

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

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>F1</sup>rule 3.2 of the Undertakings in Difficulties part, and rule 4.4 of the Group Supervision part, of the PRA Rulebook], [<sup>F2</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.

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

- F1** 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)
- F2** 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.

### Changes to legislation:

Commission Delegated Regulation (EU) 2015/35, CHAPTER XI 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)