

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

[^{X1}VALUATION AND RISK-BASED CAPITAL REQUIREMENTS
(PILLAR I), ENHANCED GOVERNANCE (PILLAR II)
AND INCREASED TRANSPARENCY (PILLAR III)]

CHAPTER XV

SPECIAL PURPOSE VEHICLES

SECTION 5

Solvency requirements

Article 326

Solvency requirements

- 1 In order to be considered fully funded special purpose vehicles shall satisfy all of the following requirements:
- the assets of the special purpose vehicle are valued in accordance with Article 75 of Directive 2009/138/EC;
 - the special purpose vehicle has at all times assets the value of which is equal to or exceeds the aggregate maximum risk exposure and the special purpose vehicle is able to pay the amounts it is liable for as they fall due;
 - the proceeds of the debt issuance or other financing mechanism are fully paid-in.
- 2 The assessment by supervisory authorities of whether the special purpose vehicle has at all times assets the value of which is equal to or exceeds the aggregate maximum risk exposure and the special purpose vehicle is able to pay the amounts it is liable for as they fall due, shall take into account all of the following:
- the liquidity risk of the special purpose vehicle;
 - the quantifiable risks of the special purpose vehicle;
 - the arrangements for holding assets in the special purpose vehicle.
- 3 The special purpose vehicle shall demonstrate to the supervisory authorities in its report referred to in Article 325(2) and on request by the supervisory authorities that it satisfies the requirements set out in paragraph 1 and it shall report on points (a) and (b) of paragraph 2.
- 4 Payments relating to existing insurance and reinsurance contracts, that are expected to be received in the future by the special purpose vehicle from the insurance or reinsurance undertaking that has transferred risk to the special purpose vehicle, may be included in the assets of the special purpose vehicle, provided that all of the following requirements are met:

Changes to legislation: Commission Delegated Regulation (EU) 2015/35, SECTION 5 is up to date with all changes known to be in force on or before 16 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- a the future liabilities of the special purpose vehicle to the providers of debt or finance only arise subject to the receipt of the payments from the insurance or reinsurance undertaking that has transferred risk to the special purpose vehicle;
- b there is no scenario under which the basic own funds of the insurance or reinsurance undertaking which has transferred risks to the special purpose vehicle would be negatively affected by the payment not being received by the special purpose vehicle;
- c the special purpose vehicle continues to meet the conditions set out in paragraph 1 in the event that the payments from the insurance or reinsurance undertaking that has transferred risk to the special purpose vehicle are not received;
- [^{F1}d the payments do not relate to expenses that are excluded from the aggregate maximum risk exposure as defined in point (44) of Article 1.]

Textual Amendments

- F1** Substituted by [Commission Delegated Regulation \(EU\) 2019/981 of 8 March 2019 amending Delegated Regulation \(EU\) 2015/35 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 \(Solvency II\) \(Text with EEA relevance\).](#)

Article 327

Solvency requirements on investments

Special purpose vehicles shall invest all their assets in accordance with all of the following requirements:

- (a) with respect to the whole portfolio of assets, special purpose vehicles shall only invest in assets and instruments whose risk the special purpose vehicle can properly identify, measure, monitor, manage, control and report;
- (b) assets shall be invested in such a manner as to ensure the security, quality, liquidity and profitability of the portfolio as a whole. In addition the localisation of those assets shall be such as to ensure their availability;
- (c) all assets shall be invested in a manner appropriate to the nature and duration of the special purpose vehicle's liabilities. All assets shall be invested in the best interest of the insurance and reinsurance undertakings transferring risks to the special purpose vehicle;
- (d) the use of derivative instruments shall be possible insofar as they contribute to a reduction of risks or facilitate efficient portfolio management;
- (e) investments and assets which are not admitted to trading on a regulated financial market shall be kept to prudent levels;
- (f) assets shall be properly diversified in such a way as to avoid excessive reliance on any particular asset, issuer or group of undertakings, or geographical area and excessive accumulation of risk in the portfolio as a whole;
- (g) investments in assets issued by the same issuer, or by issuers belonging to the same group, shall not expose the special purpose vehicle to excessive risk concentration.

Changes to legislation:

Commission Delegated Regulation (EU) 2015/35, SECTION 5 is up to date with all changes known to be in force on or before 16 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

View outstanding changes

Changes and effects yet to be applied to :

- Recital 53 Sentence 1 replacement by [EUR 2016/2283 Regulation](#)

Changes and effects yet to be applied to the whole legislation item and associated provisions

- Art. 1(18a) words substituted by [S.I. 2024/705 Sch. 2 para. 27\(a\)](#)
- Art. 1(18b)(a) substituted by [S.I. 2024/705 Sch. 2 para. 27\(b\)\(i\)](#)
- Art. 1(18b)(a) word omitted by [S.I. 2024/705 Sch. 2 para. 27\(b\)\(ii\)](#)
- Art. 1(18b)(c) and word inserted by [S.I. 2024/705 Sch. 2 para. 27\(b\)\(iii\)](#)
- Art. 1(19) words substituted by [S.I. 2024/705 Sch. 2 para. 27\(c\)](#)
- Art. 1(20) words substituted by [S.I. 2024/705 Sch. 2 para. 27\(d\)](#)
- Art. 1(21) words substituted by [S.I. 2024/705 Sch. 2 para. 27\(e\)](#)
- Art. 1(22) words substituted by [S.I. 2024/705 Sch. 2 para. 27\(f\)](#)
- Art. 1(23) words substituted by [S.I. 2024/705 Sch. 2 para. 27\(g\)](#)
- Art. 177(2)(b) words omitted by [S.I. 2019/407 reg. 11\(25\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Reg. 11(25)(39) omitted immediately before IP completion day by virtue of S.I. 2019/710, regs. 1(2), 22)
- Art. 177(2)(h)(i) words omitted by [S.I. 2019/407 reg. 11\(25\)\(b\)\(ii\)](#) (This amendment not applied to legislation.gov.uk. Reg. 11(25)(39) omitted immediately before IP completion day by virtue of S.I. 2019/710, regs. 1(2), 22)
- Art. 177(2)(h)(i) words substituted by [S.I. 2019/407 reg. 11\(25\)\(b\)\(i\)](#) (This amendment not applied to legislation.gov.uk. Reg. 11(25)(39) omitted immediately before IP completion day by virtue of S.I. 2019/710, regs. 1(2), 22)
- Art. 177(2)(r) words substituted by [S.I. 2019/407 reg. 11\(25\)\(c\)](#) (This amendment not applied to legislation.gov.uk. Reg. 11(25)(39) omitted immediately before IP completion day by virtue of S.I. 2019/710, regs. 1(2), 22)
- Art. 177(2)(s) words substituted by [S.I. 2019/407 reg. 11\(25\)\(c\)](#) (This amendment not applied to legislation.gov.uk. Reg. 11(25)(39) omitted immediately before IP completion day by virtue of S.I. 2019/710, regs. 1(2), 22)
- Art. 177(2)(t) words substituted by [S.I. 2019/407 reg. 11\(25\)\(d\)](#) (This amendment not applied to legislation.gov.uk. Reg. 11(25)(39) omitted immediately before IP completion day by virtue of S.I. 2019/710, regs. 1(2), 22)
- Art. 177(5)(a) words substituted by [S.I. 2019/407 reg. 11\(25\)\(f\)](#) (This amendment not applied to legislation.gov.uk. Reg. 11(25)(39) omitted immediately before IP completion day by virtue of S.I. 2019/710, regs. 1(2), 22)
- Art. 177(5)(c) words substituted by [S.I. 2019/407 reg. 11\(25\)\(f\)](#) (This amendment not applied to legislation.gov.uk. Reg. 11(25)(39) omitted immediately before IP completion day by virtue of S.I. 2019/710, regs. 1(2), 22)
- Art. 257(1A) inserted by [S.I. 2024/705 Sch. 2 para. 28\(3\)](#)
- Art. 257(6) inserted by [S.I. 2024/705 Sch. 2 para. 28\(7\)](#)