

Directive 2009/138/EC of the European Parliament and of the Council
of 25 November 2009 on the taking-up and pursuit of the business of
Insurance and Reinsurance (Solvency II) (recast) (Text with EEA relevance)

TITLE I

**GENERAL RULES ON THE TAKING-UP AND PURSUIT OF
DIRECT INSURANCE AND REINSURANCE ACTIVITIES**

CHAPTER VI

**Rules relating to the valuation of assets and liabilities, technical provisions, own funds,
Solvency Capital Requirement, Minimum Capital Requirement and investment rules**

Section 3

Own funds

Subsection 1

Determination of own funds

Article 90

Supervisory approval of ancillary own funds

- 1 The amounts of ancillary own-fund items to be taken into account when determining own funds shall be subject to prior supervisory approval.
- 2 The amount ascribed to each ancillary own-fund item shall reflect the loss-absorbency of the item and shall be based upon prudent and realistic assumptions. Where an ancillary own-fund item has a fixed nominal value, the amount of that item shall be equal to its nominal value, where it appropriately reflects its loss-absorbency.
- 3 Supervisory authorities shall approve either of the following:
 - a a monetary amount for each ancillary own-fund item;
 - b a method by which to determine the amount of each ancillary own-fund item, in which case supervisory approval of the amount determined in accordance with that method shall be granted for a specified period of time.
- 4 For each ancillary own-fund item, supervisory authorities shall base their approval on an assessment of the following:
 - a the status of the counterparties concerned, in relation to their ability and willingness to pay;

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- b the recoverability of the funds, taking account of the legal form of the item, as well as any conditions which would prevent the item from being successfully paid in or called up;
- c any information on the outcome of past calls which insurance and reinsurance undertakings have made for such ancillary own funds, to the extent that information can be reliably used to assess the expected outcome of future calls.