

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

[^{XI}VALUATION AND RISK-BASED CAPITAL REQUIREMENTS
(PILLAR I), ENHANCED GOVERNANCE (PILLAR II)
AND INCREASED TRANSPARENCY (PILLAR III)]

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

^{F1}... 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

- F1** 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)

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Article 277

Assessment of a significant deviation as regards the governance

[^{F2}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;
- (d) the probable financial loss the undertaking could incur as a consequence of the deviation;
- (e) the anticipated duration of the deviation.

Textual Amendments

F2 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 [^{F3}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 ^{F4}... the volatility adjustment, ^{F5}... where supervisory authorities have allowed an insurance or

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reinsurance undertaking to use one of these adjustments or transitional measures, they may impose a capital add-on ^{F6}... 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

- F3** 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)
- F4** 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)
- F5** 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)
- F6** 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)

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 ^{F7}..., 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 ^{F7}....

Textual Amendments

- F7** 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 [^{F8}The] circumstances in which the requirement to use an internal model is inappropriate include those where the estimated financial and other resources required to

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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 [F⁸The] 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

- F8** 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

[F⁹In] 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 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

- F9** 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)

Changes to legislation:

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Changes and effects yet to be applied to :

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

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

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