textual Amendments

F225 Title 2 Ch. 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), 11(80) (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)

CHAPTER IV

COORDINATION OF GROUP SUPERVISION

SECTION 1

[F226Group specific parameters]

Article 354

[F227Definition of significant branches]

- 1 [F228‘Significant branch’] of an insurance or reinsurance undertaking shall mean a branch of an insurance or reinsurance undertaking for which F229 ...:
- a the annual gross written premium of the branch exceeds 5 % of the annual gross written premium of the group, measured with reference to the last available consolidated financial statements of the group;
- F230b .....
- F231 ...
- F2322 .....

.....

Textual Amendments

F227 Art. 354 heading substituted (31.12.2020) by The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), 11(82)(a) (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:** Commission Delegated Regulation (EU) 2015/35 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

- F228** Words in Art. 354(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(82)(b)(i)(aa)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F229** Words in Art. 354(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), **11(82)(b)(i)(bb)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F230** Art. 354(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), **11(82)(b)(ii)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F231** Words in Art. 354(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), **11(82)(b)(iii)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F232** Art. 354(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), **11(82)(c)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)

## *F233* Article 355

### Coordination arrangements

#### Textual Amendments

- F233** Art. 355 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(83)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)

## Article 356

### Supervisory approval of group-specific parameters

1 An application to use group-specific parameters, as referred to in Article 338, shall be provided in writing to the group supervisor, by the participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company (for the purposes of this Article, referred to as ‘the applicant’) <sup>F234</sup>....

<sup>F235</sup><sub>2</sub> .....

<sup>F235</sup><sub>3</sub> .....

#### Textual Amendments

- F234** Words in Art. 356(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), **11(84)(a)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F235** Art. 356(2)(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), **11(84)(b)** (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 to legislation:** Commission Delegated Regulation (EU) 2015/35 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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#### Textual Amendments

**F226** Title 2 Ch. 4 Section 1 heading substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(81)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)

### SECTION 2

#### *Exchange of information*

<sup>F236</sup> Article 357

#### **Information to be exchanged on a systematic basis**

#### Textual Amendments

**F236** Art. 357 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(85)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)

### SECTION 3

#### *National or regional subgroup supervision*

<sup>F237</sup> Article 358

#### Textual Amendments

**F237** Art. 358 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(85)** (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 to legislation:** Commission Delegated Regulation (EU) 2015/35 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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## CHAPTER V

### PUBLIC DISCLOSURE

#### SECTION 1

#### **Group solvency and financial condition report**

##### *Article 359*

#### **Structure and contents**

Articles 290 to 298 of this Regulation shall apply to the group solvency and financial condition report which participating insurance and reinsurance undertakings, insurance holding companies or mixed financial holding companies are required to disclose publicly. In addition, the group solvency and financial condition report shall include all of the following information:

- (a) regarding the group's business and performance:
  - (i) a description of the legal structure and the governance and organisational structure of the group, with a description of all subsidiaries, material related undertakings<sup>F238</sup> ... and significant branches within the meaning of Article 354(1) of this Regulation;
  - (ii) qualitative and quantitative information on relevant operations and transactions within the group;
- (b) regarding the group's system of governance:
  - (i) a description of how the risk management and internal control systems and reporting procedures are implemented consistently in all the undertakings within the scope of group supervision, as required by Article 246 of Directive 2009/138/EC;
  - (ii) where applicable, a statement that the participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company has made use of the option provided for in the third subparagraph of Article 246(4) of Directive 2009/138/EC;
  - (iii) information on any material intra-group outsourcing arrangements;
- (c) regarding the group's risk profile: qualitative and quantitative information on any significant risk concentration at the level of the group, as referred to in Article 376 of this Regulation;
- (d) regarding the group's valuation for solvency purposes: where the bases, methods and main assumptions used at group level for the valuation for solvency purposes of the group's assets, technical provisions and other liabilities differ materially from those used by any of its subsidiaries for the valuation for solvency purposes of its assets, technical provisions and other liabilities, a quantitative and qualitative explanation of any material differences;
- (e) regarding the group's capital management:

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

- (i) whether method 1 or method 2 <sup>F239</sup>... is used to calculate the group solvency and where a combination of method 1 and 2 is used for which related undertakings method 2 is used;
- (ii) qualitative and quantitative information on any significant restriction to the fungibility and transferability of own funds eligible for covering the group Solvency Capital Requirement;
- (iii) where method 1 is used to calculate the group solvency, the amount of the consolidated group Solvency Capital Requirement, with separate indication of the amounts referred to in Article 336 of this Regulation;
- (iv) qualitative and quantitative information on the material sources of group diversification effects;
- (v) where applicable, the sum of amounts referred to in [<sup>F240</sup>rule 11.3(1)(a) and (b) of the Group Supervision part of the PRA Rulebook];
- (vi) where applicable, a description of the undertakings which are in the scope of any internal model used to calculate the group Solvency Capital Requirement;
- (vii) a description of the main differences, if any, between any internal model used at individual undertaking level and any internal model used to calculate the group Solvency Capital Requirement.

**Textual Amendments**  
**F238** Words in [Art. 359\(a\)\(i\)](#) 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(86)(a)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)  
**F239** Words in [Art. 359\(e\)\(i\)](#) 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(86)(b)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)  
**F240** Words in [Art. 359\(e\)\(v\)](#) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(86)(c)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)

Article 360

Languages

- 1 Participating insurance and reinsurance undertakings, insurance holding companies or mixed financial holding companies shall disclose their group solvency and financial condition report in the language or languages determined by the group supervisor.
- <sup>F241</sup>2 .....
- <sup>F241</sup>3 .....

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**Changes to legislation:** Commission Delegated Regulation (EU) 2015/35 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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#### Textual Amendments

**F241** Art. 360(2)(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), **11(87)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)

#### Article 361

##### Non-disclosure of information

Article 299 shall apply to non-disclosure of information in the group solvency and financial condition report by participating insurance and reinsurance undertakings, insurance holding companies or mixed financial holding companies.

#### Article 362

##### Deadlines

Article 300 shall apply to the disclosure by participating insurance and reinsurance undertakings, insurance holding companies or mixed financial holding companies of their group solvency and financial condition report. For the purposes of this Article the deadlines referred to in Article 300 shall be extended by 6 weeks.

#### Article 363

##### Updates

1 Where participating insurance and reinsurance undertakings, insurance holding companies or mixed financial holding companies have to disclose publicly, appropriate information on the nature and effects of any major development that materially affect the relevance of their group solvency and financial condition report, they shall provide an updated version of that report. Articles 359, 360 and 361 of this Regulation shall apply to that updated version.

2 Without prejudice to the requirements for immediate disclosure set out in Article 54(1) of Directive 2009/138/EC, any updated version of the group solvency and financial condition report shall be disclosed as soon as possible after the major development referred to in paragraph 1 of this Article.

#### Article 364

##### Transitional arrangements on comparative information

Article 303 shall apply to the disclosure of comparative information by participating insurance and reinsurance undertakings, insurance holding companies or mixed financial holding companies.

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

SECTION 2

Single solvency and financial condition report

Article 365

Structure and contents

- 1Where participating insurance and reinsurance undertakings, insurance holding companies or mixed financial holding companies provide a single solvency and financial condition report, the requirements set out in this Section shall apply.
- 2The single solvency and financial condition report shall present separately the information which must be disclosed at group level in accordance with Article 256(1) of Directive 2009/138/EC and the information which must be disclosed in accordance with Articles 51, 53, 54 and 55 of that Directive for any subsidiary covered by that report.
- 3The information at group level and the information for any subsidiary covered by that report shall each follow the structure set out in Annex XX. Participating insurance and reinsurance undertakings, insurance holding companies or mixed financial holding companies may decide, when providing any part of the information to be disclosed for a subsidiary covered, to refer to information at group level, where that information is equivalent in both nature and scope.

Article 366

Languages

- 1Participating insurance and reinsurance undertakings, insurance holding companies or mixed financial holding companies shall disclose their single solvency and financial condition report in the language or languages determined by the group supervisor.

F242	2	.....
F242	3	.....

Textual Amendments

F242Art. 366(2)(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), 11(88) (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)

Article 367

Non-disclosure of information

- 1Article 361 shall apply as regards the information at the level of the group.
- 2Article 299 shall apply as regards the information for any of the subsidiaries within the group.



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**Changes to legislation:** Commission Delegated Regulation (EU) 2015/35 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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## Article 368

### Deadlines

Article 300 of this Regulation shall apply to the deadlines for disclosure by participating insurance and reinsurance undertakings, insurance holding companies or mixed financial holding companies of their single solvency and financial condition report. For the purposes of this Article the deadlines referred to in Article 300 shall be extended by 6 weeks only during a period not exceeding four years from 1 January 2016.

## Article 369

### Updates

1 Where participating insurance and reinsurance undertakings, insurance holding companies or mixed financial holding companies have to disclose publicly information on the nature and effects of any major development that materially affect the relevance of their single solvency and financial condition report, they shall provide an updated version of that report. Articles 365, 366 and 367 of this Regulation shall apply to that updated version.

2 Without prejudice to the requirements for immediate disclosure set out in Article 54(1) of Directive 2009/138/EC, any updated version of the single solvency and financial condition report shall be disclosed as soon as possible after the major development referred to in paragraph 1 of this Article.

## Article 370

### Reference

1 Where participating insurance and reinsurance undertakings, insurance holding companies or mixed financial holding companies provide a single solvency and financial condition report in respect of some of their subsidiaries only, all of the following obligations shall apply:

- a the other insurance and reinsurance undertakings which are subsidiaries of that participating insurance or reinsurance undertaking, insurance holding company or mixed financial holding company shall include in their solvency and financial condition report a reference to the single solvency and financial condition report disclosed;
- b the single solvency and financial condition reports disclosed in accordance with Article 256(2) of Directive 2009/138/EC shall equally include a reference to the solvency and financial condition report of those other insurance and reinsurance undertakings.

2 Where participating insurance and reinsurance undertakings, insurance holding companies or mixed financial holding companies do not provide a single solvency and financial condition report, the insurance and reinsurance undertakings which are subsidiaries of that participating insurance or reinsurance undertaking, insurance holding company or mixed financial holding company shall include in their solvency and financial condition report a reference to the group solvency and financial condition reports disclosed in accordance with Article 256(1) of Directive 2009/138/EC.

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**Changes to legislation:** Commission Delegated Regulation (EU) 2015/35 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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## Article 371

### Transitional arrangements on comparative information

Article 303 shall apply to the disclosure of comparative information by participating insurance and reinsurance undertakings, insurance holding companies or mixed financial holding companies.

## CHAPTER VI

### GROUP SUPERVISORY REPORTING

#### SECTION 1

#### **Regular reporting**

## Article 372

### Elements and contents

1 Articles 304 to 311 of this Regulation shall apply to the information which participating insurance and reinsurance undertakings, insurance holding companies or mixed financial holding companies shall be required to submit to the group supervisor. Where all insurance and reinsurance undertakings in the group are exempted from quarterly reporting obligations <sup>F243</sup> ..., the group regular supervisory report shall include annual quantitative templates only. Annual reporting obligations shall not include reporting on an item-by-item basis where all undertakings in the group are exempted from it <sup>F244</sup> ....

2 The group regular supervisory report shall include all of the following additional information:

- a regarding the group's business and performance:
  - (i) a list of all subsidiaries, related undertakings and branches;
  - (ii) a description of activities and sources of profits or losses for each material related undertaking <sup>F245</sup> ... and for each significant branch within the meaning of Article 354(1) of this Regulation;
  - (iii) a description of the contribution of each subsidiary to the achievement of the group strategy;
  - (iv) qualitative and quantitative information on significant intra-group transactions by insurance and reinsurance undertakings with the group and the amount of the transactions over the reporting period and their outstanding balances at the end of the reporting period;
- b regarding the group's system of governance:
  - (i) a description of how the group internal control mechanism comply with the requirements set out in Article 246(2) of Directive 2009/138/EC;

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**Changes to legislation:** Commission Delegated Regulation (EU) 2015/35 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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- (ii) where applicable, information on the subsidiaries included in the own risk and solvency assessment as referred to in the third subparagraph of Article 246(4) of Directive 2009/138/EC;
  - (iii) qualitative and quantitative information on material specific risks at group level;
- c regarding the group's capital management:
  - (i) qualitative and quantitative information on the Solvency Capital Requirement and own funds for each insurance and reinsurance undertaking within the group, in so far as it is included in the calculation of the group solvency;
  - (ii) qualitative and quantitative information on the Solvency Capital Requirement and own funds for each intermediate insurance holding company, insurance holding company, intermediate mixed financial holding company, mixed financial holding company and ancillary services undertaking within the group, in so far as it is included in the calculation of the group solvency;
  - (iii) qualitative and quantitative information on the solvency requirements and own funds for each related undertaking which is a credit institution, investment firm, financial institution, UCITS management company, alternative investment fund manager or institutions for occupational retirement provisions in so far as it is included in the calculation of the group solvency;
  - (iv) qualitative and quantitative information on the notional solvency requirement and own funds for each related undertaking which is a non-regulated undertaking carrying out financial activities, in so far as it is included in the calculation of the group solvency;
  - (v) qualitative and quantitative information on the solvency requirement and own funds for each related third-country insurance or reinsurance undertaking, in so far as it is included in the calculation of the group solvency; when method 2 within the meaning of [F246 regulation 2 of the Solvency 2 Regulations 2015] is used in the case of a related third country insurance or reinsurance undertaking that has its head office in a third country whose solvency regime is deemed to be equivalent pursuant to [F247 Article 379A of this Regulation], the Solvency Capital Requirement and the own funds eligible to satisfy that requirement as laid down by the third country concerned shall be separately identified;
  - (vi) qualitative and quantitative information on the solvency requirement and own funds for any other related undertaking, in so far as it is included in the calculation of the group solvency;
  - (vii) a description of special purpose vehicles within the group which comply with the requirements set out in [F248 Articles 318 to 327 of this Regulation];
  - (viii) a description of special purpose vehicles within the group, which are regulated by a third country supervisory authority and comply with requirements equivalent to those set out in [F249 Articles 318 to 327 of this Regulation], for the purposes of including a description of the verification carried out by the participating insurance and reinsurance undertaking, insurance holding company or mixed financial holding company whether the requirements to which these special purpose vehicles are subject to in the third country are equivalent to those set out in [F249 Articles 318 to 327 of this Regulation];

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

- (ix) a description of each special purpose entity within the group other than those referred to in points (vii) and (viii) together with qualitative and quantitative information on the solvency requirement and own funds of these entities, in so far as they are included in the calculation of the group solvency;
- (x) where relevant, for all related insurance and reinsurance undertakings which are included in the calculation of the group solvency, qualitative and quantitative information on how the undertaking complies with Article 222(2) to (5) of Directive 2009/138/EC;
- (xi) where relevant, qualitative and quantitative information on the own- fund items referred to in Article 222(3) of Directive 2009/138/EC that cannot effectively be made available to cover the Solvency Capital Requirement of the participating insurance or reinsurance undertaking, insurance holding company or mixed financial holding company for which the group solvency is calculated, including a description of how the adjustment to group own funds has been made;
- (xii) where relevant, qualitative information on the reasons for the classification of own-fund items referred to in Articles 332 and 333 of this Regulation.

#### Textual Amendments

- F243** Words in Art. 372(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), **11(89)(a)(i)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F244** Words in Art. 372(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), **11(89)(a)(ii)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F245** Words in Art. 372(2)(a)(ii) 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(89)(b)(i)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F246** Words in Art. 372(2)(c)(v) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(89)(b)(ii)(aa)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F247** Words in Art. 372(2)(c)(v) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(89)(b)(ii)(bb)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F248** Words in Art. 372(2)(c)(vii) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(89)(b)(ii)(cc)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)
- F249** Words in Art. 372(2)(c)(viii) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(89)(b)(ii)(dd)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)

#### Article 373

##### Deadlines

Article 312 of this Regulation shall apply to the submission by participating insurance and reinsurance undertakings, insurance holding companies or mixed financial holding companies of their group regular supervisory reporting. For the purposes of this Article

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

the deadlines referred to in Article 312 shall be extended by 6 weeks, except for the ORSA supervisory report.

## <sup>F250</sup>Article 374

### Languages

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#### Textual Amendments

**F250** Art. 374 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(90)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)

## <sup>F251</sup>Article 375

### Additional transitional information on groups

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#### Textual Amendments

**F251** Art. 375 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(90)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)

## SECTION 2

### *Reporting on risk concentrations and intragroup transactions*

#### Article 376

#### **Significant risk concentrations (definition, identification and thresholds)**

1 Participating insurance and reinsurance undertakings, insurance holding companies or mixed financial holding companies shall consider risk concentrations that could threaten the group solvency or liquidity position as significant risk concentrations.

2 For the purposes of identifying significant risk concentrations, participating insurance and reinsurance undertakings, insurance holding companies or mixed financial holding companies shall consider, at least, direct and indirect exposures of undertakings in the group to all of the following:

- a individual counterparties;
- b groups of individual but interconnected counterparties, for example undertakings within the same corporate group;
- c specific geographical areas or industry sectors;
- d natural disasters or catastrophes.

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3 When determining appropriate thresholds in a particular group for significant risk concentrations to be reported, the group supervisor shall consider the following elements:

- a the solvency and liquidity position of the group;
- b the complexity of the structure of the group;
- c the importance of regulated entities from other financial sectors or non-regulated entities carrying out financial activities;
- d the diversification of the group's investments portfolio;
- e the diversification of the group's insurance activities, in terms of geographical areas and lines of business.

### *Article 377*

#### **Significant intragroup transactions (definition, identification)**

1 Participating insurance and reinsurance undertakings, insurance holding companies or mixed financial holding companies shall consider as significant intragroup transactions the intragroup transactions that materially influence the solvency or liquidity position of the group or of one of the undertakings involved in these transactions.

2 For the purposes of identifying significant intragroup transactions, participating insurance and reinsurance undertakings, insurance holding companies or mixed financial holding companies shall consider at least all of the following:

- a investments;
- b intercompany balances, including loans, receivables and arrangements to centralise the management of assets or cash;
- c guarantees and commitments such as letters of credit;
- d derivative transactions;
- e dividends, coupons, and other interest payments;
- f reinsurance operations;
- g provision of services or agreements to share costs;
- h purchase, sale or lease of assets.

### TITLE III

#### **THIRD COUNTRY EEQUIVALENCE AND FINAL PROVISIONS**

#### CHAPTER I

#### **UNDERTAKINGS CARRYING OUT REINSURANCE ACTIVITIES WITH THEIR HEAD OFFICE IN A THIRD COUNTRY**

*[<sup>F252</sup>Article 377A*

#### **References to United Kingdom law**

In this Title, references to United Kingdom law which implemented the Solvency 2 Directive, or any provisions in that Directive, are to the law of the United Kingdom which was relied on by the United Kingdom immediately before IP completion day to

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implement Directive 2009/138/EU and its implementing provisions, as such law applies on the day on which regulations are made by the Treasury under this Title.]

#### Textual Amendments

**F252** Art. 377A inserted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(90A)** (as amended by [S.I. 2019/1212](#), regs. 1(3), 18(2)(b) (as amended by [S.I. 2020/1301](#), regs. 1, 3, Sch. para. 45(c)(ii)); [S.I. 2020/1385](#), regs. 1(2), 54(2); and with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

### Article 378

#### Criteria for assessing third country equivalence

The criteria to be taken into account in order to assess whether the solvency regime of a third country that applies to reinsurance activities of undertakings with their head office in that third country is equivalent to that laid down in <sup>F253</sup>the United Kingdom law which implemented] Title I of Directive 2009/138/EC shall be the following:

- (a) whether the supervisory authorities of that third country have the power, by law or regulation, to effectively supervise domestic insurance undertakings carrying out reinsurance activities or reinsurance undertakings and impose sanctions or take enforcement action where necessary;
- (b) whether the supervisory authorities of that third country have the necessary means, the relevant expertise, capacities including financial and human resources, and mandate to effectively protect policy holders and beneficiaries regardless of their nationality or place of residence;
- (c) whether the supervisory authorities of that third country, in the exercise of their general duties, duly consider the potential impact of their decisions on the stability of financial systems globally, particularly during emergency situations, on the basis of the information available at that time;
- (d) whether the supervisory authorities of that third country take into account the potential pro-cyclical effects of their actions where exceptional movements in the financial markets occur;
- (e) whether the taking-up of the business of reinsurance in that third country is subject to prior authorisation conditional on a clear, objective and publicly available set of written standards;
- (f) whether the solvency regime of that third country requires domestic insurance or reinsurance undertakings carrying out reinsurance activities to have an effective system of governance in place which provides for sound and prudent management of the business and prescribes all of the following:
  - (i) the existence of an adequate, transparent organisational structure with a clear allocation and appropriate segregation of responsibilities,
  - (ii) requirements for ensuring that persons who effectively run the undertaking are fit and proper, which are equivalent to Article 42 of Directive 2009/138/EC,

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- (iii) the existence of effective processes to ensure the timely transmission of information both within the undertaking and to the relevant supervisory authorities;
  - (iv) requirements for ensuring that the outsourced functions or activities are effectively supervised;
- (g) whether the solvency regime of that third country requires domestic insurance or reinsurance undertakings carrying out reinsurance activities to have an effective risk-management system in place comprising all of the following:
  - (i) strategies, processes and internal reporting procedures necessary to identify, measure, monitor, manage and report risks, to which the undertaking is or could be exposed, at an individual and an aggregated level and on a continuous basis, and their interdependencies;
  - (ii) an effective internal control system;
- (h) whether the solvency regime of that third country requires domestic insurance or reinsurance undertakings carrying out reinsurance activities to establish and maintain effective risk-management, compliance, internal audit and actuarial functions;
- (i) whether the solvency regime of that third country requires domestic insurance or reinsurance undertakings carrying out reinsurance activities to:
  - (i) provide third country supervisory authorities with any information necessary for the purposes of supervision;
  - (ii) disclose publicly, on at least an annual basis, a report on their solvency and financial condition equivalent to that specified in Article 51 of Directive 2009/138/EC;
- (j) whether the solvency regime of that third country requires that proposed changes to the business policy or management of domestic insurance or reinsurance undertakings carrying out reinsurance activities, or to qualifying holdings in such undertakings, are consistent with maintaining a sound and prudent management of those undertakings;
- (k) whether the assessment of the financial position of domestic insurance or reinsurance undertakings carrying out reinsurance activities relies on sound economic principles and whether solvency requirements are based on an economic valuation of all assets and liabilities;
- (l) whether the solvency regime of that third country requires domestic insurance or reinsurance undertakings carrying out reinsurance activities to hold adequate financial resources including all of the following requirements:
  - (i) a requirement that those undertakings establish technical provisions with respect to all of their reinsurance obligations towards policy holders and beneficiaries of reinsurance contracts,
  - (ii) a requirement that assets held to cover technical provisions are invested in the best interests of all policy holders and beneficiaries taking into account any disclosed policy objective,
  - (iii) a requirement that those undertakings only invest in assets and instruments whose risks the undertaking concerned can properly identify, measure, monitor, manage, control and report,



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- (iv) a requirement that those undertakings meet capital requirements set at a level equivalent to that referred to in Article 101(3) of Directive 2009/138/EC which ensures that in the event of significant losses policy holders and beneficiaries are adequately protected and continue to receive payments as they become due,
  - (v) a requirement that those undertakings maintain a minimum level of capital, non-compliance with which triggers immediate and ultimate supervisory intervention,
  - (vi) a requirement that those undertakings meet the capital requirements referred to in points (iv) and (v) with own funds that are of a sufficient quality and which are able to absorb significant losses, and that own-fund items considered by the supervisory authorities to be of a high quality shall absorb losses both in a going concern and in case of a winding up;
- (m) whether the capital requirements of the solvency regime of that third country are risk-based with the objective of capturing quantifiable risks and that where a significant risk is not quantifiable and cannot be captured in the capital requirements, then that risk is addressed through another supervisory mechanism;
- (n) whether the solvency regime of that third country ensures timely intervention by supervisory authorities of the third country in the event that the capital requirement referred to in point (l)(iv) is not complied with;
- (o) whether the solvency regime of the third country provides that all persons who are working or who have worked for the supervisory authorities of that third country, as well as auditors and experts acting on behalf of those authorities, are bound by obligations of professional secrecy and whether such obligations of professional secrecy extend to information received from all supervisory authorities;
- (p) whether the solvency regime of the third country provides that, without prejudice to cases covered by criminal law, any confidential information received by all persons who are working or who have worked for the supervisory authorities of that third country is not divulged to any person or authority whatsoever, except in summary or aggregate form, such that individual insurance and reinsurance undertakings cannot be identified;
- (q) whether the solvency regime of the third country provides that, where an insurance or reinsurance undertaking has been declared bankrupt or is being compulsorily wound up, confidential information which does not concern third parties involved in attempts to rescue that undertaking may be divulged in civil or commercial proceedings;
- (r) whether third country supervisory authorities which receive confidential information from supervisory authorities only use that information in the course of their duties and for any of the following purposes:
  - (i) to check that the conditions governing the taking-up of business of reinsurance, system of governance and public disclosure and solvency assessment have been met,
  - (ii) to impose sanctions,
  - (iii) in administrative appeals against decisions of the supervisory authorities,
  - (iv) in court proceedings relating to the solvency regime in that third country;

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- (s) whether third country supervisory authorities are permitted to exchange information received from supervisory authorities, in the discharge of their supervisory functions or the detection and investigation of breaches of company law, with other authorities, bodies or persons where that authority, body or person is subject to the obligation of professional secrecy in the relevant third country and whether that information is only disclosed once the express agreement of the supervisory authority from which it originates has been obtained and, where appropriate, has been obtained solely for the purposes for which the authority gave its agreement.

#### Textual Amendments

**F253** Words in [Art. 378](#) inserted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/407), regs. 1(2), **11(91)** (as amended by [S.I. 2020/1385](#), regs. 1(2), **54(2)** and with savings in [S.I. 2019/680](#), reg. 11)

#### *<sup>F254</sup>Article 378A*

- 1 If the criteria set out in Article 378 have been fulfilled by a third country, the Treasury may by regulations determine that the solvency regime of the third country, that applies to reinsurance activities of undertakings with the head office in that third country, is equivalent to that laid down in the United Kingdom law which implemented the Solvency 2 Directive.
- 2 Regulations under paragraph 1 must be regularly reviewed by the Treasury, in order to take into account any significant changes to the supervisory regime in the third country.
- 3 The PRA must publish and keep up to date on its website a list of the third countries in respect of which Treasury has made regulations under paragraph 1.
- 4 Where, in accordance with paragraph 1, the solvency regime of a third country has been determined to be equivalent to that laid down in the United Kingdom law which implemented the Solvency 2 Directive, reinsurance contracts concluded with undertakings that have their head office in that third country must be treated in the same manner as reinsurance contracts concluded with undertakings authorised in the United Kingdom.]

#### Textual Amendments

**F254** [Arts. 378A, 378B](#) inserted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/407), regs. 1(2), **11(92)** (as amended by [S.I. 2020/1385](#), regs. 1(2), **54(2)(4)(a)** and with savings in [S.I. 2019/680](#), reg. 11)

#### *<sup>F254</sup>Article 378B*

- 1 The PRA must not retain or introduce for the establishment of technical provisions a system with gross reserving which requires pledging of assets to cover unearned premiums and outstanding claims provisions where the reinsurer is a third-country insurance or reinsurance undertaking, situated in a country whose solvency regime is deemed to be equivalent to that laid down in the United Kingdom law which implemented the Solvency 2 Directive in accordance with Article 378A.]

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**Changes to legislation:** Commission Delegated Regulation (EU) 2015/35 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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### Textual Amendments

**F254** Arts. 378A, 378B inserted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/407), regs. 1(2), **11(92)** (as amended by [S.I. 2020/1385](#), regs. 1(2), **54(2)(4)(a)** and with savings in [S.I. 2019/680](#), **reg. 11**)

## CHAPTER II

### RELATED THIRD COUNTRY INSURANCE AND REINSURANCE UNDERTAKINGS

#### Article 379

#### Criteria for assessing third country equivalence

The criteria to be taken into account in order to assess whether the solvency regime of a third country that applies to insurance and reinsurance undertakings with their head office in that third country is equivalent to that laid down in [<sup>F255</sup>the United Kingdom law which implemented] Title I, Chapter VI of Directive 2009/138/EC shall be the following:

- (a) whether the assessment of the financial position of domestic insurance and reinsurance undertakings relies on sound economic principles and whether solvency requirements are based on an economic valuation of all assets and liabilities;
- (b) whether the solvency regime of that third country requires domestic insurance or reinsurance undertakings to hold adequate financial resources including all of the following:
  - (i) a requirement that those undertakings establish technical provisions with respect to all of their insurance and reinsurance obligations towards policy holders and beneficiaries of insurance and reinsurance contracts,
  - (ii) a requirement that assets held to cover technical provisions are invested in the best interests of all policy holders and beneficiaries taking into account any disclosed policy objective,
  - (iii) a requirement that those undertakings only invest in assets and instruments whose risks the undertaking concerned can properly identify, measure, monitor, manage, control and report,
  - (iv) a requirement that those undertakings meet capital requirements set at a level equivalent to that achieved by Article 101(3) of Directive 2009/138/EC which ensures that in the event of significant losses policy holders and beneficiaries are adequately protected and continue to receive payments as they become due,
  - (v) a requirement that those undertakings maintain a minimum level of capital, non-compliance with which triggers immediate and ultimate supervisory intervention,
  - (vi) a requirement that those undertakings meet the capital requirements referred to in points (iv) and (v) with own funds that are of a sufficient quality

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**Changes to legislation:** Commission Delegated Regulation (EU) 2015/35 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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and which are able to absorb significant losses, and that own-fund items considered by the supervisory authorities to be of a high quality shall absorb losses both in a going concern and in case of a winding up;

- (c) whether the capital requirements of the solvency regime of that third country are risk-based with the objective of capturing quantifiable risks and, where a significant risk is not quantifiable and cannot be captured in the capital requirements, whether that risk is addressed through another supervisory mechanism;
- (d) whether the solvency regime of that third country ensures timely intervention by supervisory authorities of the third country in the event that the capital requirement referred to in point (b)(iv) is not complied with;
- (e) whether the solvency regime of the third country provides that all persons who are working or who have worked for the supervisory authorities of that third country, as well as auditors and experts acting on behalf of those authorities, are bound by obligations of professional secrecy and whether such obligations of professional secrecy extend to information received from all supervisory authorities;
- (f) whether the solvency regime of the third country provides that, without prejudice to cases covered by criminal law, any confidential information received by all persons who are working or who have worked for the supervisory authorities of that third country is not divulged to any person or authority whatsoever, except in summary or aggregate form, such that individual insurance and reinsurance undertakings cannot be identified;
- (g) whether the solvency regime of the third country provides that, where an insurance or reinsurance undertaking has been declared bankrupt or is being compulsorily wound up, confidential information which does not concern third parties involved in attempts to rescue that undertaking may be divulged in civil or commercial proceedings;
- (h) whether third country supervisory authorities which receive confidential information from supervisory authorities only use that information in the course of their duties and for any of the following purposes:
  - (i) to check that the conditions governing the taking-up of business, system of governance and public disclosure and solvency assessment have been met,
  - (ii) to impose sanctions,
  - (iii) in administrative appeals against decisions of the supervisory authorities,
  - (iv) in court proceedings relating to the solvency regime in that third country;
- (i) whether third country supervisory authorities are permitted to exchange information received from supervisory authorities, in the discharge of their supervisory functions or the detection and investigation of breaches of company law, with other authorities, bodies or persons where that authority, body or person is subject to the obligation of professional secrecy in the relevant third country and whether that information is only disclosed once the express agreement of the supervisory authority from which it originates has been obtained and, where appropriate, has been obtained solely for the purposes for which the authority gave its agreement.

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### Textual Amendments

**F255** Words in [Art. 379\(1\)](#) inserted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(93)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)

### *<sup>F256</sup>Article 379A*

1 If the criteria set out in Article 379 above have been fulfilled by a third country, the Treasury may by regulations determine that the supervisory regime of that third country is equivalent to that laid down in the United Kingdom law which implemented the Solvency 2 Directive.

2 Regulations under paragraph 1 must be regularly reviewed by the Treasury, in order to take into account any significant changes to the supervisory regime laid down in the United Kingdom law which implemented the Solvency 2 Directive, and to the supervisory regime in the third country.

3 The PRA must publish and keep up to date on its website a list of all third countries in respect of which the Treasury have made regulations under paragraph 1.

4 The Treasury may, irrespective of whether the criteria specified in Article 379 have been fulfilled, by regulations determine that for the period referred to in paragraph 6, the solvency regime of a third country that applies to undertakings with the head office in that third country is provisionally equivalent to that laid down in the United Kingdom law which implemented the Solvency 2 Directive, where:

- a it can be shown that a solvency regime capable of being assessed as equivalent in accordance with Article 379 is currently in place or may be adopted and applied by the third country;
- b the third country has a solvency regime that is risk based and establishes quantitative and qualitative solvency requirements and requirements relating to supervisory reporting and transparency;
- c the third country's law, in principle, allows cooperation, and exchange of confidential supervisory information, with the PRA;
- d the third country has an independent system of supervision; and
- e the third country has established obligations on professional secrecy for all persons acting on behalf of its supervisory authorities.

5 The PRA must publish and keep up to date on its website a list of all third countries in respect of which the Treasury have made regulations under paragraph 4.

6 The initial period of provisional equivalence referred to in paragraph 4 must be 10 years, unless before the expiry of that period:

- a the regulations made by the Treasury have been revoked; or
- b the Treasury have made regulations in accordance with paragraph 1 to the effect that the supervisory regime of that third country has been determined to be equivalent to that laid down in the United Kingdom law which implemented the Solvency 2 Directive.

8 Provisional equivalence must be subject to renewals for further periods of 10 years where the criteria referred to in paragraph 4 continue to be met. The Treasury may by regulations renew the period of provisional equivalence in accordance with this paragraph.

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**Changes to legislation:** Commission Delegated Regulation (EU) 2015/35 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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9 Where, in accordance with paragraph 4, the Treasury have made regulations determining that the supervisory regime of a third country is provisionally equivalent, that third country must be deemed to be equivalent for the purposes of Regulation 19 of the Solvency 2 Regulations 2015.]

#### Textual Amendments

**F256** Art. 379A inserted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **11(94)** (as amended by [S.I. 2020/1385](#), regs. 1(2), 54(2) and with savings in [S.I. 2019/680](#), reg. 11)

## CHAPTER III

### INSURANCE AND REINSURANCE UNDERTAKINGS WITH THE PARENT UNDERTAKINGS OUTSIDE THE UNION

#### Article 380

#### Criteria for assessing third country equivalence

The criteria which shall be taken into account in order to assess whether the prudential regime in a third country for the supervision of groups is equivalent to that laid down in [<sup>F257</sup>the United Kingdom law which implemented] Title III of Directive 2009/138/EC shall be the following:

- (a) whether the supervisory authorities of the third country have the necessary means, the relevant expertise, capacities including financial and human resources, and mandate to effectively protect policy holders and beneficiaries, regardless of their nationality or place of residence;
- (b) whether the supervisory authorities of the third country are empowered by law or regulation to:
  - (i) determine which undertakings fall under the scope of supervision at group level,
  - (ii) supervise insurance and reinsurance undertakings which are part of a group,
  - (iii) impose sanctions or take enforcement action where necessary;
- (c) whether the supervisory authorities of the third country are able to effectively assess the risk profile and solvency and financial position of insurance and reinsurance undertakings which are part of a group as well as that group's business strategy;
- (d) whether the scope of supervision at group level at least includes all undertakings over which a participating undertaking, as defined in Article 212(1)(a) of Directive 2009/138/EC, exercises dominant or significant influence unless where this would be inappropriate to the objectives of group supervision;
- (e) whether the supervisory authorities of the third country, in the exercise of their general duties, duly consider the potential impact of their decisions on the stability of financial systems globally, particularly during emergency situations, on the basis of the information available at the time;

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- (f) whether the supervisory authorities of that third country take into account the potential pro-cyclical effects of their actions where exceptional movements in the financial markets occur;
- (g) whether the prudential regime of that third country requires an effective system of governance at the group level which provides for sound and prudent management of the business and prescribes all of the following:
  - (i) the existence of an adequate transparent organisational structure with a clear allocation and appropriate segregation of responsibilities;
  - (ii) requirements for ensuring that persons who effectively run the undertaking are fit and proper, which are equivalent to Article 42 of Directive 2009/138/EC;
  - (iii) the existence of effective processes to ensure the timely transmission of information both within the group and to the relevant supervisory authorities;
  - (iv) requirements for ensuring that the outsourced functions or activities are effectively supervised;
- (h) whether the prudential regime of that third country requires an effective risk-management system in place at the group level comprising at least all of the following:
  - (i) strategies, processes and internal reporting procedures necessary to identify, measure, monitor, manage and report risks on a continuous basis, to which the group is or could be exposed and their interdependencies;
  - (ii) an effective internal control system;
- (i) whether the prudential regime of that third country requires the group to have sound reporting and accounting procedures to monitor and manage the intra-group transactions and the risk concentrations;
- (j) whether the prudential regime of that third country requires that effective risk-management, compliance, internal audit and actuarial functions are established and maintained by the group;
- (k) whether the prudential regime of that third country requires the group to do all of the following:
  - (i) to provide third country supervisory authorities with any information necessary for the purposes of supervision;
  - (ii) to report significant risk concentration at the level of the group and significant intra-group transactions, on at least an annual basis;
  - (iii) to disclose publicly, on at least an annual basis, a report on the solvency and financial condition of the group which is equivalent to that specified in Article 51 of Directive 2009/138/EC;
- (l) whether the prudential regime of that third country requires that proposed changes to the business policy or management of the group, or to qualifying holdings in the group, are consistent with the sound and prudent management of the group;
- (m) whether the assessment of the financial position of the group relies on sound economic principles and whether the assessment of solvency is based on an economic valuation of all assets and liabilities;

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- (n) whether the prudential regime of that third country requires the group to hold adequate financial resources including all of the following:
  - (i) a requirement that the group establishes technical provisions with respect to all of its insurance and reinsurance obligations towards policy holders and beneficiaries of insurance and reinsurance undertakings which are part of the group;
  - (ii) a requirement that assets held to cover technical provisions are invested in the best interests of all policy holders and beneficiaries taking into account any disclosed policy objective;
  - (iii) a requirement that the group only invests in assets and instruments whose risks it can properly identify, measure, monitor, manage, control and report;
  - (iv) a requirement by the supervisory authorities of the third country that the group meet capital requirements set at a level equivalent to that achieved by Article 101(3) of Directive 2009/138/EC which ensures that in the event of significant losses policy holders and beneficiaries are adequately protected and continue to receive payments as they become due;
  - (v) a requirement that insurance or reinsurance undertakings which are part of the group maintain a minimum level of capital, non-compliance with which triggers immediate and ultimate supervisory intervention;
  - (vi) a requirement that the group capital requirement is met with own funds that are of a sufficient quality and which are able to absorb significant losses, and that own-fund items considered by the supervisory authorities to be of a high quality shall absorb losses both in a going concern and in case of a winding up;
- (o) whether the capital requirements of the prudential regime of that third country are risk-based with the objective of capturing quantifiable risks and, where a significant risk is not quantifiable and cannot be captured in the capital requirements, whether that risk is addressed through another supervisory mechanism;
- (p) whether the prudential regime of that third country ensures timely intervention by supervisory authorities of the third country in the event that the capital requirement referred to in point (n)(iv) is not complied with;
- (q) whether the supervisory authorities of the third country restrict the use of own-fund items of a related insurance or reinsurance undertaking where they consider that they cannot effectively be made available to cover the capital requirement of the participating undertaking for which the group solvency is calculated;
- (r) whether the calculation of group solvency in the third country's prudential regime produces a result that is at least equivalent to the result achieved by either [F258 method 1 or method 2], or a combination of them, and that calculation ensures that there is no double use of own funds to meet the group capital requirement and that the intra-group creation of capital through reciprocal financing is eliminated;
- (s) whether the prudential regime of the third country provides that all persons who are working or who have worked for the supervisory authorities of that third country, as well as auditors and experts acting on behalf of those authorities, are bound by obligations of professional secrecy and whether such obligations of professional secrecy extend to information received from all supervisory authorities;



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- (t) whether the prudential regime of the third country provides that, without prejudice to cases covered by criminal law, any confidential information received by all persons who are working or who have worked for the supervisory authorities of that third country is not divulged to any person or authority whatsoever, except in summary or aggregate form, such that individual insurance and reinsurance undertakings cannot be identified;
- (u) whether the prudential regime of the third country provides that, where an insurance or reinsurance undertaking has been declared bankrupt or is being compulsorily wound up, confidential information which does not concern third parties involved in attempts to rescue that undertaking may be divulged in civil or commercial proceedings;
- (v) whether third country supervisory authorities which receive confidential information from other supervisory authorities only use that information in the course of their duties and for any of the following purposes:
  - (i) to check that the conditions governing the taking-up of business, system of governance and public disclosure and solvency assessment have been met;
  - (ii) to impose sanctions;
  - (iii) in administrative appeals against decisions of the supervisory authorities;
  - (iv) in court proceedings relating to the solvency regime in that third country;
- (w) whether third country supervisory authorities are permitted to exchange information received from supervisory authorities, in the discharge of their supervisory functions or the detection and investigation of breaches of company law, with other authorities, bodies or persons where that authority, body or person is subject to the obligation of professional secrecy in the relevant third country and whether that information is only disclosed once the express agreement of the supervisory authority from which it originates has been obtained and, where appropriate, has been obtained solely for the purposes for which the authority gave its agreement.

#### Textual Amendments

**F257** Words in [Art. 380](#) inserted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/407), regs. 1(2), **11(95)(a)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)

**F258** Words in [Art. 380\(r\)](#) substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/407), regs. 1(2), **11(95)(b)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)

#### *<sup>F259</sup>Article 380A*

1 If the criteria set out in Article 380 have been fulfilled by a third country, the Treasury may by regulations determine that the prudential regime of that third country is equivalent to that laid down in the United Kingdom law which implemented the Solvency 2 Directive.

2 Regulations under paragraph 1 must be regularly reviewed by the Treasury, in order to take into account any changes to the prudential regime for the supervision of groups laid down in the United Kingdom law which implemented the Solvency 2 Directive, and to the prudential

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regime in the third country for the supervision of groups, and to any other change in regulation that may affect the decision on equivalence.

3 The PRA must publish and keep up to date on its website a list of all third countries in respect of which the Treasury have made regulations under paragraph 1.]

#### Textual Amendments

**F259** Art. 380A inserted (31.12.2020) by The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), **11(96)** (as amended by S.I. 2020/1385, regs. 1(2)(4), **54(2)(4)(b)** and with savings in S.I. 2019/680, reg. 11)

## CHAPTER IV

### FINAL PROVISIONS

#### *<sup>F260</sup>Article 380B*

#### Regulations

1 Regulations made by the Treasury under this Regulation are to be made by statutory instrument.

2 A statutory instrument which contains regulations under this Regulation is subject to annulment in pursuance of a resolution of either House of Parliament.]

#### Textual Amendments

**F260** Art. 380B inserted (31.12.2020) by The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), **11(97)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2) and with savings in S.I. 2019/680, reg. 11)

#### *Article 381*

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

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- (1) [<sup>F2</sup>Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation, and amending Directives 2009/65/EC, 2009/138/EC and 2011/61/EU and Regulations (EC) No 1060/2009 and (EU) No 648/2012 (OJ L 347, 28.12.2017, p. 35).]
- (2) [<sup>F2</sup>Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).]
- (3) Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS)(OJ L 302, 17.11.2009, p. 32).
- (4) Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (OJ L 174, 1.7.2011, p. 1).
- (5) Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).
- (6) [<sup>F12</sup>Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201, 27.7.2012, p. 1).]
- (7) Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies (OJ L 302, 17.11.2009, p. 1).
- (8) [<sup>F12</sup>Commission Implementing Regulation (EU) No 2015/2450 of 2 December 2015 laying down implementing technical standards with regard to the templates for the submission of information to the supervisory authorities according to Directive 2009/138/EC of the European Parliament and of the Council (OJ L 347/1, 2.12.2015, p. 1214).]
- (9) [<sup>F10</sup>Regulation (EU) No 346/2013 of the European Parliament and of the Council of 17 April 2013 on European social entrepreneurship funds (OJ L 115, 25.4.2013, p. 18).]
- (10) [<sup>F10</sup>Regulation (EU) No 345/2013 of the European Parliament and of the Council of 17 April 2013 on European venture capital funds (OJ L 115, 25.4.2013, p. 1).]
- (11) [<sup>F28</sup>Commission Delegated Regulation (EU) No 231/2013 of 19 December 2012 supplementing Directive 2011/61/EU of the European Parliament and of the Council with regard to exemptions, general operating conditions, depositaries, leverage, transparency and supervision (OJ L 83, 22.3.2013, p. 1).]
- (12) [<sup>F12</sup>Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).]
- (13) [<sup>F12</sup>Commission Implementing Regulation (EU) 2016/1799 of 7 October 2016 laying down implementing technical standards with regard to the mapping of credit assessments of external credit assessment institutions for credit risk in accordance with Articles 136(1) and 136(3) of Regulation (EU) No 575/2013 of the European Parliament and of the Council (OJ L 275, 12.10.2016, p. 3).]
- (14) [<sup>F12</sup>Commission Implementing Regulation (EU) 2015/2011 of 11 November 2015 laying down implementing technical standards with regard to the lists of regional governments and local authorities, exposures to whom are to be treated as exposures to the central government in accordance with Directive 2009/138/EC of the European Parliament and of the Council (OJ L 295, 12.11.2015, p. 3).]
- (15) 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.
- (16) Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purposes of money laundering and terrorist financing (OJ L 309, 25.11.2005, p. 15).

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**Changes to legislation:** Commission Delegated Regulation (EU) 2015/35 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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### Textual Amendments

- F2** Inserted by Commission Delegated Regulation (EU) 2018/1221 of 1 June 2018 amending Delegated Regulation (EU) 2015/35 as regards the calculation of regulatory capital requirements for securitisations and simple, transparent and standardised securitisations held by insurance and reinsurance undertakings (Text with EEA relevance).
- F10** Substituted by Commission Delegated Regulation (EU) 2017/1542 of 8 June 2017 amending Delegated Regulation (EU) 2015/35 concerning the calculation of regulatory capital requirements for certain categories of assets held by insurance and reinsurance undertakings (infrastructure corporates) (Text with EEA relevance).
- F12** 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).
- F28** 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).

### Changes to legislation:

Commission Delegated Regulation (EU) 2015/35 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](#)
- Art. 9(1) word substituted by [S.I. 2019/407 reg. 11\(5\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Reg. 11(5) substituted immediately before IP completion day by S.I. 2019/1390, regs. 1(4), 11(3)(c))
- Art. 9(2) word substituted by [S.I. 2019/407 reg. 11\(5\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Reg. 11(5) substituted immediately before IP completion day by S.I. 2019/1390, regs. 1(4), 11(3)(c))
- Art. 9(3) word substituted by [S.I. 2019/407 reg. 11\(5\)\(c\)](#) (This amendment not applied to legislation.gov.uk. Reg. 11(5) substituted immediately before IP completion day by S.I. 2019/1390, regs. 1(4), 11(3)(c))
- Art. 9(4)(c) word substituted by [S.I. 2019/407 reg. 11\(5\)\(d\)](#) (This amendment not applied to legislation.gov.uk. Reg. 11(5) substituted immediately before IP completion day by S.I. 2019/1390, regs. 1(4), 11(3)(c))
- Art. 10(4) word substituted by [S.I. 2019/407 reg. 11\(6\)](#) (This amendment not applied to legislation.gov.uk. Reg. 11(6) substituted immediately before IP completion day by S.I. 2019/1390, regs. 1(4), 11(3)(d))
- Art. 13(5) word substituted by [S.I. 2019/407 reg. 11\(7\)\(c\)\(ii\)](#) (This amendment not applied to legislation.gov.uk. Reg. 11(7)(c) substituted immediately before IP completion day by S.I. 2019/1390, regs. 1(4), 11(3)(e))
- Art. 13(5) words substituted by [S.I. 2019/407 reg. 11\(7\)\(c\)\(i\)](#) (This amendment not applied to legislation.gov.uk. Reg. 11(7)(c) substituted immediately before IP completion day by S.I. 2019/1390, regs. 1(4), 11(3)(e))
- Art. 14(1) word substituted by [S.I. 2019/407 reg. 11\(8\)](#) (This amendment not applied to legislation.gov.uk. Reg. 11(8) substituted immediately before IP completion day by S.I. 2019/1390, regs. 1(4), 11(3)(f))
- Art. 28 word substituted by [S.I. 2019/407 reg. 11\(10\)](#) (This amendment not applied to legislation.gov.uk. Reg. 11(10) substituted immediately before IP completion day by S.I. 2019/1390, regs. 1(4), 11(3)(g))
- Recital 53 Sentence 1 replacement by [EUR 2016/2283 Regulation](#)
- Art. 177(4) words substituted by [S.I. 2019/407 reg. 11\(25\)\(e\)](#) (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. 186(4) words substituted by [S.I. 2019/407 reg. 11\(28\)](#) (This amendment not applied to legislation.gov.uk. Reg. 11(28) omitted immediately before IP completion day by virtue of S.I. 2019/1233, regs. 1(3), 4(c))
- 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))
- Art. 254(1) words substituted by [S.I. 2019/407 reg. 11\(39\)](#) (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. 329(3) words substituted by [S.I. 2019/407 reg. 11\(61\)\(c\)\(i\)](#) (This amendment not applied to legislation.gov.uk. Reg. 11(61)(c)(i) substituted immediately before IP completion day by S.I. 2019/1390, regs. 1(4), 11(3)(i))

### 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)