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STATUTORY INSTRUMENTS

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**2019 No. 407**

**The Solvency 2 and Insurance (Amendment,  
etc.) (EU Exit) Regulations 2019**

**PART 6**

Amendments of retained direct EU legislation

**Amendments of Commission Delegated Regulation (EU) No 2015/35**

**11.**—(1) [Commission Delegated Regulation \(EU\) No 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 2) is amended as follows.

(2) In Article 1—

(a) in paragraph 1, for “Article 75 of [Directive 2009/138/EC](#)” substitute “rules 2.1 and 2.2 of the PRA Rulebook on Valuation”;

(b) for paragraph 49 substitute—

“**49.** ‘related undertaking’ has the meaning given in the Solvency 2 Regulations 2015;”;

(c) in paragraph 50, for “Article 2(4) of [Directive 2002/87/EC](#) of the European Parliament and the Council” substitute “regulation 1(2) of the Financial Conglomerates and Other Financial Groups Regulations 2004”;

(d) in paragraph 51, for “Article 2(4) of [Directive 2002/87/EC](#)” substitute “regulation 1(2) of the Financial Conglomerates and Other Financial Groups Regulations 2004”;

(e) for paragraphs 54 to 58 substitute—

“**54.** ‘UCITS management company’ has the same meaning as given to “management company” in section 237 of the Financial Services and Markets Act 2000;

**55.** ‘alternative investment fund manager’ has the meaning given in regulation 4(1) of the Alternative Investment Managers Regulations 2013”;

**56.** ‘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.** ‘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.** ‘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;”;

(f) after paragraph 58, insert—

“**59.** 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](#).

**60.** 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 exit day.

**61.** References to the United Kingdom law which implemented the Solvency 2 Directive, or a provision thereof, are to the law of the United Kingdom which was relied on by the United Kingdom immediately before exit day to implement [Directive 2009/138/EU](#) and its implementing measures—

- (a) as it has effect on exit day, 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.

**62.** Except as provided in the paragraphs above, any expression used in this Regulation which is used in [Directive 2009/138/EC](#) has the meaning which is given in that Directive, as it had effect immediately before exit day.”

(3) In Section 2, for the heading substitute “Technical standards”.

(4) For Article 3 substitute—

### *“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 1 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, 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.”.

(5) In Article 9—

- (a) in paragraph 1, for “adopted by the Commission in accordance with” substitute “under”;

- (b) in paragraph 2, for “adopted by the Commission pursuant to” substitute “under”;
  - (c) in paragraph 3, for “adopted by the Commission in accordance with” substitute “under”;
  - (d) in paragraph 4(c), for “adopted by the Commission in accordance with” substitute “under”.
- (6) In Article 10, in paragraph 4 for “adopted by the Commission in accordance with”, substitute “under”.
- (7) In Article 13—
- (a) in paragraph 2(b), for “Article 229 of [Directive 2009/138/EC](#)” substitute “rule 10.6 of the Group Supervision part of the PRA Rulebook”;
  - (b) for paragraph 4 substitute—
    - “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.”;
  - (c) in paragraph 5—
    - (i) for “insurance or reinsurance undertakings” substitute “other than those referred to in in paragraph 4(b)”;
    - (ii) for “adopted by the Commission in accordance with”, substitute “under”.
- (8) In Article 14, in paragraph 1, for “adopted by the Commission in accordance with”, substitute “under”.
- (9) In Article 23, in paragraph 5, for “Article 41(1) of [Directive 2009/138/EC](#)” substitute “the governance requirements set out in rule 2.2 of the Conditions Governing Business part of the PRA Rulebook”.
- (10) In Article 28, for “endorsed by the Commission in accordance with”, substitute “under”.
- (11) In Article 48, in paragraph 1(c), for “Article 101(3) of [Directive 2009/138/EC](#)” substitute “rules 3.3 and 3.4 of the Solvency Capital Requirement – General Provisions part of the PRA Rulebook”.
- (12) In Article 68—
- (a) in paragraph 1—
    - (i) for “Article 88 of [Directive 2009/138/EC](#)” substitute “the Own Funds part of the PRA Rulebook”;
    - (ii) for “Article 92(2) of that Directive” substitute “paragraph 6”;
  - (b) in paragraph 2, for “Article 92(2) of that Directive” substitute “paragraph 6 below”;
  - (c) in paragraph 3, for “Annex I to [Directive 2002/87/EC](#)” substitute “the Financial Conglomerates part of the PRA Rulebook”;
  - (d) after paragraph 5 insert—
    - “6. 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.”
- (13) In Article 70, in paragraph 1(f), for “Article 92(2) of [Directive 2009/138/EC](#)” substitute “Article 68(6) of this Regulation”.
- (14) In Article 104, in paragraph 1(b), for “Article 75 of [Directive 2009/138/EC](#)” substitute “rules 2.1 and 2.2 of the Valuation part of the PRA Rulebook”.
- (15) In Article 149—
- (a) in paragraph 1 for “Article 109a(4) of [Directive 2009/138/EC](#)” substitute “Article 3(5) of this Regulation”;
  - (b) in paragraphs 3 and 4, for “the implementing act adopted pursuant to Article 109a(4) of [Directive 2009/138/EC](#)” substitute “technical standards adopted pursuant to Article 3(5) of this Regulation”;
  - (c) in paragraph 5, omit “in accordance with Article 110 of that [Directive 2009/138/EC](#)”.
- (16) In Article 164a, in paragraph 1(f)(i), omit “in the EEA or”.
- (17) In Article 164b, in paragraph 1, omit “the EEA or”.
- (18) In Article 166, in paragraph 3, for “Article 92(2) of [Directive 2009/138/EC](#)” substitute “Article 68(6) of this Regulation”.
- (19) In Article 167, in paragraph 3, for “Article 92(2) of [Directive 2009/138/EC](#)” substitute “Article 68(6) of this Regulation”.
- (20) In Article 168—
- (a) in paragraph 2, omit “the European Economic Area (EEA) or”;
  - (b) in paragraph 5, for “Article 92(2) of [Directive 2009/138/EC](#)” substitute “Article 68(6) of this Regulation”;
  - (c) in paragraph 6—
    - (i) in point (c), for “Union”, in each place where it occurs, substitute “United Kingdom”;
    - (ii) in point (d), for “European long-term investment funds” substitute “United Kingdom long-term investment funds”.
- (21) In Article 170, in paragraphs 1 and 2, for “the provisions set out in Article 304 of [Directive 2009/138/EC](#)” substitute “a duration-based equity risk sub-module”.
- (22) In Article 172, in paragraph 1, for “referred to in Article 106(2) of [Directive 2009/138/EC](#)” substitute “upon which the symmetric adjustment to the standard equity capital charge is to be based”.
- (23) In Article 173, in paragraph 1, for “pursuant to Article 304 of that Directive” substitute “sub-module”.
- (24) In Article 176, in paragraph 6, for “Article 92(2) of [Directive 2009/138/EC](#)” substitute “Article 68(6) of this Regulation”.
- (25) In Article 177, in paragraph 2—

- (a) in point (b), omit “the EEA or”;
  - (b) in point (h)(i)—
    - (i) for “national law of the Member State where the loans were originated”, substitute “loans originated in the United Kingdom and the law of the United Kingdom, or any part of the United Kingdom,”;
    - (ii) omit, “, and that Member State has notified this law to the Commission and EIOPA”;
  - (c) in points (r) and (s), for “in countries that are not members of the Union” substitute “in countries other than the United Kingdom”;
  - (d) in point (t), in both places where it occurs, for “Union” substitute “United Kingdom”;
  - (e) in paragraph 4, for “the entry into force of this Regulation” substitute “18 January 2015”;
  - (f) in paragraph 5, in points (a) and (c), for “the date of entry into force of this Regulation” substitute “18 January 2015”.
- (26) In Article 180—
- (a) in paragraph 2—
    - (i) omit point (a);
    - (ii) for point (b) substitute—
      - “(b) United Kingdom central government and Bank of England denominated and funded in pounds sterling;”
  - (b) in paragraph 7—
    - (i) omit “to that laid down in [Directive 2009/138/EC](#)”;
    - (ii) for “Article 277 of [Directive 2009/138/EC](#)” substitute “Article 379A of this Regulation”;
  - (c) omit paragraph 10.
- (27) In Article 184, in paragraph 2—
- (a) in paragraph (b)(iv), for “Union” substitute “United Kingdom”;
  - (b) in paragraph (c), for “Article 92(2) of [Directive 2009/138/EC](#)” substitute “Article 68(6) of this Regulation”.
- (28) In Article 186, in paragraph (4), for “Article 277 of [Directive 2009/138/EC](#)” substitute “Article 379A of this Regulation”.
- (29) In Article 187—
- (a) in paragraph 3—
    - (i) omit point (a);
    - (ii) for point (b) substitute—
      - “(b) the United Kingdom central government and Bank of England denominated and funded in pounds sterling;”;
  - (b) in paragraph 5, point (a), for “Union” substitute “United Kingdom”.
- (30) In Article 188—
- (a) in paragraph 5, for “the implementing act adopted pursuant to point (d) of Article 109a(2) of [Directive 2009/138/EC](#)” substitute “[Commission Implementing 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” ;

- (b) in paragraph 6, for “Article 92(2) of [Directive 2009/138/EC](#)” substitute “Article 68(6) of this Regulation”.
- (31) In Article 191 omit paragraph 14.
- (32) In Article 193, in paragraph 1(g), in both places where it occurs, for “Article 172 of [Directive 2009/138/EC](#)” substitute “Article 379A of this Regulation”.
- (33) In Article 199—
  - (a) in paragraph 5, omit “referred to in Article 51 of [Directive 2009/138/EC](#)”;
  - (b) in paragraph 6—
    - (i) omit, “to that laid down in [Directive 2009/138/EC](#)”;
    - (ii) for “Article 227 of [Directive 2009/138/EC](#)”, substitute “Article 379A of this Regulation”;
  - (c) in paragraph 11, for “the implementing act adopted pursuant to point (a) of Article 109a (2) of [Directive 2009/138/EC](#)” substitute “[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”.
- (34) In Article 211—
  - (a) in paragraph 2(b) and (c)—
    - (i) omit “to that laid down in [Directive 2009/138/EC](#)”;
    - (ii) for “Article 172 of that Directive” substitute “Article 378A of this Regulation”;
  - (b) in paragraph 3, for “Article 138 of [Directive 2009/138/EC](#)” substitute “rule 4.4 of the Group Supervision part of the PRA Rulebook and the Undertakings in Difficulties: Non-compliance with the SCR part of the PRA Rulebook”;
  - (c) in paragraphs 4 and 6, for “Article 211(2) of [Directive 2009/138/EC](#)” substitute “Articles 318 to 327 of this Regulation”;
  - (d) in paragraph 4, omit “or by an equivalent amount where Article 211(3) of [Directive 2009/138/EC](#) is applicable”;
  - (e) Omit paragraph 5.
- (35) In Article 216, in paragraph 2, for “the provisions set out in Article 304 of [Directive 2009/138/EC](#)” substitute “a duration-based equity risk sub-module”.
- (36) In Article 221—
  - (a) for paragraph 1, substitute—

“**1.** The PRA must collect the quantitative undertaking-specific data necessary for determining dependencies between risks referred to in Article 309(8).”;
  - (b) omit paragraph 2.
- (37) In Article 238—
  - (a) before paragraph 1, insert—

“**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.”;
- (b) in paragraphs 2, 3 and 4, in each place it occurs, for “Article 122(3) of [Directive 2009/138/EC](#)” substitute “paragraph A1”;
- (c) in paragraph 2, for “Article 101(1) of that Directive” substitute “the Solvency Capital Requirement – General Provisions part of the PRA Rulebook”.
- (38) In Article 252—
- (a) in paragraphs 3(c) and 8(c), omit “in accordance with Article 37 of [Directive 2009/138/EC](#)”;
- (b) in paragraphs 6(a) and 11(a), omit “in accordance with Article 37 of that Directive”.
- (39) In Article 254, in paragraph 1, for “Article 135(2)(a) of [Directive 2009/138/EC](#)” substitute “rule 6.1 of the Investments part of the PRA Rulebook”.
- (40) In Article 271, in paragraph 2, omit “laid down in paragraphs 3 and 4 of Article 29 of [Directive 2009/138/EC](#)”.
- (41) In Article 276, omit “For the purposes of Article 37(1)(a) and (b) of [Directive 2009/138/EC](#),”.
- (42) In Article 277, for “For the purposes of Article 37(1)(c) of [Directive 2009/138/EC](#), in” substitute “In”.
- (43) In Article 278—
- (a) in paragraph 1, for “For the purposes of Article 37(1)(d) of [Directive 2009/138/EC](#), in” substitute “In”;
- (b) in paragraph 2—
- (i) before “volatility adjustment” omit “with respect to”;
- (ii) omit “where Member States require prior approval for this adjustment,”;
- (iii) omit “pursuant to Article 37 paragraph (1)(d) of [Directive 2009/138/EC](#)”.
- (44) In Article 279, omit, in each place it occurs, “within the meaning of Article 37(1)(a) and (b), of [Directive 2009/138/EC](#)”.
- (45) In Article 280, in each place it occurs, for “For the purposes of Article 37(1)(a)(i) of [Directive 2009/138/EC](#), the” substitute “The”.
- (46) In Article 281, for “For the purposes of Article 37(1)(b) and (c) of [Directive 2009/138/EC](#) respectively, in” substitute “In”.
- (47) In Article 282, for “pursuant to Article 37(1)(a) or (b) of [Directive 2009/138/EC](#)” substitute “in relation to deviations from SCR assumptions”.
- (48) In Article 283, in paragraph 6—
- (a) omit “in accordance with Article 37(1) of [Directive 2009/138/EC](#)”;
- (b) for “Article 64 of that Directive” substitute “section 348 of the Financial Services and Markets Act 2000”.
- (49) In Article 284, for “pursuant to Articles 37(1)(d) of [Directive 2009/138/EC](#)” substitute “in relation to assumptions underlying the relevant risk-free rate or transitional measures”.
- (50) In Article 286—
- (a) for “as referred to in Article 37(1)(c) of [Directive 2009/138/EC](#)” substitute “in relation to deviations from governance standards”;
- (b) in point (b)—
- (i) omit, “in accordance with Article 37(1) of [Directive 2009/138/EC](#)”;



- (ii) for “Article 64 of that Directive” substitute “section 348 of the Financial Services and Markets Act 2000”.
- (51) In Article 287, in paragraph 1, for “to which Article 73(2) or (5) of [Directive 2009/138/EC](#) applies” substitute “that simultaneously pursues life and non-life insurance activities”.
- (52) In Article 288—
  - (a) for “Article 138(4) of [Directive 2009/138/EC](#)” substitute “rule 3.2 of the Undertakings in Difficulties part, and rule 4.4 of the Group Supervision part, of the PRA Rulebook”;
  - (b) for “EIOPA” substitute “the Prudential Regulation Committee of the Bank of England”.
- (53) In Article 297, in paragraph 2—
  - (a) omit point (e);
  - (b) in point (f) omit “unless the undertaking’s Member State had made use of the option provided for in the third subparagraph of Article 51(2) of [Directive 2009/138/EC](#)”.
- (54) In Article 298 omit “in accordance with Article 54(2) of [Directive 2009/138/EC](#)”.
- (55) In Article 299, for “Article 53(1) and (2) of [Directive 2009/138/EC](#)” substitute “part 4.1 of the Reporting part of the PRA Rulebook”.
- (56) In Article 304, paragraph 1—
  - (a) omit “in accordance with Article 35(2)(a)(i) of [Directive 2009/138/EC](#)”;
  - (b) in point (b) omit “in accordance with Article 53(1) of [Directive 2009/138/EC](#)”;
  - (c) in point (d) for “Article 35(6) and (7) of [Directive 2009/138/EC](#)”, “Article 35(6) of [Directive 2009/138/EC](#)” and “Article 35(7) of [Directive 2009/138/EC](#)” substitute “a direction by the PRA under section 138A of the Financial Services and Markets Act 2000”.
- (57) Omit Articles 314 to 317.
- (58) In Article 318, omit “of the Member State in whose territory the special purpose vehicle is establishing its head office”.
- (59) In Article 325, in paragraphs 1, 2 and 5, omit “in the Member State in which the special purpose vehicle is established”.
- (60) In Article 328, in paragraph 1—
  - (a) for “laid down in Articles 230 to 233 of [Directive 2009/138/EC](#)” substitute “in accordance with rules 11.1 to 13.2 of the Group Supervision part of the PRA Rulebook”;
  - (b) omit “the other supervisory authorities concerned and”;
  - (c) in point (b), for “Article 231 of [Directive 2009/138/EC](#)” substitute “regulations 48 and 49 of the Solvency 2 Regulations 2015”;
  - (d) in point (f)—
    - (i) omit “delegated acts have been adopted pursuant to paragraphs 4 or 5 of Article 227 of [Directive 2009/138/EC](#), determining that”;
    - (ii) after “third countries”, for “are” substitute “have been determined to be”.
- (61) In Article 329—
  - (a) in paragraph 1, for “Article 229 of [Directive 2009/138/EC](#)” substitute “rule 10.6 of the Group Supervision part of the PRA Rulebook”;
  - (b) in paragraph 2—
    - (i) for “Article 235 of [Directive 2009/138/EC](#)” substitute “rule 14.1 of the Group Supervision part of the PRA Rulebook”;

- (ii) for “Article 98 of that Directive” substitute “rules 4.1 and 4.2 of the Own Funds part of the PRA Rulebook”;
- (iii) for “Article 226(2) of that Directive” substitute “rule 10.3 of the Group Supervision part of the PRA Rulebook”;
- (c) in paragraph 3—
  - (i) for “Article 13(26) of [Directive 2009/138/EC](#)” substitute “the Glossary of the PRA Rulebook”;
  - (ii) in point (a)—
    - (aa) for “Article 211 of [Directive 2009/138/EC](#)” substitute “Articles 318 to 327”;
    - (bb) omit “, or where applicable with the Member State law in accordance with Article 211(3) of that Directive”;
  - (iii) in point (b)—
    - (aa) for “Article 211(2) of [Directive 2009/138/EC](#)” substitute “Articles 318 to 327 of this Regulation”;
  - (iv) in the second subparagraph, for “Article 211 of [Directive 2009/138/EC](#)” substitute “Articles 318 to 327 of this Regulation”.
- (62) In Article 330—
  - (a) for “supervisory authorities” and “supervisory authority”, in each place they occur, substitute “PRA”;
  - (b) in paragraph 3(c)—
    - (i) for “one Member State” substitute “the United Kingdom”;
    - (ii) for “that Member State” substitute “the United Kingdom”;
    - (iii) before “third country permits such offsetting” insert “that”;
  - (c) in paragraph 4(c), omit “point (b) of Article 99 of [Directive 2009/138/EC](#) and in”.
- (63) In Article 331—
  - (a) in paragraph 1(b), for “Article 94 of [Directive 2009/138/EC](#)” substitute “rules 3.1 – 3.3 of the Own Funds part of the PRA Rulebook”;
  - (b) in paragraph 2(b)(i), for “Article 230(2) of [Directive 2009/138/EC](#)” substitute “rule 11.3 of the Group Supervision part of the PRA Rulebook”.
- (64) In Article 332—
  - (a) in paragraph 1(b), for “Article 94 of [Directive 2009/138/EC](#)” substitute “rules 3.1 to 3.3 of the PRA Rulebook on the Own Funds”;
  - (b) in paragraph 2(b)(i), for “Article 230(2) of [Directive 2009/138/EC](#)” substitute “rule 11.3 of the PRA Rulebook on Group Supervision”.
- (65) In Article 333, in paragraph 1(b), for “Article 94 of [Directive 2009/138/EC](#)” substitute “rules 3.1 – 3.3 of the PRA Rulebook on Own Funds”.
- (66) In Article 335—
  - (a) for paragraph 1(e) substitute—
    - “(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 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
  - (v) according to the own fund items of non-regulated undertakings carrying out financial activities.”;
- (b) in paragraph 2, for “related undertakings linked by a relationship referred to in Article 22(7) of [Directive 2013/34/EU](#)” substitute “related undertakings linked by a common management relationship as defined in regulation 2(1) of the Solvency 2 Regulations 2015(1)”.
- (67) In Article 336—
- (a) in point (a), before “Title I” insert “the United Kingdom law which implemented”;
  - (b) in point (b), for “Union” substitute “United Kingdom”;
  - (c) in point (c), from “for credit institutions” to the end substitute—
- “of related undertakings, calculated as follows:
- (i) in relation to credit institutions, investment firms and financial institutions, in accordance with 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.”
- (68) In Article 338, in paragraph 2 for “Article 104(7) of [Directive 2009/138/EC](#)” substitute “regulation 47 of the Solvency 2 Regulations 2015”.
- (69) In Article 339—
- (a) in paragraph 1(a), for “Articles 75 to 86 of [Directive 2009/138/EC](#)” substitute “the Valuation and Technical Provisions parts of the PRA Rulebook”;
  - (b) in paragraph 1(b)—
- (i) for “Article 221(1)(a) of [Directive 2009/138/EC](#)” substitute “rule 8.2(1) of the Group Supervision part of the PRA Rulebook”;

- (ii) for “Articles 75 to 86 of that Directive” substitute “the Valuation and Technical Provisions parts of the PRA Rulebook”.
- (70) In Article 340, in point (b), for “Article 221(1)(a) of [Directive 2009/138/EC](#)” substitute “rule 8.2(1) of the Group Supervision part of the PRA Rulebook”.
- (71) In Article 341—
- (a) for “Article 220(2) of [Directive 2009/138/EC](#)” substitute “regulation 16 of the Solvency 2 Regulations 2015”;
  - (b) for “Article 230(2) of that Directive” substitute “rule 11.3 of the Group Supervision part of the PRA Rulebook”.
- (72) In Article 342—
- (a) in paragraph 2(a), for “Articles 75 to 86 of [Directive 2009/138/EC](#)” substitute “the Valuation and Technical Provisions parts of the PRA Rulebook”;
  - (b) in paragraph 2(b)—
    - (i) for “Article 221(1)(b) of [Directive 2009/138/EC](#)” substitute “rule 8.2(2) of the Group Supervision part of the PRA Rulebook”;
    - (ii) for “Articles 75 to 86 of that Directive” substitute “the Valuation and Technical Provisions parts of the PRA Rulebook”.
- (73) In Article 343—
- (a) in paragraph 1—
    - (i) for “Article 230(2) of [Directive 2009/138/EC](#)” substitute “rule 11.2 of the Group Supervision part of the PRA Rulebook”;
    - (ii) omit “in an official language of the group supervisor’s Member State, or in a language for which the group supervisor has given prior approval”;
  - (b) omit paragraphs 2 to 4;
  - (c) in paragraph 5—
    - (i) in the first subparagraph, for “Articles 112 and 113 of [Directive 2009/138/EC](#)” substitute “rules 3 and 4 of the Solvency Capital Requirement – Internal Models part of the PRA Rulebook”;
    - (ii) in point (a)(i), for “Article 221 of [Directive 2009/138/EC](#)” substitute “rule 8.2(1) of the Group Supervision part of the PRA Rulebook”;
    - (iii) in point (a)(ii), omit “within the meaning of Article 256a of [Directive 2009/138/EC](#)”;
    - (iv) in point (a)(iv), for “in accordance with the procedure laid down in Article 231 of [Directive 2009/138/EC](#)” substitute “under regulation 49 of the Solvency 2 Regulations 2015”.
- (74) In Article 344—
- (a) omit paragraphs 1 and 2;
  - (b) in paragraph 4, for “Article 231 of [Directive 2009/138/EC](#)” substitute “under regulations 48 and 49 of the Solvency 2 Regulations 2015”.
- (75) In Article 345—
- (a) for paragraph 1 substitute—
    - “1. The group supervisor must provide its decision to the participating undertaking.”;
  - (b) omit paragraph 2;

- (c) in paragraph 3, for “After consulting the other supervisory authorities as set out in Article 344(1) and (2), the” substitute “The”;
- (d) in paragraph 4—
  - (i) for “Article 230 of [Directive 2009/138/EC](#)” substitute “regulation 48 of the Solvency 2 Regulations 2015”;
  - (ii) for “follow the procedure laid down in Article 231 of [Directive 2009/138/EC](#)” substitute “be made under regulation 49 of the Solvency 2 Regulations 2015”.
- (76) In Article 346, for “Article 230(2) of [Directive 2009/138/EC](#)” substitute “rule 11.2 of the Group Supervision part of the PRA Rulebook”.
- (77) In Article 347—
  - (a) in paragraph 2, omit “in an official language of the group supervisor’s Member State, or in a language for which the group supervisor has given prior approval”;
  - (b) omit paragraphs 3 to 5.
- (78) In Article 348(2) and (3), for “Article 231 of [Directive 2009/138/EC](#)” substitute “Regulation 48 of the Solvency 2 Regulations 2005”.
- (79) In Article 349—
  - (a) in the heading, for “Joint decision” substitute “Decision”;
  - (b) omit paragraph 1;
  - (c) for paragraph 2 substitute—

“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.”
  - (d) in paragraph 3—
    - (i) omit “joint”;
    - (ii) for “supervisory authorities concerned” substitute “PRA”.
- (80) Omit Chapter 3 of Title 2.
- (81) In Chapter 4 of Title 2, in Section 1, for the heading substitute “Group specific parameters”.
- (82) In Article 354—
  - (a) for the heading substitute “Definition of significant branches”;
  - (b) in paragraph 1—
    - (i) in the first subparagraph of paragraph 1—
      - (aa) for “For the purposes of Article 248(3) of [Directive 2009/138/EC](#), ‘significant branch’” substitute “‘Significant branch’”;
      - (bb) omit “at least one of the following conditions is met”;
    - (ii) omit subparagraph 1(b);
    - (iii) omit the second subparagraph;
  - (c) omit paragraph 2.
- (83) Omit Article 355.
- (84) In Article 356—
  - (a) in paragraph 1, omit the words from “in one of” to the end;
  - (b) omit paragraphs 2 and 3.
- (85) Omit Articles 357 and 358.

- (86) In Article 359—
- (a) in point (a)(i), omit “within the meaning of Article 256a of [Directive 2009/138/EC](#)”;
  - (b) in point (e)(i), omit “, as referred to in Articles 230 and 233 of [Directive 2009/138/EC](#),”;
  - (c) in point (e)(v), for “points (a) and (b) of the second subparagraph of Article 230(2) of [Directive 2009/138/EC](#)” substitute “rule 11.3(1)(a) and (b) of the Group Supervision part of the PRA Rulebook”.
- (87) In Article 360, omit paragraphs 2 and 3.
- (88) In Article 366, omit paragraphs 2 and 3.
- (89) In Article 372—
- (a) in paragraph 1—
    - (i) omit “in accordance with Article 35(6) of [Directive 2009/138/EC](#)”;
    - (ii) omit “according to Article 35(7) of that Directive”;
  - (b) in paragraph 2—
    - (i) in point (a)(ii), omit “within the meaning of Article 256a of [Directive 2009/138/EC](#)”;
    - (ii) in point (c)—
      - (aa) in point (v), for “Article 233 of [Directive 2009/138/EC](#)” substitute “regulation 2 of the Solvency 2 Regulations 2015”;
      - (bb) in point (v), for “Article 227 of the Directive” substitute “Article 379A of this Regulation”;
      - (cc) in point (vii), for “Article 211 of [Directive 2009/138/EC](#)” substitute “Articles 318 to 327 of this Regulation”;
      - (dd) in point (viii), in both place it occurs, for “Article 211(2) of [Directive 2009/138/EC](#)” substitute “Articles 318 to 327 of this Regulation”.
- (90) Omit Articles 374 and 375.
- (91) In Article 378, before “Title I of [Directive 2009/138/EC](#)” insert “the United Kingdom law which implemented”.
- (92) After Article 378 insert—

*“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.

5. The Treasury may, irrespective of whether the criteria specified in Article 378 have been fulfilled, by regulations determine that, for a limited period, the solvency regime of a third country applied to reinsurance activities of undertakings with the head office in that third country is temporarily equivalent to that laid down in the United Kingdom law which implemented the Solvency 2 Directive, if that third country has complied with at least the following criteria:

- (a) it has given a commitment to the United Kingdom to adopt and apply, before the end of that limited period, a solvency regime that is capable of being assessed as equivalent in accordance with Article 378, and to engage in the equivalence assessment process;
- (b) it has established a work programme to fulfil the commitment referred to in point (a);
- (c) it has allocated sufficient resources to fulfil the commitment referred to in point (a);
- (d) it has a solvency regime that is risk based and establishes quantitative and qualitative solvency requirements and requirements relating to supervisory reporting and transparency;
- (e) it has entered into written arrangements to cooperate and exchange confidential supervisory information with the PRA;
- (f) it has an independent system of supervision; and
- (g) it has established obligations on professional secrecy for all persons acting on behalf of its supervisory authorities, in particular on the exchange of information with the PRA.

6. 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 5.

7. The limited period referred to paragraph 5 must end on 31 December 2020 or on the date on which, in accordance with paragraph 1, 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, whichever is the earlier.

8. The Treasury may by regulations extend that period by up to one year, where necessary for the Treasury to carry out the assessment of equivalence for the purposes of paragraph 1.

9. Reinsurance contracts concluded with undertakings having their head office in a third country, the supervisory regime of which has been determined to be temporarily equivalent in accordance with paragraph 5, must be accorded the same treatment as that set out in paragraph 5.

#### *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.”

(93) In Article 379, in paragraph 1, before “Title I, Chapter VI of [Directive 2009/138/ EC](#)” insert “the United Kingdom law which implemented”.

(94) After Article 379, insert—

*“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.

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.”

(95) In the first paragraph of Article 380—

- (a) before “Title III of [Directive 2009/138/EC](#)” insert “the United Kingdom law which implemented”.



(b) in point (r), for “one of the calculation methods set out in Articles 230 and 233 of [Directive 2009/138/EC](#)”, substitute “method 1 or method 2”.

(96) After Article 380, insert—

*“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 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.

4. The Treasury may, irrespective of whether the criteria specified in Article 380 have been fulfilled, by regulations determine that, for a limited period, the prudential regime of a third country that applies to undertakings the parent undertaking of which has its head office outside the United Kingdom is temporarily equivalent to that laid down in the United Kingdom law which implemented the Solvency 2 Directive, if that third country has complied with at least the following criteria:

- (a) it has given a commitment to the United Kingdom to adopt and apply a prudential regime that is capable of being assessed equivalent in accordance with Article 380, before the end of that limited period and to engage in the equivalence assessment process;
- (b) it has established a work programme to fulfil the commitment under point (a);
- (c) it has allocated sufficient resources to fulfil the commitment under point (a);
- (d) it has a prudential regime that is risk based and establishes quantitative and qualitative solvency requirements and requirements relating to supervisory reporting and transparency and to the supervision of groups;
- (e) it has entered into written arrangements to cooperate and exchange confidential supervisory information with the PRA;
- (f) it has an independent system of supervision;
- (g) it has established obligations on professional secrecy for all persons acting on behalf of its supervisory authorities, in particular on the exchange of information with the PRA.

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 limited period referred to in paragraph 4 must end on 31 December 2020 or on the date on which, in accordance with paragraph 1, the prudential 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, whichever is the earlier.

7. The Treasury may by regulations extend by a maximum of one more year, the period referred to in paragraph 6 where such time is necessary for the Treasury to carry out the assessment of equivalence for the purposes of paragraph 1.”

(97) In Chapter 4 of Tittle 3 (final provisions), before Article 381 insert—

*“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.”

(98) In Annex 13, in the list of regions for which natural catastrophe risk is not calculated based on premiums insert “the United Kingdom” at the end.

(99) Omit Annex 21.