STATUTORY INSTRUMENTS

2021 No. 463

FINANCIAL SERVICES AND MARKETS

The Solvency 2 (Credit Risk Adjustment) Regulations 2021

Made - - - -	*13th April 2021*
Laid before Parliament	*14th April 2021*
Coming into force - -	*28th May 2021*

The Treasury, in exercise of the powers conferred by regulation 2 and paragraph 9(b) of Schedule 1 to the Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019(**a**), make the following Regulations.

Citation and Commencement

1. These Regulations may be cited as The Solvency 2 (Credit Risk Adjustment) Regulations 2021 and come in to force on 28th May 2021.

Amendment to Commission Delegated Regulation (EU) No. 2015/35

2. In Article 45 (adjustment to swap rates for credit risk) of 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)(**b**), for "The adjustment shall be determined" to the end of the paragraph substitute "The adjustment is to be calculated to reflect the level of credit risk inherent in a financial instrument which is used to derive the basic risk-free interest rate. If a relevant financial instrument contains negligible credit risk, the adjustment may be zero.".

David Rutley
Michael Tomlinson
13th April 2021 Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend Article 45 of the Commission Delegated Regulation (EU) No. 2015/35 of 10 October 2014 supplementing Directive 2009/138/EC of the European Parliament and of the

(**a**) S.I. 2019/407
(**b**) OJ No. L 12, 17.1.2015, p. 1

Council on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency 2) ("the Commission Delegated Regulation").

The Commission Delegated Regulation, which provides a prudential framework for insurance and reinsurance undertakings, forms part of EU retained law for the purposes of the European Union (Withdrawal) Act 2018 (c.16) (see section 6 of that Act) following the UK's withdrawal from the EU. The Commission Delegated Regulation requires undertakings to calculate (among other things) certain technical provisions to ensure adequate capital is held. One of the contributing calculations is the rate of the basic risk-free interest rate term structure which must be adjusted to take account of credit risk (see Article 44 of the Commission Delegated Regulation). Article 45 sets out how the adjustment for credit risk is to be determined.

These Regulations delete the provision in Article 45 of the Commission Delegated Regulation which specifies an adjustment based on the difference between the credit risk reflected in the floating rate of interest rate swaps and overnight indexed swap rates. Such provision was based on the continued use of benchmarks which reflect the interest rate at which banks could borrow money on unsecured terms in wholesale markets, such as the London Inter-bank Offered Rate (known as LIBOR). Following the discontinuation of LIBOR it is necessary to substitute new provision in Article 45 to reflect the appropriate adjustment for the credit risk of other benchmarks, in particular the Sterling Overnight Index Average (SONIA).

These Regulations therefore substitute in Article 45 a new methodology for the credit risk adjustment which reflects the transition from LIBOR to SONIA or other benchmarks.

No impact assessment has been produced for this instrument as we do not foresee any, or any significant impact, on the private, voluntary or public sector.

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

£4.90

ISBN 978-0-34-822248-7

http://www.legislation.gov.uk/id/uksi/2021/463

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