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## STATUTORY INSTRUMENTS

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# 2015 No. 575

## The Solvency 2 Regulations 2015

### PART 3

#### Groups

#### CHAPTER 7

#### Third countries

#### Non-EEA solvency 2 parent undertakings: equivalence

[<sup>F1</sup>35.—(1) The PRA must rely on the equivalent group supervision exercised by third country supervisory authorities, where the condition in paragraph (2) is met, or the alternative condition in paragraph (3) is met.

(2) The condition is that—

(a) either of the following determinations have been made—

(i) the Treasury have made regulations under regulation 380A(1) of the Solvency 2 Regulation, or the Commission has adopted a delegated act under Article 260(3) of the Solvency 2 Directive prior to IP completion day, determining that the prudential regime of the third country is equivalent, or

(ii) the Treasury have made regulations under regulation 380A(4) of the Solvency 2 Regulation, or the Commission has adopted a delegated act under Article 260(5) of the Solvency 2 Directive prior to IP completion day, determining that the prudential regime of the third country is temporarily equivalent,

(b) that determination still applies,

(c) there is no insurance undertaking or reinsurance undertaking situated in the United Kingdom with a balance sheet total that exceeds the balance sheet total of the parent undertaking situated in the third country, and

(d) the PRA has verified that the that the group is subject to supervision by a third-country supervisory authority in accordance with that equivalent or temporarily equivalent regime.

(3) The alternative condition is that the PRA has verified that the group is subject to supervision by a third country supervisory authority which is equivalent in accordance with paragraph (4).

(4) Where the conditions referred to in paragraph (2) do not apply, the PRA—

(a) must take a decision on equivalence at the request of the parent undertaking or the insurance undertaking or reinsurance undertaking; or

(b) may take a decision on equivalence on its own initiative,

in accordance with paragraph (5).

(5) Where the PRA takes a decision on equivalence, the PRA must—

(a) verify equivalence at the level of the ultimate non-UK solvency 2 parent,

**Changes to legislation:** The Solvency 2 Regulations 2015, CHAPTER 7 is up to date with all changes known to be in force on or before 28 September 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) ensure that its decision on equivalence does not contradict any previous decision taken in relation to the third country, except where it is necessary to do so in order to take into account significant changes to the supervisory regime laid down in Part 3 of these Regulations and the PRA Rulebook on Group Supervision or to the supervisory regime in the third country, and
  - (c) take its decision on equivalence in accordance with the criteria set out in Regulation 380 of the Solvency 2 Regulation.
- (6) Paragraph (7) applies where the PRA is required to rely on supervision exercised by a supervisory authority in a third country which, in accordance with paragraph (2) or (3), has a prudential group supervision regime which is determined as equivalent to Part 3 of these Regulations and the PRA Rulebook on Group Supervision (but see paragraph (8)).
- (7) The PRA must consult the other members of the college of supervisors before taking a decision which is of importance to the supervisory tasks of another supervisory authority with regard to—
- (a) changes in the shareholder, organisational or management structure of insurance undertakings or reinsurance undertakings in the group, which require the approval or authorisation of the other supervisory authority,
  - (b) a decision on the extension of the recovery period under rule 3.1(3) of the Undertakings in Difficulty part, and rule 4.4 of the Group Supervision part, of the PRA Rulebook, or
  - (c) the imposition of a capital add-on, a limitation on the use of an internal model for calculating the solvency capital requirement, or any other major sanctions or exceptional measures taken by the other supervisory authority.
- (8) Paragraph (7) does not apply—
- (a) in cases of urgency, or
  - (b) where consultation may jeopardise the effectiveness of a decision of the PRA,
- provided the PRA informs the other supervisory authorities concerned without delay.
- (9) The PRA must also consult a supervisory authority before taking a decision based on information received from that supervisory authority.]

**F1** Reg. 35 substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **9(19)** (as amended by [S.I. 2020/1385](#), regs. 1(2), **54(2)** and [S.I. 2020/1301](#), regs. 1, 3, [Sch. para. 27\(c\)\(iii\)](#))

## Parent undertaking outside the United Kingdom: absence of equivalence

[<sup>F2</sup>**36.**—(1) This regulation applies where—

- (a) a parent undertaking of an insurance undertaking or reinsurance undertaking established in the United Kingdom has its head office in a third country,
  - (b) one of the conditions in paragraph (2) is satisfied, and
  - (c) one of the conditions in paragraph (3) is satisfied.
- (2) The conditions are—
- (a) the prudential group supervision regime of the third country has not been determined to be equivalent by the Treasury or the PRA, and the Commission has not adopted a delegated act under Article 260(3) of the Solvency 2 Directive prior to IP completion day, determining that the prudential regime of the third country is equivalent to Title 3 of the Solvency 2 Directive;

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- (b) the prudential group supervision regime has been determined to be equivalent by the Treasury, the PRA or the Commission, but the PRA has not verified that the group is subject to supervision by a third-country supervisory authority in accordance with that equivalent regime.
- (3) The conditions are—
  - (a) the prudential group supervision regime of the third country has not been determined to be temporarily equivalent;
  - (b) if the prudential group supervision regime of the third country has been determined to be temporarily equivalent, the group is not subject to that regime or the group contains an insurance undertaking or reinsurance undertaking in the United Kingdom with a balance sheet total that exceeds the balance sheet total of the parent undertaking situated in the third country.
- (4) The PRA must, at the level of the ultimate non-UK solvency 2 parent—
  - (a) ensure appropriate supervision of the insurance undertakings and reinsurance undertakings that are authorised by the PRA in the group, and
  - (b) ensure the objectives of group supervision are achieved.
- (5) The PRA may require the group to establish an insurance holding company or mixed financial holding company with its head office in the United Kingdom.]

**F2** Reg. 36 substituted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **9(21)** (as amended by [S.I. 2020/1385](#), regs. 1(2), **54(2)** and [S.I. 2020/1301](#), regs. 1, 3, **Sch. para. 27(c)(iv)**)

### [<sup>F3</sup>Parent undertakings outside the United Kingdom: levels

**36A.**—(1) Where the parent undertaking of an insurance undertaking or reinsurance undertaking with its head office outside the United Kingdom is itself a subsidiary of—

- (a) an insurance holding company or a mixed financial holding company which has its head office in a third country, or
- (b) a third-country insurance or reinsurance undertaking,

regulation 35 only applies at the level of the ultimate parent undertaking which is a third-country insurance holding company, a third-country mixed financial holding company, a third-country insurance undertaking or a third-country reinsurance undertaking.

(2) The PRA may, in the absence of equivalent supervision referred to in regulation 35, carry out a new verification of equivalence at a lower level where a parent undertaking of insurance or reinsurance undertakings exists, whether at the level of a third-country insurance holding company, a third-country mixed financial holding company, a third-country insurance undertaking or a third-country reinsurance undertaking.

(3) Where paragraph (2) applies, regulation 35 applies with any necessary changes at that lower level.

(4) Where paragraph (2) applies, the PRA must explain its decision to the group to which the insurance undertaking or reinsurance undertaking belongs.]

**F3** [Reg. 36A](#) inserted (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), **9(22)** (as amended by [S.I. 2020/1385](#), regs. 1(2), **54(2)**)

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

- Regulations revoked by [2023 c. 29 Sch. 1 Pt. 2](#)