

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

TITLE I

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

CHAPTER V

SOLVENCY CAPITAL REQUIREMENT STANDARD FORMULA

SECTION 6

*Counterparty default risk module*

*Subsection 1*

*General provisions*

*Article 189*

**Scope**

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

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

where:

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

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

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

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**Changes to legislation:** Commission Delegated Regulation (EU) 2015/35, Subsection 1 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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- up but unpaid legally binding commitments to subscribe and pay for subordinated liabilities, called up but unpaid initial funds, members' contributions or the equivalent basic own-fund item for mutual and mutual-type undertakings, called up but unpaid guarantees, called up but unpaid letters of credit, called up but unpaid claims which mutual or mutual-type associations may have against their members by way of a call for supplementary contributions;
- e Legally binding commitments which the undertaking has provided or arranged and which may create payment obligations depending on the credit standing or default on a counterparty including guarantees, letters of credit, letters of comfort which the undertaking has provided [<sup>F1</sup>];
- [<sup>F2</sup>f derivatives other than credit derivatives covered in the spread risk sub-module.]
- 3 Type 2 exposures shall consist of all credit exposures which are not covered in the spread risk sub-module and which are not type 1 exposures, including the following:
- 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;
  - 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>F3</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>F1</sup>];
- [<sup>F2</sup>e the credit risk on assets posted as collateral to a CCP or a clearing member that are bankruptcy remote.]
- 7 Investment guarantees on insurance contracts provided to policy holders by a third party and for which the insurance or reinsurance undertaking would be liable should the third party default shall be treated as derivatives in the counterparty default risk module.

#### Textual Amendments

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

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

**F2** Inserted by Commission Delegated Regulation (EU) 2019/981 of 8 March 2019 amending Delegated Regulation (EU) 2015/35 supplementing Directive 2009/138/EC of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (Text with EEA relevance).

**F3** Words in Art. 189(6)(b) omitted (31.12.2020) by virtue of The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), **11(30A)** (as amended by S.I. 2019/1390, regs. 1(4), 11(3)(h); S.I. 2020/1385, regs. 1(2), 54(2); and with savings in S.I. 2019/680, reg. 11)

## 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 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.

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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;
- 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>F4</sup>14 .....

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## Textual Amendments

- F4** 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>F2</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.]

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<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.

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:

[<sup>F5</sup>

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

]

where:

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$F'$  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>F13</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>F23a</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;
- (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.

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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<sub>fin</sub>* 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>F14</sup> The loss-given-default on a mortgage loan shall be equal to the following:

$$LGD = \max(Loan - (80 \% \times Mortgage + Guarantee); 0)$$

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.

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#### Textual Amendments

- F1** Substituted by [Commission Delegated Regulation \(EU\) 2019/981 of 8 March 2019 amending Delegated Regulation \(EU\) 2015/35 supplementing Directive 2009/138/EC of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance \(Solvency II\) \(Text with EEA relevance\).](#)
- F2** Inserted by [Commission Delegated Regulation \(EU\) 2019/981 of 8 March 2019 amending Delegated Regulation \(EU\) 2015/35 supplementing Directive 2009/138/EC of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance \(Solvency II\) \(Text with EEA relevance\).](#)
- F5** 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 \(Text with EEA relevance\).](#)

### *[<sup>F2</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 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.



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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

**F2** Inserted by [Commission Delegated Regulation \(EU\) 2019/981 of 8 March 2019 amending Delegated Regulation \(EU\) 2015/35 supplementing Directive 2009/138/EC of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance \(Solvency II\) \(Text with EEA relevance\).](#)

### 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:

$$\text{risk-share\_factor} = e^{-0,15(\min(SR, 196\%) - 1)}$$

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 %

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- (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 <sup>[F6]</sup>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 <sup>[F6]</sup>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

**F6** 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)

### 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;

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- (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:

$$LGD = \max(((1 - RR_C) \times (P_C \times BE_U + \Delta RM_C) - F \times Collateral); 0)$$

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;
- (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;

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- (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>F1</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, 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**

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

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**Changes to legislation:** Commission Delegated Regulation (EU) 2015/35, Subsection 1 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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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:

- 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>F17</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

- F1** Substituted by [Commission Delegated Regulation \(EU\) 2019/981 of 8 March 2019 amending Delegated Regulation \(EU\) 2015/35 supplementing Directive 2009/138/EC of the European 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, Subsection 1 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 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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**Changes to legislation:** Commission Delegated Regulation (EU) 2015/35, Subsection 1 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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- (1) Council Directive 91/674/EEC of 19 December 1991 on the annual accounts and consolidated accounts of insurance undertakings, [OJ L 374, 31.12.1991, p. 7](#).

### Changes to legislation:

Commission Delegated Regulation (EU) 2015/35, Subsection 1 is up to date with all changes known to be in force on or before 11 October 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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

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

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

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