Commission Delegated Regulation (EU) 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 II) (Text with EEA relevance)

TITLE I

VALUATION AND RISK-BASED CAPTAL REQUIREMENTS (PILLAR I), ENHANCED GOVERNANCE (PILLAR II) AND INCREASED TRANPARENCY (PILLAR III)

CHAPTER X

CAPITAL ADD-ON

SECTION 2

Methodologies for calculating capital add-ons

Article 282

Calculation of add-ons in relation to deviations from SCR assumptions

For the purposes of imposing a capital add-on pursuant to Article 37(1)(a) or (b) of Directive 2009/138/EC, supervisory authorities shall calculate the capital add-on as the difference, at a given point in time, between the following:

(a) the Solvency Capital Requirement of the insurance or reinsurance undertaking, excluding any previous or simultaneous capital add-on, that would be calculated if the standard formula or internal model, as appropriate, were modified so as to reflect the actual risk profile of the insurance or reinsurance undertaking and to ensure compliance with Article 101(3) of Directive 2009/138/EC;

(b) the Solvency Capital Requirement of the insurance or reinsurance undertaking, excluding any previous or simultaneous capital add-on.

Article 283

Scope and approach of modifications as regards a deviation from SCR assumptions

1 In calculating the amount referred to in Article 282(a), supervisory authorities shall consider the aspects of the standard formula or the internal model which gave rise to the deviation of the risk profile assumed under the standard formula or the internal model from the actual risk profile of the undertaking including, where relevant, quantifiable risks not taken into account by the standard formula or the internal model, the structure of the formula or the model, aggregation methods, parameters, and assumptions.

2 For the purposes of paragraph 1, supervisory authorities shall modify the assumptions and parameters underlying the Solvency Capital Requirement as calculated using the standard formula or internal model in order for those assumptions or parameters to properly reflect the actual risk profile of the insurance or reinsurance undertaking and to ensure compliance with Article 101(3) of Directive 2009/138/EC.

3 Where the modifications referred to in paragraph 2 are insufficient or inappropriate to calculate the amount referred to in Article 282(a), alternative methodologies which go beyond modifying assumptions or parameters shall be used for the purposes of the calculation referred to in Article 282(a).

4 Any modification referred to in paragraph 2 or alternative methodology referred to in paragraph 3 shall use adequate, applicable and relevant actuarial and statistical techniques and shall be based on accurate, complete and appropriate data of the undertaking, or where these are not available, data which is directly relevant for the operations of that undertaking.

5 Where alternative methodologies referred to in paragraph 3 are insufficient or inappropriate, supervisory authorities may calculate the Solvency Capital Requirement for the purposes of Article 282(a) by comparing the Solvency Capital Requirements of undertakings with similar risk profiles.

6 For the purposes of paragraphs 4 and 5, supervisory authorities may use information relating to other insurance or reinsurance undertakings with similar risk profiles provided that the supervisory authorities ensure that the reasons for their decision to set a capital add-on are stated in accordance with Article 37(1) of Directive 2009/138/EC and that this statement will comply with the professional secrecy requirements in Article 64 of that Directive.

7 Supervisory authorities shall not set off aspects of the risk profile deviation, which indicate that a lower Solvency Capital Requirement would better reflect the insurance or reinsurance undertaking's actual risk profile, against the other aspects which indicate that a higher Solvency Capital Requirement is appropriate, unless the insurance or reinsurance undertaking satisfies all of the following requirements:

- a a modification or a methodology exists which complies with the requirements set out in paragraph 4 to quantify the impact on the amount referred to in Article 282(a) of the aspects which indicate a lower Solvency Capital Requirement;
- b it would be inappropriate to address the aspects which indicate a lower Solvency Capital Requirement by replacing standard parameters by parameters specific to the undertaking in accordance with Article 104(7) of Directive 2009/138/EC or by using an internal model in accordance with Article 112 of that Directive;
- c the overall Solvency Capital Requirement that would result after setting off the risk profile deviations against each other complies with Article 101(3) of Directive 2009/138/EC.

Article 284

Calculation of add-ons in relation to adjustments to the relevant risk-free rate or transitional measures

For the purposes of imposing a capital add-on pursuant to Articles 37(1)(d) of Directive 2009/138/EC, supervisory authorities shall calculate the capital add-on as the sum, at a given point in time, of the following amounts:

(a) the negative of the amount of eligible own funds that would be calculated if the adjustment or transitional measure was modified in a manner that the assumptions underlying the adjustment or transitional measure would fit the actual assets, liabilities and risk profile of the insurance or reinsurance undertaking;

(b) the amount of the Solvency Capital Requirement, excluding any previous or simultaneous capital add-on, that would be calculated if the adjustment or transitional measure was modified in a manner that the assumptions underlying the adjustment or transitional measure would fit the actual assets, liabilities and risk profile of the insurance or reinsurance undertaking, and ensure compliance with Article 101(3) of Directive 2009/138/EC;

(c) the amount of eligible own funds;

(d) the negative of the amount of the Solvency Capital Requirement, excluding any previous or simultaneous capital add-on, of the insurance or reinsurance undertaking.

Article 285

Scope and approach of modifications as regards adjustments to the relevant risk-free rate and transitional measures

1 In calculating the amounts referred to in Article 284(a) and (b), supervisory authorities shall consider the features of the undertaking's assets, liabilities or risk profile which gave rise to the deviation from the assumptions underlying the adjustment or transitional measure.

2 For the purposes of paragraph 1, supervisory authorities shall modify the adjustment or transitional measure and the calculation of the Solvency Capital Requirement in a manner that the assumptions underlying the adjustment or transitional measure would fit the actual assets, liabilities and risk profile of the insurance or reinsurance undertaking, and ensure compliance with Article 101(3) of Directive 2009/138/EC;

3 Any modification referred to in paragraph 2 shall use adequate, applicable and relevant actuarial and statistical techniques and shall be based on accurate, complete and appropriate data of the undertaking, or where these are not available, data which is directly relevant for the operations of that undertaking.

Article 286

Calculation of add-ons in relation to deviations from governance standards

For the purposes of calculating a capital add-on as referred to in Article 37(1)(c) of Directive 2009/138/EC, supervisory authorities shall take into account all relevant factors including all of the following:

(a) where appropriate, the factors referred to in Article 277;

(b) where appropriate, capital add-ons set previously for comparable deviations of other insurance or reinsurance undertakings with similar risk profiles provided that supervisory authorities ensure that the reasons for their decision to set a capital add-on are stated in accordance with Article 37(1) of Directive 2009/138/EC and this statement complies with the professional secrecy requirements set out in Article 64 of that Directive.

Article 287

Apportionment of add-ons for undertakings which simultaneously pursue life and non-life insurance activities

1 When calculating a capital add-on in relation to an insurance undertaking to which Article 73(2) or (5) of Directive 2009/138/EC applies, supervisory authorities shall calculate a notional life capital add-on and a notional non-life capital add-on.

2 Where the causes of the relevant deviations can be objectively apportioned between the life insurance activity and the non-life insurance activity, supervisory authorities shall calculate the notional life capital add-on and the notional non-life capital add-on according to the same apportionment.

3 Where an apportionment in accordance with paragraph 2 is not possible, supervisory authorities shall calculate the notional life capital add-on and notional non-life capital add-on in the same way as the apportionment between the notional life Minimum Capital Requirement and the notional non-life Minimum Capital Requirement as referred to in Article 74(2) of Directive 2009/138/EC.