

2021 No. 1408

EXITING THE EUROPEAN UNION

FINANCIAL SERVICES

**The Solvency 2 (Group Supervision) (Amendment) Regulations
2021**

Made - - - - *10th December 2021*

Coming into force - - *24th January 2022*

The Treasury, in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018^(a), make the following Regulations.

In accordance with paragraph 1(3) of Schedule 7 to the European Union (Withdrawal) Act 2018, a draft of these Regulations has been laid before, and approved by a resolution of, each House of Parliament.

Citation and commencement

1. These Regulations may be cited as the Solvency 2 (Group Supervision) (Amendment) Regulations 2021 and come into force on 24th January 2022.

Amendments to the Solvency 2 Regulations 2015

2.—(1) The Solvency 2 Regulations 2015^(b) are amended as follows.

(2) In regulation 24 (supervision of risk concentration and intra-group transactions)—

(a) at the start of paragraph (1), for “Where” substitute “Subject to paragraph (4), where”;

(b) after paragraph (3) insert—

“(4) Where the PRA is required to rely on supervision exercised by a supervisory authority in a third country which has a prudential group supervision regime determined as equivalent in accordance with regulation 35, the PRA may determine that paragraph (1)—

(a) does not apply; or

(b) applies with only such modifications as may be specified in the determination.

(5) The PRA may not give a determination under paragraph (4) unless it is satisfied that—

(a) compliance by insurance or reinsurance undertakings in the group with rules or requirements imposed by the PRA pursuant to paragraph (1) would be unduly burdensome; and

(a) 2018 c. 16.

(b) S.I. 2015/575, relevant amending instruments are S.I. 2019/407, 2019/680.

- (b) the determination would not adversely affect the advancement of any of the PRA’s objectives.
- (6) The PRA may revoke or vary a determination given under paragraph (4).”
- (3) For regulation 25 (supervision of system of governance) substitute—
 - “(1) Subject to paragraph (2), where the PRA is the group supervisor of a type of group referred to in regulation 9A(a) or (b) the PRA must—
 - (a) review the systems and reporting procedures implemented by the group in accordance with rules implementing paragraphs 1 and 2 of Article 246 of the Solvency 2 Directive;
 - (b) review the own-risk and solvency assessment conducted at group level by the group in accordance with rules implementing paragraph 4 of Article 246 of the Solvency 2 Directive.
 - (2) Where the PRA is required to rely on supervision exercised by a supervisory authority in a third country which has a prudential group supervision regime determined as equivalent in accordance with regulation 35, the PRA may determine that paragraph (1)—
 - (a) does not apply; or
 - (b) applies with only such modifications as may be specified in the determination.
 - (3) The PRA may not give a determination under paragraph (2) unless it is satisfied that—
 - (a) compliance by insurance or reinsurance undertakings in the group with rules or requirements imposed by the PRA pursuant to paragraph (1) would be unduly burdensome; and
 - (b) the determination would not adversely affect the advancement of any of the PRA’s objectives.
 - (4) The PRA may revoke or vary a determination given under paragraph (2).”
- (4) In regulation 26 (rule for deciding the group supervisor)—
 - (a) in paragraph (1) for “Subject to paragraph (2)” substitute “Subject to paragraphs (2) and (3)”;
 - (b) after paragraph (2) insert—
 - “(3) Nothing in this regulation requires the PRA to conduct group supervision in respect of requirements which do not apply, as may be determined by the PRA under regulation 15, 24, 25 or 28.”.
- (5) In regulation 28 (duties of group supervisor)—
 - (a) at the start of paragraph (1), for “Paragraph (2) applies” substitute “Subject to paragraph (3), paragraph (2) applies”;
 - (b) after paragraph (2) insert—
 - “(3) Where the PRA is required to rely on supervision exercised by a supervisory authority in a third country which has a prudential group supervision regime determined as equivalent in accordance with regulation 35, the PRA may determine that paragraph (2)—
 - (a) does not apply; or
 - (b) applies with only such modifications as may be specified in the determination.
 - (4) The PRA may not give a determination under paragraph (3) unless it is satisfied that —
 - (a) compliance by insurance or reinsurance undertakings in the group with rules or requirements imposed by the PRA pursuant to paragraph (2) would be unduly burdensome; and
 - (b) the determination would not adversely affect the advancement of any of the PRA’s objectives.
 - (5) The PRA may revoke or vary a determination given under paragraph (3).”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers in section 8 of the European Union (Withdrawal) Act 2018 (c.16) to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union. In particular these Regulations address deficiencies in retained EU law which under section 8(3)(a) are of a similar kind to a deficiency which falls within paragraph (f) of section 8(2).

These Regulations amend the Solvency 2 Regulations 2015 (SI 2015/575) to give the Prudential Regulation Authority (“PRA”) the power to disapply requirements which it must, acting as group supervisor, otherwise comply with or impose on certain types of groups of insurance or reinsurance undertakings. In doing so the Regulations amend regulation 24 (supervision of risk concentration and intra-group transactions); regulation 25 (supervision of system of governance); and regulation 28 (duties of group supervisor) of the Solvency 2 Regulations 2015. The PRA may already disapply requirements in relation to group solvency (see regulation 15 (supervision of group supervision and frequency of calculation) of the Solvency 2 Regulations 2015). These Regulations also amend regulation 26 (rule for deciding the group supervisor) to ensure that the requirement in regulation 26(1) which requires the PRA to supervise a group does not prevent the disapplication of requirements by the PRA under regulation 15, 24, 25 and 28 of the Solvency 2 Regulations 2015.

The PRA may only disapply the requirements in circumstances where the PRA must rely on the supervision exercised by a supervisory authority in a third country determined as “equivalent” in accordance with regulation 35 of the Solvency 2 Regulations 2015 (non-UK solvency 2 parent undertakings: equivalence). This ensures that a determination can only be made where equivalent requirements are imposed by such a third country supervisor. In addition, the PRA must be satisfied that, if the requirements were not disapplied, compliance with them would be unduly burdensome; and that disaplying the requirements would not adversely affect the advancement of the PRA’s objectives as set out in the Financial Services and Markets Act 2000 (c.8). The PRA may revoke or vary a determination.

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