

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 II

INSURANCE GROUPS

CHAPTER I

SOLVENCY CALCULATION AT GROUP LEVEL

SECTION I

Group solvency: choice of calculation method and general principles

Article 328

Choice of method

1 In assessing whether the exclusive application of method 1 is not appropriate, thus allowing the group solvency to be calculated in accordance with method 2 or a combination of methods 1 and 2 laid down in Articles 230 to 233 of Directive 2009/138/EC, the group supervisor shall, in consultation with the other supervisory authorities concerned and the participating insurance or reinsurance undertaking or the insurance holding company or the mixed financial holding company, consider all of the the following elements:

- a whether the amount and quality of information available in relation to a related undertaking would not be sufficient for it to be subject to method 1;
- b whether a related undertaking is not covered by a group internal model, in the cases where a group internal model, approved in accordance with Article 231 of Directive 2009/138/EC, is used for the calculation of the consolidated group Solvency Capital Requirement;
- c whether, for the purposes of paragraph (b), the risks that are not captured in the group internal model are immaterial in relation to the overall risk profile of the group;
- d whether the use of method 1 in relation to a related undertaking or several related undertakings would be overly burdensome and the nature, scale and complexity of the risks of the group are such that the use of method 2 in relation to that related undertaking or those related undertakings does not materially affect the results of the group solvency calculation;
- e whether intra-group transactions are not significant both in terms of volume and value of the transaction;
- f where the group includes third country related insurance or reinsurance undertakings, whether delegated acts have been adopted pursuant to paragraphs 4 or 5 of Article 227 of Directive 2009/138/EC, determining that the solvency regimes of those third countries are equivalent or provisionally equivalent.

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2 The method or combination of methods chosen shall be applied in a consistent manner over time. The group supervisor shall require the participating insurance or reinsurance undertaking or the insurance holding company or the mixed financial holding company to revert to method 1 in relation to any related undertaking where the use of method 2 or a combination of methods 1 and 2 is no longer justified considering the elements referred to in paragraph 1.

Article 329

Treatment of specific related undertakings

1 Without prejudice to Article 328 and unless the book value of the relevant related undertaking has been deducted from the own funds eligible for the group solvency pursuant to Article 229 of Directive 2009/138/EC, the calculation of the group solvency shall include all of the following:

- a the capital requirements for related undertakings which are credit institutions, investment firms or financial institutions and the own fund items of those undertakings calculated according to the relevant sectoral rules referred to in Article 2(7) of Directive 2002/87/EC;
- b the capital requirements for related undertakings which are institutions for occupational retirement provision and the own funds items of those undertakings calculated according to Articles 17 to 17c of Directive 2003/41/EC;
- c the capital requirements for related undertakings which are UCITS management companies calculated in accordance with Article 7(1)(a) of Directive 2009/65/EC and the own funds of those undertakings calculated in accordance with point 1 of Article 2(1) of that Directive;
- d the capital requirements for related undertakings which are alternative investment fund managers calculated in accordance with Article 9 of Directive 2011/61/EU and the own funds of those undertakings calculated in accordance with Article 4(1)(ad) of that Directive;
- e the notional capital requirements and the own fund items of related undertakings which are non-regulated undertakings carrying out financial activities, where the notional capital requirement is the capital requirement with which the related undertaking would have to comply under the relevant sector rules if the undertaking were a regulated entity.

2 For the purposes of applying the provisions set out in Article 235 of Directive 2009/138/EC, where the parent insurance holding company or mixed financial holding company has issued subordinated debt or has other eligible own funds subject to the limits set out in Article 98 of that Directive, Article 226(2) of that Directive shall apply.

3 Special purpose vehicles, as defined in Article 13(26) of Directive 2009/138/EC, to which the participating undertaking or one of its subsidiaries has transferred risk shall be excluded from the calculation of group solvency in any of the following situations:

- a the special purpose vehicle complies with the requirements set out in Article 211 of Directive 2009/138/EC, or where applicable with the Member State law in accordance with Article 211(3) of that Directive;
- b the special purpose vehicle is regulated by a third country supervisory authority, and complies with requirements equivalent to those set out in Article 211(2) of Directive 2009/138/EC.

For the purposes of this paragraph, Article 211 of Directive 2009/138/EC shall apply at the level of the group.

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Article 330

Availability at group level of the eligible own funds of related undertakings

1 In assessing whether certain own funds eligible to cover the Solvency Capital Requirement of a related insurance or reinsurance undertaking or insurance holding company or mixed financial holding company cannot effectively be made available to cover the group Solvency Capital Requirement, the supervisory authorities shall consider all of the following elements:

- a whether the own-fund item is subject to legal or regulatory requirements that restrict the ability of that item to absorb all types of losses wherever they arise in the group;
- b whether there are legal or regulatory requirements that restrict the transferability of assets to another insurance or reinsurance undertaking;
- c whether making those own funds available for covering the group Solvency Capital Requirement would not be possible within a maximum of 9 months;
- d whether, where method 2 is used, the own-fund item does not satisfy the requirements set out in Articles 71, 73 and 77; for this purpose, the term “Solvency Capital Requirement” in those Articles shall include both the Solvency Capital Requirement of the related undertaking that has issued the own fund item and the group Solvency Capital Requirement.

2 In the assessment referred to in the first paragraph, the supervisory authorities shall consider the restrictions that would exist on a going-concern basis.

In the assessment referred to in the first paragraph, the supervisory authorities shall also take into account any costs to the participating insurance or reinsurance undertaking or insurance holding company or mixed financial holding company, or to any related undertaking, that making such own funds available for the group is likely to entail.

3 The following items shall be assumed not to be effectively available to cover the group Solvency Capital Requirement:

- a ancillary own funds;
- b preference shares, subordinated mutual members account and subordinated liabilities;
- c an amount equal to the value of net deferred tax assets; for this purpose, the amount of deferred tax asset may be reduced by the amount of the associated deferred tax liability provided that those deferred tax assets and associated deferred tax liabilities both arise from the tax law of one Member State or third country and the taxation authority of that Member State or third country permits such offsetting.

Where the participating undertaking can demonstrate to the satisfaction of the supervisory authority that the assumption referred to in the first subparagraph for one of the items is inappropriate in the specific circumstances of the group, the participating undertaking may include that item in the own funds available to cover the group Solvency Capital Requirement.

4 The following items shall in any case not be considered as effectively available to cover the group Solvency Capital Requirement:

- a any minority interest in a subsidiary exceeding the contribution of that subsidiary to the group Solvency Capital Requirement, where the subsidiary is an insurance or reinsurance undertaking, a third country insurance or reinsurance undertaking, an insurance holding company or a mixed financial holding company;

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- b any minority interest in a subsidiary ancillary services undertaking;
- c any restricted own funds item in ring-fenced funds as referred to in point (b) of Article 99 of Directive 2009/138/EC and in Article 80 of this Regulation.

5 Where an own-fund item of a related insurance or reinsurance undertaking, third-country insurance or reinsurance undertaking, insurance holding company or mixed financial holding company cannot effectively be made available to cover the group Solvency Capital Requirement, this own fund item may only be included in the calculation of group solvency up to the contribution of that related insurance or reinsurance undertaking, third-country insurance or reinsurance undertaking, insurance holding company or mixed financial holding company to the group Solvency Capital Requirement.

6 Where a related insurance or reinsurance undertaking, third-country insurance or reinsurance undertaking, insurance holding company or mixed financial holding company is included in the consolidated data pursuant to points (a) or (c) of Article 335(1), its contribution to the consolidated group Solvency Capital Requirement shall reflect diversification benefits and be calculated as follows:

- a where the consolidated group Solvency Capital Requirement is calculated, in relation to that related undertaking, on the basis of the standard formula, the proportional share of the Solvency Capital Requirement of that related undertaking multiplied by a percentage corresponding to the proportion that the diversified component of the consolidated group Solvency Capital Requirement, as laid down in Article 336 (a), bears to the sum of the Solvency Capital Requirements of each of the undertakings included in the calculation of that diversified component of the consolidated group Solvency Capital Requirement;
- b where the consolidated group Solvency Capital Requirement is calculated, in relation to that related undertaking, on the basis of an internal model, the Solvency Capital Requirement of that related undertaking multiplied by a percentage corresponding to the proportion of the diversification effects at group level that are attributed to that related undertaking, determined by that internal model, provided that the sum of such percentages for all the related insurance and reinsurance undertakings, insurance holding companies or mixed financial holding companies included in the consolidated calculation based on the internal model equals 100 %.

SECTION 2

Group solvency: calculation methods

Article 331

Classification of own-fund items of related insurance and reinsurance undertakings at group level

1 Where an own-fund item has been classified into one of the three tiers based on the criteria set out in Title I, Chapter IV, Section 2 by a related insurance or reinsurance undertaking that is included in the calculation of the group solvency, the own-fund item shall be classified in the same tier at group level provided that all of the following additional requirements are met:

- a undertakings comply with the requirements set out in Articles 71, 73 and 77 of this Regulation;
- b the own-fund item is free from encumbrances and is not connected with any other transaction, which when considered with the own-fund item, could result in that own-

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fund item not satisfying the requirements set out in Article 94 of Directive 2009/138/EC at group level.

- 2 For the purposes of point (a) of paragraph 1:
 - a the term “Solvency Capital Requirement” in Articles 71, 73 and 77 of this Regulation shall mean both the Solvency Capital Requirement of the related undertaking that has issued the own-fund item and the group Solvency Capital Requirement;
 - b the term “Minimum Capital Requirement” in Articles 71, 73 and 77 of this Regulation shall mean both the Minimum Capital Requirement of the undertaking that has issued the own-fund item and one of the following minimums:
 - (i) where method 1 is used, the minimum for the group Solvency Capital Requirement as calculated in accordance with the second subparagraph of Article 230(2) of Directive 2009/138/EC,
 - (ii) where a combination of methods 1 and 2 is used, the minimum determined in accordance with Article 341 of this Regulation.
- 3 For the purposes of this Article, the term “insurance or reinsurance undertaking” in Title I, Chapter IV, Section 2 shall mean both the participating insurance or reinsurance undertaking and the insurance or reinsurance undertaking belonging to the group that has issued the own-fund item.
- 4 Notwithstanding paragraph 1, where a related insurance or reinsurance undertaking has included in Tier 2 an own-fund item which would qualify for inclusion in Tier 1 in accordance with Article 73(1)(j), that classification shall not prohibit the classification of the same own-fund item in Tier 1 at group level, provided that the limit set out in Article 82(3) are complied with at group level.

Article 332

Classification of own-fund items of related third-country insurance or reinsurance undertakings at group level

- 1 Where an own-fund item has been issued by a related third-country insurance or reinsurance undertaking, the participating undertaking shall classify the own-fund item using the criteria for classification set out in Title I, Chapter IV, Section 2. provided that all of the following additional requirements are met:
 - a undertakings comply with the requirements set out in Articles 71, 73 and 77 of this Regulation;
 - b the own-fund item is free from encumbrances and is not connected with any other transaction, which when considered with the own-fund item, could result in that own-fund item not satisfying the requirements set out in Article 94 of Directive 2009/138/EC at group level.
- 2 For the purposes of point (a) of paragraph 1:
 - a the term “Solvency Capital Requirement” in Articles 71, 73 and 77 of this Regulation shall mean the group Solvency Capital Requirement;
 - b the term “Minimum Capital Requirement” in Articles 71, 73 and 77 of this Regulation shall mean both the capital requirement, as laid down by the third country supervisory authority concerned, of the undertaking which has issued the own-fund item and one of the following minimums:

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- (i) where method 1 is used, the minimum for the group Solvency Capital Requirement as calculated in accordance with the second subparagraph of Article 230(2) of Directive 2009/138/EC;
- (ii) where a combination of methods 1 and 2 is used, the minimum determined in accordance with Article 341 of this Regulation.

Article 333

Classification of own-fund items of insurance holding companies, mixed financial holding companies, and subsidiary ancillary services undertakings at group level

1 Where an own-fund item has been issued by an insurance holding company, an intermediate insurance holding company, a mixed financial holding company, an intermediate mixed financial holding company or a subsidiary ancillary services undertaking, the participating undertaking shall classify the own-fund item using the criteria for classification set out in Title I, Chapter IV, Section 2 provided that all of the following requirements are met:

- a undertakings comply with the requirements set out in Articles 71, 73 and 77 of this Regulation;
- b the own-fund item is free from encumbrances and is not connected with any other transaction, which when considered with the own-fund item, could result in that own-fund item not satisfying the requirements set out in Article 94 of Directive 2009/138/EC at group level.

2 For the purposes of point (a) of paragraph 1:

- a the term “Solvency Capital Requirement” in Articles 71, 73 and 77 of this Regulation shall mean the group Solvency Capital Requirement;
- b the term “Minimum Capital Requirement” in Articles 71, 73 and 77 of this Regulation includes both non-compliance with the relevant minimum referred to in Article 331(2) (b) and the insolvency of the insurance holding company, intermediate insurance holding company, mixed financial holding company, intermediate mixed financial holding company or subsidiary ancillary services undertaking.

3 For the purposes of this Article, the term “insurance or reinsurance undertaking” in Title I, Chapter IV, Section 2 shall mean the insurance holding company, the intermediate insurance holding company, the mixed financial holding company, the intermediate mixed financial holding company or the subsidiary ancillary services undertaking which has issued the own-fund item.

Article 334

Classification of own-fund items of residual related undertakings

1 The own-fund items of related undertakings referred to in Article 335(1)(f) shall be considered as part of the reconciliation reserve at group level.

2 Notwithstanding paragraph 1, where practicable and where the own-fund items referred to in paragraph 1 materially affect the amount of group own funds or the group solvency, the participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company shall classify these own-fund items into one of the three tiers based on the criteria set out in Title I, Chapter IV, Section 2.

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Article 335

Method 1: determination of consolidated data

1 Consolidated data for the calculation of group solvency according to method 1 shall consist of all of the following:

- a full consolidation of data of all the insurance or reinsurance undertakings, third-country insurance or reinsurance undertakings, insurance holding companies, mixed financial holding companies and ancillary services undertakings which are subsidiaries of the parent undertaking;
- b full consolidation of data of special purpose vehicles to which the participating undertaking or one of its subsidiaries has transferred risk and which are not excluded from the scope of the group solvency calculation pursuant to Article 329(3);
- c proportional consolidation of data of the insurance or reinsurance undertakings, third-country insurance or reinsurance undertakings, insurance holding companies, mixed financial holding companies and ancillary services undertakings managed by an undertaking referred to in point (a) together with one or more undertakings not included in point (a), where those undertakings' responsibility is limited to the share of the capital they hold;
- d on the basis of the adjusted equity method in accordance with Article 13(3), data of all holdings in related insurance or reinsurance undertakings, third-country insurance or reinsurance undertakings, insurance holding companies, mixed financial holding companies which are not subsidiaries of the parent undertaking and which are not covered by points (a) and (c);
- e the proportional share of the undertakings' own funds calculated according to the relevant sectoral rules, as referred to in Article 2(7) of Directive 2002/87/EC, in relation to holdings in related undertakings which are credit institutions, investment firms and financial institutions, alternative investment fund managers, UCITS management companies, institutions for occupational retirement provision, non-regulated undertakings carrying out financial activities;
- f in accordance with Article 13 of this Regulation, data of all related undertakings, including ancillary service undertakings, other than those referred to in points (a) to (e).

2 Notwithstanding point (d) of paragraph 1 data of related undertakings linked by a relationship referred to in Article 22(7) of Directive 2013/34/EU shall be included in accordance with points (a), (c), (d), (e) or (f) of the first paragraph on the basis of the determination of the proportional share by the group supervisor as referred to in Article 221(2)(a) of Directive 2009/138/EC.

3 For the purposes of the calculation of the consolidated group own funds, the data referred to in paragraphs 1 and 2 shall be net of any intra-group transaction.

Article 336

Method 1: Calculation of the consolidated group Solvency Capital Requirement

The consolidated group Solvency Capital Requirement shall be calculated as the sum of the following:

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- (a) a Solvency Capital Requirement calculated on the basis of consolidated data referred to in Article 335(1)(a), (b) and (c) of this Regulation following the rules laid down in Title I, Chapter VI, Section 4 of Directive 2009/138/EC;
- (b) the proportional share of the Solvency Capital Requirement of each undertaking referred to in Article 335(1)(d) of this Regulation; for a related third-country insurance or reinsurance undertaking which is not a subsidiary the Solvency Capital Requirement shall be calculated as if that undertaking had its head office in the Union;
- (c) for undertakings referred to in Article 335(1)(e) of this Regulation, the proportional share of the capital requirements for credit institutions, investment firms, financial institutions, alternative investment fund managers, UCITS management companies, and institutions for occupational retirement provision within the meaning of Directive 2003/41/EC, calculated according to the relevant sectoral rules and the proportional share of the notional capital requirements of non-regulated undertakings carrying out financial activities;
- (d) for undertakings referred to in Article 335(1)(f) of this Regulation, the amount determined in accordance with Article 13, Articles 168 to 171, Articles 182 to 187 and Article 188 of this Regulation.

Article 337

Method 1: determination of the local currency for the purposes of the currency risk calculation

Where the consolidated group Solvency Capital Requirement is calculated, wholly or in part, on the basis of the standard formula, the local currency referred to in the first paragraph of Article 188 shall be understood to be the currency used for the preparation of the consolidated accounts.

Article 338

Method 1: group-specific parameters

1 Subject to approval by the group supervisor, the consolidated group Solvency Capital Requirement may, within the framework of the standard formula, be calculated by replacing a subset of the standard parameters laid down in Article 218 by parameters specific to the group ('group-specific parameters').

2 Data used to calculate group-specific parameters shall satisfy the criteria set out in Article 104(7) of Directive 2009/138/EC and Article 219 of this Regulation.

3 The standardised methods used to calculate the group-specific parameters are the methods set out in Article 220 of this Regulation.

4 For the purposes of this Article, any reference in Articles 218, 219 and 220 of this Regulation to 'undertaking-specific parameters' shall be understood as a reference to 'group-specific parameters' and any reference to 'insurance and reinsurance undertakings' shall be understood as a reference to 'the participating insurance or reinsurance company, the insurance holding company or the mixed financial holding company' applying for the use of group-specific parameters.

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Article 339

Method 1: best estimate

1 The consolidated best estimate of technical provisions on the basis of the consolidated data shall be equal to the sum of the following:

- a the best estimate of the participating insurance or reinsurance undertaking calculated in accordance with Articles 75 to 86 of Directive 2009/138/EC;
- b the proportional share referred to in Article 221(1)(a) of Directive 2009/138/EC of the best estimate, calculated in accordance with Articles 75 to 86 of that Directive, of related insurance or reinsurance undertakings and third-country insurance or reinsurance undertakings referred to in Article 335 (1)(a) and (c) of this Regulation.

2 For the purposes of paragraph 1 the best estimates of the participating insurance and reinsurance undertaking and of each related insurance and reinsurance undertaking and third-country insurance and reinsurance undertakings shall be net of any intra-group transactions. In relation to intra-group reinsurance contracts, all of the following adjustments shall be made:

- a the best estimate of the undertaking that accepts risks shall not include the cash flows arising from the obligations of the intra-group reinsurance contracts;
- b the undertaking that cedes the risk shall not recognise the amounts recoverable from the intra-group reinsurance contracts.

3 For the purposes of paragraph 1, the participating insurance and reinsurance undertaking may restrict the documentation and the directory of data referred to in Article 265 to the data used in the calculation of the adjustments of the best estimate referred to in paragraph 2.

Article 340

Method 1: Risk margin

The consolidated risk margin of technical provisions on the basis of the consolidated data shall be equal to the sum of the following:

- (a) the risk margin of the participating insurance or reinsurance undertaking;
- (b) the proportional share, as referred to in Article 221(1)(a) of Directive 2009/138/EC, of the risk margin of the related insurance or reinsurance undertakings and third-country insurance or reinsurance undertakings referred to in Article 335(1)(a) and (c) of this Regulation.

Article 341

Combination of methods 1 and 2: minimum consolidated group Solvency Capital Requirement

Where the group supervisor decides, in accordance with Article 220(2) of Directive 2009/138/EC, to apply to the group a combination of methods 1 and 2, the consolidated group Solvency Capital Requirement calculated for the part of the group which is covered by method 1 shall have a minimum determined in accordance with the requirements set out in the second subparagraph of Article 230(2) of that Directive.

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Article 342

Method 2: Elimination of intra-group creation of capital in relation to the best estimate

1 The aggregated group eligible own funds shall be adjusted to eliminate the impact of an intra-group transaction where the impact of the intra-group transaction affects the best estimates of the insurance and reinsurance undertakings in such way that the amount set out in paragraph 2 is different depending on whether the intra-group transaction is eliminated in the calculation of that amount or not.

- 2 The amount referred to in paragraph 1 shall be the sum of the following:
- a the best estimate of the participating insurance or reinsurance undertaking calculated in accordance with Articles 75 to 86 of Directive 2009/138/EC;
 - b the proportional share as referred to in Article 221(1)(b) of Directive 2009/138/EC of the best estimate, calculated in accordance with Articles 75 to 86 of that Directive for each related insurance and reinsurance undertaking and related third-country insurance and reinsurance undertaking.

CHAPTER II

INTERNAL MODELS FOR THE CALCULATION OF THE CONSOLIDATED GROUP SOLVENCY CAPITAL REQUIREMENT

SECTION I

Full and partial internal models used to calculate only the group solvency capital requirement

Article 343

Application for the use of an internal model to calculate only the consolidated group Solvency Capital Requirement

1 The application to calculate the consolidated group Solvency Capital Requirement using an internal model, in accordance with Article 230(2) of Directive 2009/138/EC, shall be submitted to the group supervisor in writing in an official language of the group supervisor's Member State, or in a language for which the group supervisor has given prior approval.

2 For the purposes of this Chapter, the supervisory authorities of all the Member States in which the head offices of related undertakings included in the scope of the internal model are situated shall be referred to as 'the supervisory authorities involved in the assessment of the application'.

3 The group supervisor shall inform the college of supervisors of the receipt of the application without delay and shall also forward the application to the other supervisory authorities involved in the assessment of the application.

4 A request by one of the supervisory authorities involved in the assessment of the application to provide all or part of the application in a language different from the language in which the application is provided to the group supervisor, shall first be made to the group

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supervisor. The group supervisor shall, after consultation with the other supervisory authorities involved in the assessment of the application, require that the application, or the relevant part of it, be provided in a language most commonly understood by the supervisory authorities involved.

5 In addition to the documents and information required pursuant to Articles 112 and 113 of Directive 2009/138/EC, an application to use an internal model to calculate the consolidated group Solvency Capital Requirement shall include all of the following documents and information:

a regarding the scope of the model:

- (i) a list of the related undertakings that are included in the scope of the internal model for the calculation of the consolidated group Solvency Capital Requirement; for each undertaking, the list shall include a reference to its supervisory authority, the lines of business written by the related insurance and reinsurance undertaking, the method used for the purposes of determining the consolidated data in accordance with Article 335 of this Regulation and the proportional share applied in accordance with Article 221 of Directive 2009/138/EC;
- (ii) the legal and organisational structure of the group, with a description of all subsidiaries, material related undertakings within the meaning of Article 256a of Directive 2009/138/EC and significant branches within the meaning of Article 354(1) of this Regulation and information on relevant operations and transactions within the group, unless this information has not changed since the last reported group regular supervisory reporting pursuant to article 373 of this Regulation;
- (iii) where applicable, a list of the related undertakings excluded from the scope of the partial internal model for the calculation of the consolidated group Solvency Capital Requirement, together with an explanation of the reasons for their exclusion; a description shall be provided of the methods used to assess the risks in these excluded related undertakings in order to demonstrate that the exclusion does not lead to an underestimation of the overall risks to which the group is exposed; the application shall demonstrate that the consolidated group Solvency Capital Requirement calculated using a combination of the internal model and the standard formula will adequately reflect the overall risk profile of the group;
- (iv) for each related undertaking included in the scope of the internal model for the calculation of the consolidated group Solvency Capital Requirement, a justification of the reasons why the internal model covers a related undertaking for the calculation of the consolidated group Solvency Capital Requirement but it is not used to calculate the Solvency Capital Requirement of that related undertaking; for this purpose and in order to justify that an application is not submitted in accordance with the procedure laid down in Article 231 of Directive 2009/138/EC, the application shall include an explanation of how the internal model used to calculate the consolidated group Solvency Capital Requirement differs from and interacts with an internal model used for the calculation of the Solvency Capital Requirement of any of the related insurance or reinsurance undertakings previously approved by its supervisory authority; the participating undertaking shall provide information on any future plans to extend the use of the internal model to calculate

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- the Solvency Capital Requirement of any related insurance or reinsurance undertaking;
- b regarding the group's capital requirements:
- (i) an estimation of the consolidated group Solvency Capital Requirement calculated with the internal model and with the standard formula for the last time prior to the application when the consolidated group Solvency Capital Requirement was calculated with the standard formula;
 - (ii) for each related undertaking, the Solvency Capital Requirement calculated with the standard formula for the last point in time prior to the application;
 - (iii) where applicable, the regulatory capital requirement for related undertakings that are also regulated undertakings, other than insurance and reinsurance undertakings, included in the scope of the internal model for the last time prior to the application when the consolidated group Solvency Capital Requirement was calculated with the standard formula;
 - (iv) an explanation of the difference between the sum of the Solvency Capital Requirements of all the related insurance and reinsurance undertakings of the group and the consolidated group Solvency Capital Requirement calculated with the internal model.

In case an application is submitted before any Solvency Capital Requirement must be calculated, the Solvency Capital Requirements referred to in points (i), (ii) and (iii) shall be calculated for a point in time before the date of the submission of the application.

Article 344

Assessment of the application for the use of an internal model to calculate only the consolidated group Solvency Capital Requirement

1 Prior to making its final decision, in order to allow a proper assessment of the application and where relevant, to require the applicant to submit an application under Article 231 of Directive 2009/138/EC, the group supervisor shall consult the supervisory authorities involved in the assessment of the application.

2 During the assessment of the application, the supervisory authorities within the college of supervisors, that are not the supervisory authorities involved in the assessment of the application as referred to in Article 343(2), shall also be allowed to participate in the assessment of the application. Their participation shall be limited to identifying and preventing any of the following circumstances:

- a where the exclusion of parts of the business from the scope of the internal model leads to a material underestimation of the risks of the group;
- b where the internal model conflicts with an internal model previously approved or in the process of approval by the relevant supervisory authority used for the calculation of the Solvency Capital Requirement of any of the related insurance or reinsurance undertakings.

3 Where applicable, the assessment of the application shall include an evaluation of whether the explanation provided in accordance with Article 343(5)(a)(iii) of the reasons for the exclusion of related undertakings from the internal model for the calculation of the group solvency is appropriate in order to demonstrate that the overall risks to which the group is exposed are not underestimated by using a partial internal model.

Status: Point in time view as at 10/10/2014.

Changes to legislation: Commission Delegated Regulation (EU) 2015/35, TITLE II is up to date with all changes known to be in force on or before 19 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)

4 The assessment of the application shall include an evaluation of whether the justification provided in accordance with Article 343(5)(a)(iv) of the reasons why the internal model covers a related undertaking for the calculation of the consolidated group Solvency Capital Requirement but it is not used to calculate the Solvency Capital Requirement of that related undertaking, is appropriate in order to justify that an application is not submitted in accordance with the procedure laid down in Article 231 of Directive 2009/138/EC.

Article 345

Decision on the application and transitional plan to extend the scope of a partial internal model used to calculate only the consolidated group Solvency Capital Requirement

1 After consulting the other supervisory authorities as set out in Article 344(1) and (2), the group supervisor shall make its own decision on the application. The group supervisor shall provide its decision to the participating undertaking and the other supervisory authorities involved in the assessment of the application. The decision shall be written in an official language of the Member State of the group supervisor.

2 Where the supervisory authorities involved in the assessment of the application comprise supervisory authorities from more than one Member State, the group supervisor shall, after consultation with the other supervisory authorities and with the group itself, provide the decision referred to in paragraph 1 in another language most commonly understood by the other supervisory authorities involved.

3 After consulting the other supervisory authorities as set out in Article 344(1) and (2), the group supervisor may require the applicant to submit a realistic transitional plan to extend the scope of the internal model.

4 When an internal model has been approved under Article 230 of Directive 2009/138/EC for the purposes of the calculation of the consolidated group Solvency Capital Requirement, any subsequent application for permission to use the same internal model for calculating the Solvency Capital Requirement of an insurance or reinsurance undertaking in the group shall follow the procedure laid down in Article 231 of Directive 2009/138/EC.

Article 346

Use test for internal models used to calculate only the consolidated group Solvency Capital Requirement

1 Where an internal model is used to calculate the consolidated group Solvency Capital Requirement in accordance with Article 230(2) of Directive 2009/138/EC, the requirements set out in Articles 223 to 227 of this Regulation shall be complied with by all of the following undertakings or companies:

- a the participating undertaking which calculates the consolidated group Solvency Capital Requirement on the basis of the internal model;
- b each related insurance and reinsurance undertaking whose business is fully or partly in the scope of the internal model, only in relation to the output of the internal model at group level;
- c each related insurance holding company or mixed financial holding company whose business is fully or partly in the scope of the internal model, only in relation to the output of the internal model at group level.

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2 For the purposes of paragraph 1, an insurance or reinsurance undertaking or insurance holding company or mixed financial holding company shall only comply with the requirements set out in Article 225 of this Regulation in relation to the parts of the internal model which cover the risks of that undertaking and the risks of its related undertakings.

SECTION 2

Use of a group internal model

Article 347

Application to use a group internal model

1 For the purposes of this Section, ‘group internal model’ shall mean an internal model used to calculate the consolidated group Solvency Capital Requirement as well as the Solvency Capital Requirement of an insurance or reinsurance undertaking in the group, as referred to in Article 231(1) of Directive 2009/138/EC.

2 An application to use a group internal model shall be provided in writing in an official language of the group supervisor's Member State, or in a language for which the group supervisor has given prior approval.

3 For the purposes of this Section, the group supervisor and the supervisory authorities of all the Member States in which the head offices of each related insurance and reinsurance undertakings applying for the use of the group internal model to calculate their Solvency Capital Requirement are situated shall be referred to as ‘the supervisory authorities concerned’.

4 The group supervisor shall inform the college of supervisors of the receipt of the application without delay and shall also forward the application to the other supervisory authorities concerned and other supervisory authorities involved in the assessment of the application.

5 Supervisory authorities concerned may request that all or part of the application be provided in a language different from the language in which the application was provided to the group supervisor. The group supervisor shall, after consultation with the other supervisory authorities concerned, require the applicant to provide the application, or the relevant part of it, in that different language or in a language most commonly understood by the other supervisory authorities concerned.

6 An application to use a group internal model shall include the following documents and information, where applicable:

- a the documents and information required in accordance with Article 343(5) in relation to the use of an internal model for the calculation of the consolidated group Solvency Capital Requirement; in relation to Article 343(5)(a)(i), the documentation shall also include a list of all the insurance and reinsurance undertakings applying for the use of the group internal model to calculate their Solvency Capital Requirement.
- b the documents required in accordance with Title I, Chapter VI, Section 4, Sub-section 3 of Directive 2009/138/EC in relation to the use of an internal model for the calculation of the Solvency Capital Requirement of each insurance and reinsurance undertaking in the group applying for the use of the group internal model to calculate their Solvency Capital Requirement; for this purpose, the insurance or reinsurance undertaking may restrict these documents to those whose content is not already covered in the documents

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Changes to legislation: Commission Delegated Regulation (EU) 2015/35, TITLE II is up to date with all changes known to be in force on or before 19 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)

submitted by the participating insurance or reinsurance undertaking in accordance with point (a).

Article 348

Assessment of the completeness of an application to use a group internal model

1 The group supervisor shall determine whether the application is complete within 45 days from the day of the receipt of the application. An application shall be considered as complete if it includes all the documentation set out in Article 347.

2 Where the group supervisor determines that the application is not complete, it shall immediately notify the applicant that the six month period referred to in Article 231 of Directive 2009/138/EC has not yet begun, specifying the documents in respect of which the application is not complete.

3 Where the group supervisor determines that the application is complete, it shall notify the applicant without delay that the application is complete and the date from which the six month period referred to in Article 231 of Directive 2009/138/EC. That date shall be the date on which the complete application was received.

Article 349

Joint decision on the application and transitional plan to extend the scope of the model

1 Prior to reaching a joint decision with other supervisory authorities concerned, as referred to in Article 231(2) of Directive 2009/138/EC, the group supervisor shall consult the other supervisory authorities involved in the assessment of the application, referred to in Article 343(2) of this Regulation.

2 The joint decision by the supervisory authorities concerned shall be provided in an official language of the Member State of the group supervisor. The group supervisor shall provide the applicant and each supervisory authority concerned with the decision translated in an official language of the Member State where the applicant has its head office. Each related insurance or reinsurance undertaking applying for the use of the group internal model to calculate their Solvency Capital Requirement shall be provided with the joint decision or, where relevant, with a translation of that decision, by the supervisory authority having authorised that undertaking.

3 In the joint decision, the supervisory authorities concerned may require the applicant to submit a realistic transitional plan to extend the scope of the group internal model.

Article 350

Use test for group internal models

1 Where a group internal model is used, in accordance with Article 231(1) of Directive 2009/138/EC, the requirements set out in Articles 223 to 227 of this Regulation shall be complied with by the following undertakings:

- a the participating undertaking which calculates the consolidated group Solvency Capital Requirement on the basis of the group internal model, in relation to the output of the internal model at group level and in case of a participating insurance or reinsurance

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- undertaking additionally in relation to the output of the internal model at the level of that undertaking;
- b each related insurance and reinsurance undertaking which calculates its Solvency Capital Requirement on the basis of the group internal model, both in relation to the output of the internal model at group level and at the level of the undertaking;
 - c each other related insurance and reinsurance undertaking whose business is fully or partly in the scope of the group internal model, only in relation to the output of the internal model at group level;
 - d each related insurance holding company or mixed financial holding company whose business is fully or partly in the scope of the group internal model, only in relation to the output of the internal model at group level.
- 2 For the purposes of paragraph 1, an insurance or reinsurance undertaking or insurance holding company or mixed financial holding company shall only comply with the requirements set out in Article 225 of this Regulation in relation to the parts of the group internal model which cover the risks of that undertaking and the risks of its related undertakings.

CHAPTER III

SUPERVISION OF GROUP SOLVENCY FOR GROUPS WITH CENTRALISED RISK MANAGEMENT

Article 351

Assessment of conditions: criteria

- 1 In assessing whether the risk management processes and internal control mechanisms of the parent undertaking cover the subsidiary in accordance with point (b) of Article 236 of Directive 2009/138/EC, the group supervisor and the other supervisory authorities concerned shall consider whether all of the following criteria are met:
- a the risk management function referred to in Article 44(4) of Directive 2009/138/EC is carried out, in respect of the subsidiary, to a significant extent by the parent undertaking, in such a way that the parent undertaking carries out most of the tasks of the risk management function listed in Article 269 of this Regulation;
 - b the compliance function referred to in Article 46 of Directive 2009/138/EC is carried out, in respect of the subsidiary, to a significant extent by the parent undertaking, in such a way that the parent undertaking carries out most of the tasks of the compliance function listed in Article 270 of this Regulation;
 - c the requirements on outsourcing set out in Article 49 of Directive 2009/138/EC are complied with by the subsidiary in relation to the risk management and compliance activities carried out by the parent undertaking.
- 2 In assessing whether the subsidiary is managed prudently in accordance with Article 236(b) of Directive 2009/138/EC, the group supervisor and the other supervisory authorities concerned shall consider whether all the following criteria are met:
- a the system of governance of the group, as referred to in Article 246 of Directive 2009/138/EC, is sufficiently effective and does not result in a situation similar to a significant deviation as referred to in Article 37(1)(c) of that Directive;
 - b the system of governance of the subsidiary, as referred to in Article 41 of Directive 2009/138/EC, is sufficiently effective and does not result in a situation similar to a significant deviation as referred to in Article 37(1)(c) of Directive 2009/138/EC;

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- c the system of governance of the subsidiary, as referred to in Article 41 of Directive 2009/138/EC, is not impaired by the risk management and compliance functions of the parent undertaking covering the subsidiary.

Article 352

Assessment of conditions: procedures

1 For the purposes of this Chapter, ‘the supervisory authorities concerned’ shall be the supervisory authorities of the Member States in which the head office of the subsidiaries for which permission to be subject to Articles 238 and 239 of Directive 2009/138/EC has been submitted are situated.

2 Where the parent undertaking decides to submit applications in relation to several subsidiaries at the same time, those applications shall be considered jointly by the group supervisor and the other supervisory authorities concerned in accordance with Article 237 of Directive 2009/138/EC.

Article 353

Assessment of an emergency situation: criteria

In assessing whether a situation should be considered as an emergency situation, in accordance with Article 239(2) of Directive 2009/138/EC, the supervisory authority having authorised the subsidiary shall consider whether any of the following criteria is met:

- (1) the time required to cooperate, exchange information and consult within the college would jeopardise the effectiveness of the measures to be taken;
- (2) a delay in the application of the proposed measures is likely to cause the financial conditions of the subsidiary to further deteriorate in such a way that there is a risk that the subsidiary will not comply with its Minimum Capital Requirement in the following three months.

CHAPTER IV

COORDINATION OF GROUP SUPERVISION

SECTION 1

Colleges of supervisors

Article 354

Participation of supervisors of significant branches and related undertakings

1 For the purposes of Article 248(3) of Directive 2009/138/EC, ‘significant branch’ of an insurance or reinsurance undertaking shall mean a branch of an insurance or reinsurance undertaking for which at least one of the following conditions is met:

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- a the annual gross written premium of the branch exceeds 5 % of the annual gross written premium of the group, measured with reference to the last available consolidated financial statements of the group;
- b the annual gross written premium of the branch exceeds 5 % of total annual gross written premiums for the life activity, the non-life activity, or both in the Member State in which the risk is situated, measured with reference to the last available financial statements.

Upon its own initiative or following a reasoned request from the supervisory authority responsible for the supervision of a branch, where the branch meets at least one of the conditions in points (a) or (b) of this paragraph, the group supervisor shall invite that supervisory authority to participate in any relevant activity of the college of supervisors.

2 Upon its own initiative or following a reasoned request from a supervisory authority responsible for the supervision of a related undertaking in the group, the group supervisor may, where considers it appropriate to enhance the efficient exchange of information and to facilitate the exercise of group supervision, and after consultation with the other supervisory authorities in the college of supervisors, invite that supervisory authority of a related undertaking to participate in any relevant activity of the college of supervisors.

Article 355

Coordination arrangements

1 The coordination arrangements to be concluded in accordance with Article 248(4) of Directive 2009/138/EC shall be in writing.

2 The coordination arrangements shall, with regard to both going concern and emergency situations, specify the following:

- a the minimum information to be transmitted to the group supervisor by the other supervisory authorities in the college of supervisors or disseminated by the group supervisor to the other supervisory authorities in the college of supervisors;
- b the language and frequency of the information to be transmitted to the group supervisor by the other supervisory authorities in the college of supervisors or disseminated by the group supervisor to the other supervisory authorities in the college of supervisors;
- c the language and frequency of the information to be exchanged with any other authorities concerned;
- d the obligation to adopt a work plan revised at least annually and agreed by the college of supervisors for coordinating the supervisory activities of the college in the following 12 months;
- e an emergency plan agreed by the college of supervisors.

3 The emergency plan referred to in point (e) of paragraph 2 shall be adapted to the specific risks of the insurance or reinsurance group. It shall include provisions covering all of the following elements:

- a recognition of the existence of a crisis;
- b preparation of the crisis management;
- c crisis assessment;
- d crisis management;
- e external communication.

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4 The emergency plan shall provide that all of the following information shall be exchanged among supervisory authorities within the college of supervisors as soon as it is becomes available:

- a a description of the emergency situation, with an indication of any impact on policyholders and on the financial markets;
- b an identification of the undertakings in the group which are affected by the emergency situation referred to in point (a), with relevant information on their financial situation;
- c an overview of any measures taken by the group in relation to the emergency situation referred to in point (a);
- d an overview of any measures taken by any of the supervisory authorities concerned in relation to the emergency situation referred to in point (a) and a description of any existing national measures relevant to the management and resolution of the crisis.

5 The coordination arrangements referred to in paragraph 2 shall be regularly tested and reviewed by the college of supervisors.

Article 356

Supervisory approval of group-specific parameters

1 An application to use group-specific parameters, as referred to in Article 338, shall be provided in writing to the group supervisor, by the participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company (for the purposes of this Article, referred to as 'the applicant') in one of the official languages of the group supervisor's Member State or in a language for which the group supervisor has given prior approval.

2 The group supervisor shall inform the other supervisory authorities within the college of supervisors without delay of the receipt of the application and shall also forward the application to the other supervisory authorities within the college of supervisors.

3 Prior to making its final decision, the group supervisor shall consult the other supervisory authorities within the college of supervisors. After this consultation, the group supervisor shall make its own decision on the application. The group supervisor shall provide its decision to the applicant and to the other supervisory authorities within the college of supervisors. The decision shall be written in an official language of the Member State of the group supervisor, and in another language most commonly understood by the other supervisory authorities.

SECTION 2

Exchange of information

Article 357

Information to be exchanged on a systematic basis

1 The information referred in paragraphs 2 and 3 shall be exchanged on a systematic basis between the supervisory authorities in the college, unless they decide as part of a coordination arrangement in accordance with Article 355 (2)(a), that part of it is not needed for

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the activities of the college of supervisors. The exchange shall take place either by transmitting the information or by facilitating the access to it.

2 The other supervisory authorities within the college of supervisors shall exchange with the group supervisor on a systematic basis, for each related insurance or reinsurance undertaking falling within the scope of group supervision, the following information:

- a the solvency and financial condition report, unless the group supervisor has agreed under Article 256(2) of Directive 2009/138/EC to the inclusion of subsidiaries within the group in a single solvency and financial condition report;
- b the regular supervisory report, as well as relevant annual and quarterly quantitative templates;
- c the conclusions drawn by the supervisory authority concerned following the supervisory review process carried out at the level of the individual undertaking.

3 The group supervisor shall exchange with the other supervisory authorities within the college on a systematic basis the following information:

- a regarding the participating insurance or reinsurance undertaking, the insurance holding company, or the mixed financial holding company:
 - (i) the group solvency and financial condition report;
 - (ii) the group regular supervisory report, as well as relevant group annual and quarterly quantitative templates;
 - (iii) the conclusions drawn by the group supervisor following the supervisory review process carried out at group level.
- b for each related insurance or reinsurance undertaking falling within the scope of group supervision, the information referred to in paragraph 2.

SECTION 3

National or regional subgroup supervision

Article 358

Where Member States allow supervisory authorities to exercise group supervision on a subgroup according to Articles 216 or 217 of Directive 2009/138/EC, such a decision by the supervisory authorities shall only be taken in circumstances justified by objective differences in the operations, the organisation or the risk-profile between the subgroup and the group.

Status: Point in time view as at 10/10/2014.

Changes to legislation: Commission Delegated Regulation (EU) 2015/35, TITLE II is up to date with all changes known to be in force on or before 19 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)

CHAPTER V

PUBLIC DISCLOSURE

SECTION 1

Group solvency and financial condition report

Article 359

Structure and contents

Articles 290 to 298 of this Regulation shall apply to the group solvency and financial condition report which participating insurance and reinsurance undertakings, insurance holding companies or mixed financial holding companies are required to disclose publicly. In addition, the group solvency and financial condition report shall include all of the following information:

- (a) regarding the group's business and performance:
 - (i) a description of the legal structure and the governance and organisational structure of the group, with a description of all subsidiaries, material related undertakings within the meaning of Article 256a of Directive 2009/138/EC and significant branches within the meaning of Article 354(1) of this Regulation;
 - (ii) qualitative and quantitative information on relevant operations and transactions within the group;
- (b) regarding the group's system of governance:
 - (i) a description of how the risk management and internal control systems and reporting procedures are implemented consistently in all the undertakings within the scope of group supervision, as required by Article 246 of Directive 2009/138/EC;
 - (ii) where applicable, a statement that the participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company has made use of the option provided for in the third subparagraph of Article 246(4) of Directive 2009/138/EC;
 - (iii) information on any material intra-group outsourcing arrangements;
- (c) regarding the group's risk profile: qualitative and quantitative information on any significant risk concentration at the level of the group, as referred to in Article 376 of this Regulation;
- (d) regarding the group's valuation for solvency purposes: where the bases, methods and main assumptions used at group level for the valuation for solvency purposes of the group's assets, technical provisions and other liabilities differ materially from those used by any of its subsidiaries for the valuation for solvency purposes of its assets, technical provisions and other liabilities, a quantitative and qualitative explanation of any material differences;
- (e) regarding the group's capital management:

Status: Point in time view as at 10/10/2014.

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- (i) whether method 1 or method 2, as referred to in Articles 230 and 233 of Directive 2009/138/EC, is used to calculate the group solvency and where a combination of method 1 and 2 is used for which related undertakings method 2 is used;
- (ii) qualitative and quantitative information on any significant restriction to the fungibility and transferability of own funds eligible for covering the group Solvency Capital Requirement;
- (iii) where method 1 is used to calculate the group solvency, the amount of the consolidated group Solvency Capital Requirement, with separate indication of the amounts referred to in Article 336 of this Regulation;
- (iv) qualitative and quantitative information on the material sources of group diversification effects;
- (v) where applicable, the sum of amounts referred to in points (a) and (b) of the second subparagraph of Article 230(2) of Directive 2009/138/EC;
- (vi) where applicable, a description of the undertakings which are in the scope of any internal model used to calculate the group Solvency Capital Requirement;
- (vii) a description of the main differences, if any, between any internal model used at individual undertaking level and any internal model used to calculate the group Solvency Capital Requirement.

Article 360

Languages

1 Participating insurance and reinsurance undertakings, insurance holding companies or mixed financial holding companies shall disclose their group solvency and financial condition report in the language or languages determined by the group supervisor.

2 Where the college of supervisors comprises supervisory authorities from more than one Member State, the group supervisor may, after consultation with the other supervisory authorities concerned and the group itself, require participating insurance and reinsurance undertaking, insurance holding company or mixed financial holding company to also disclose the report referred to in paragraph 1 in another language most commonly understood by the other supervisory authorities concerned, as agreed in the college of supervisors.

3 Where any of the insurance or reinsurance subsidiaries of the participating insurance or reinsurance undertaking, insurance holding company or mixed financial holding company has its head office in a Member State whose official language or languages are different from the language or languages in which the group solvency and financial condition report is disclosed by application of paragraphs 1 and 2, the participating insurance and reinsurance undertaking, insurance holding company or mixed financial holding company shall disclose a translation of the summary of that report into the official language or languages of that Member State.

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Changes to legislation: Commission Delegated Regulation (EU) 2015/35, TITLE II is up to date with all changes known to be in force on or before 19 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)

Article 361

Non-disclosure of information

Article 299 shall apply to non-disclosure of information in the group solvency and financial condition report by participating insurance and reinsurance undertakings, insurance holding companies or mixed financial holding companies.

Article 362

Deadlines

Article 300 shall apply to the disclosure by participating insurance and reinsurance undertakings, insurance holding companies or mixed financial holding companies of their group solvency and financial condition report. For the purposes of this Article the deadlines referred to in Article 300 shall be extended by 6 weeks.

Article 363

Updates

1 Where participating insurance and reinsurance undertakings, insurance holding companies or mixed financial holding companies have to disclose publicly, appropriate information on the nature and effects of any major development that materially affect the relevance of their group solvency and financial condition report, they shall provide an updated version of that report. Articles 359, 360 and 361 of this Regulation shall apply to that updated version.

2 Without prejudice to the requirements for immediate disclosure set out in Article 54(1) of Directive 2009/138/EC, any updated version of the group solvency and financial condition report shall be disclosed as soon as possible after the major development referred to in paragraph 1 of this Article.

Article 364

Transitional arrangements on comparative information

Article 303 shall apply to the disclosure of comparative information by participating insurance and reinsurance undertakings, insurance holding companies or mixed financial holding companies.

Status: Point in time view as at 10/10/2014.

Changes to legislation: Commission Delegated Regulation (EU) 2015/35, TITLE II is up to date with all changes known to be in force on or before 19 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)

SECTION 2

Single solvency and financial condition report

Article 365

Structure and contents

1 Where participating insurance and reinsurance undertakings, insurance holding companies or mixed financial holding companies provide a single solvency and financial condition report, the requirements set out in this Section shall apply.

2 The single solvency and financial condition report shall present separately the information which must be disclosed at group level in accordance with Article 256(1) of Directive 2009/138/EC and the information which must be disclosed in accordance with Articles 51, 53, 54 and 55 of that Directive for any subsidiary covered by that report.

3 The information at group level and the information for any subsidiary covered by that report shall each follow the structure set out in Annex XX. Participating insurance and reinsurance undertakings, insurance holding companies or mixed financial holding companies may decide, when providing any part of the information to be disclosed for a subsidiary covered, to refer to information at group level, where that information is equivalent in both nature and scope.

Article 366

Languages

1 Participating insurance and reinsurance undertakings, insurance holding companies or mixed financial holding companies shall disclose their single solvency and financial condition report in the language or languages determined by the group supervisor.

2 Where the college of supervisors comprises supervisory authorities from more than one Member State, the group supervisor may, after consulting the other supervisory authorities concerned and the group itself, require the participating insurance and reinsurance undertaking, insurance holding company or mixed financial holding company to also disclose the report referred to in paragraph 1 in another language most commonly understood by the other supervisory authorities concerned, as agreed in the college of supervisors.

3 Where any of the subsidiaries covered by the single solvency and financial condition report has its head office in a Member State whose official language or languages are different from the language or languages in which that report is disclosed in accordance with paragraphs 1 and 2, the supervisory authority concerned may, after consulting the group supervisor and the group itself, require the participating insurance and reinsurance undertaking, insurance holding company or mixed financial holding company to include in that report a translation of the information related to that subsidiary into an official language of that Member State. The participating insurance and reinsurance undertaking, insurance holding company or mixed financial holding company shall disclose a translation into the official language or languages of that Member State of all of the following information:

- a the summary of the information from that report related to the group;
- b the information from that report related to that subsidiary, unless exemption has been granted by the supervisory authority concerned.

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Changes to legislation: Commission Delegated Regulation (EU) 2015/35, TITLE II is up to date with all changes known to be in force on or before 19 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)

Article 367

Non-disclosure of information

- 1 Article 361 shall apply as regards the information at the level of the group.
- 2 Article 299 shall apply as regards the information for any of the subsidiaries within the group.

Article 368

Deadlines

Article 300 of this Regulation shall apply to the deadlines for disclosure by participating insurance and reinsurance undertakings, insurance holding companies or mixed financial holding companies of their single solvency and financial condition report. For the purposes of this Article the deadlines referred to in Article 300 shall be extended by 6 weeks only during a period not exceeding four years from 1 January 2016.

Article 369

Updates

- 1 Where participating insurance and reinsurance undertakings, insurance holding companies or mixed financial holding companies have to disclose publicly information on the nature and effects of any major development that materially affect the relevance of their single solvency and financial condition report, they shall provide an updated version of that report. Articles 365, 366 and 367 of this Regulation shall apply to that updated version.
- 2 Without prejudice to the requirements for immediate disclosure set out in Article 54(1) of Directive 2009/138/EC, any updated version of the single solvency and financial condition report shall be disclosed as soon as possible after the major development referred to in paragraph 1 of this Article.

Article 370

Reference

- 1 Where participating insurance and reinsurance undertakings, insurance holding companies or mixed financial holding companies provide a single solvency and financial condition report in respect of some of their subsidiaries only, all of the following obligations shall apply:
 - a the other insurance and reinsurance undertakings which are subsidiaries of that participating insurance or reinsurance undertaking, insurance holding company or mixed financial holding company shall include in their solvency and financial condition report a reference to the single solvency and financial condition report disclosed;
 - b the single solvency and financial condition reports disclosed in accordance with Article 256(2) of Directive 2009/138/EC shall equally include a reference to the solvency and financial condition report of those other insurance and reinsurance undertakings.

Status: Point in time view as at 10/10/2014.

Changes to legislation: Commission Delegated Regulation (EU) 2015/35, TITLE II is up to date with all changes known to be in force on or before 19 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)

2 Where participating insurance and reinsurance undertakings, insurance holding companies or mixed financial holding companies do not provide a single solvency and financial condition report, the insurance and reinsurance undertakings which are subsidiaries of that participating insurance or reinsurance undertaking, insurance holding company or mixed financial holding company shall include in their solvency and financial condition report a reference to the group solvency and financial condition reports disclosed in accordance with Article 256(1) of Directive 2009/138/EC.

Article 371

Transitional arrangements on comparative information

Article 303 shall apply to the disclosure of comparative information by participating insurance and reinsurance undertakings, insurance holding companies or mixed financial holding companies.

CHAPTER VI

GROUP SUPERVISORY REPORTING

SECTION 1

Regular reporting

Article 372

Elements and contents

1 Articles 304 to 311 of this Regulation shall apply to the information which participating insurance and reinsurance undertakings, insurance holding companies or mixed financial holding companies shall be required to submit to the group supervisor. Where all insurance and reinsurance undertakings in the group are exempted from quarterly reporting obligations in accordance with Article 35(6) of Directive 2009/138/EC, the group regular supervisory report shall include annual quantitative templates only. Annual reporting obligations shall not include reporting on an item-by-item basis where all undertakings in the group are exempted from it according to Article 35 (7) of that Directive.

2 The group regular supervisory report shall include all of the following additional information:

- a regarding the group's business and performance:
 - (i) a list of all subsidiaries, related undertakings and branches;
 - (ii) a description of activities and sources of profits or losses for each material related undertaking within the meaning of Article 256a of Directive 2009/138/EC and for each significant branch within the meaning of Article 354(1) of this Regulation;
 - (iii) a description of the contribution of each subsidiary to the achievement of the group strategy;

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- (iv) qualitative and quantitative information on significant intra-group transactions by insurance and reinsurance undertakings with the group and the amount of the transactions over the reporting period and their outstanding balances at the end of the reporting period;
- b regarding the group's system of governance:
 - (i) a description of how the group internal control mechanism comply with the requirements set out in Article 246(2) of Directive 2009/138/EC;
 - (ii) where applicable, information on the subsidiaries included in the own risk and solvency assessment as referred to in the third subparagraph of Article 246(4) of Directive 2009/138/EC;
 - (iii) qualitative and quantitative information on material specific risks at group level;
- c regarding the group's capital management:
 - (i) qualitative and quantitative information on the Solvency Capital Requirement and own funds for each insurance and reinsurance undertaking within the group, in so far as it is included in the calculation of the group solvency;
 - (ii) qualitative and quantitative information on the Solvency Capital Requirement and own funds for each intermediate insurance holding company, insurance holding company, intermediate mixed financial holding company, mixed financial holding company and ancillary services undertaking within the group, in so far as it is included in the calculation of the group solvency;
 - (iii) qualitative and quantitative information on the solvency requirements and own funds for each related undertaking which is a credit institution, investment firm, financial institution, UCITS management company, alternative investment fund manager or institutions for occupational retirement provisions in so far as it is included in the calculation of the group solvency;
 - (iv) qualitative and quantitative information on the notional solvency requirement and own funds for each related undertaking which is a non-regulated undertaking carrying out financial activities, in so far as it is included in the calculation of the group solvency;
 - (v) qualitative and quantitative information on the solvency requirement and own funds for each related third-country insurance or reinsurance undertaking, in so far as it is included in the calculation of the group solvency; when method 2 within the meaning of Article 233 of Directive 2009/138/EC is used in the case of a related third country insurance or reinsurance undertaking that has its head office in a third country whose solvency regime is deemed to be equivalent pursuant to Article 227 of that Directive, the Solvency Capital Requirement and the own funds eligible to satisfy that requirement as laid down by the third country concerned shall be separately identified;
 - (vi) qualitative and quantitative information on the solvency requirement and own funds for any other related undertaking, in so far as it is included in the calculation of the group solvency;
 - (vii) a description of special purpose vehicles within the group which comply with the requirements set out in Article 211 of Directive 2009/138/EC;

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- (viii) a description of special purpose vehicles within the group, which are regulated by a third country supervisory authority and comply with requirements equivalent to those set out in Article 211(2) of Directive 2009/138/EC, for the purposes of including a description of the verification carried out by the participating insurance and reinsurance undertaking, insurance holding company or mixed financial holding company whether the requirements to which these special purpose vehicles are subject to in the third country are equivalent to those set out in Article 211(2) of Directive 2009/138/EC;
- (ix) a description of each special purpose entity within the group other than those referred to in points (vii) and (viii) together with qualitative and quantitative information on the solvency requirement and own funds of these entities, in so far as they are included in the calculation of the group solvency;
- (x) where relevant, for all related insurance and reinsurance undertakings which are included in the calculation of the group solvency, qualitative and quantitative information on how the undertaking complies with Article 222(2) to (5) of Directive 2009/138/EC;
- (xi) where relevant, qualitative and quantitative information on the own-fund items referred to in Article 222(3) of Directive 2009/138/EC that cannot effectively be made available to cover the Solvency Capital Requirement of the participating insurance or reinsurance undertaking, insurance holding company or mixed financial holding company for which the group solvency is calculated, including a description of how the adjustment to group own funds has been made;
- (xii) where relevant, qualitative information on the reasons for the classification of own-fund items referred to in Articles 332 and 333 of this Regulation.

Article 373

Deadlines

Article 312 of this Regulation shall apply to the submission by participating insurance and reinsurance undertakings, insurance holding companies or mixed financial holding companies of their group regular supervisory reporting. For the purposes of this Article the deadlines referred to in Article 312 shall be extended by 6 weeks, except for the ORSA supervisory report.

Article 374

Languages

Where the college of supervisors comprises supervisory authorities from more than one Member State, the group supervisor may, after consultation with the other supervisory authorities concerned and the group itself, require the participating insurance and reinsurance undertaking, insurance holding company or mixed financial holding company to report the group regular supervisory reporting in a language most commonly understood by the supervisory authorities concerned, as agreed in the college of supervisor.

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Article 375

Additional transitional information on groups

1 In addition to the group supervisory reporting obligations of this chapter, as regards the first year of application of Directive 2009/138/EC as referred to in Article 311(3) of that Directive, Article 314(1) of this Regulation shall apply to participating insurance and reinsurance undertakings, insurance holding companies or mixed financial holding companies. For the purposes of this Article information referred to in Article 314(1) shall be submitted to the group supervisor.

2 Participating insurance and reinsurance undertakings, insurance holding companies or mixed financial holding companies shall submit to the group supervisor the information referred to in paragraph 1 no later than 20 weeks after the reference date of the opening financial statement as referred to in Article 314(1)(a).

SECTION 2

Reporting on risk concentrations and intragroup transactions

Article 376

Significant risk concentrations (definition, identification and thresholds)

1 Participating insurance and reinsurance undertakings, insurance holding companies or mixed financial holding companies shall consider risk concentrations that could threaten the group solvency or liquidity position as significant risk concentrations.

2 For the purposes of identifying significant risk concentrations, participating insurance and reinsurance undertakings, insurance holding companies or mixed financial holding companies shall consider, at least, direct and indirect exposures of undertakings in the group to all of the following:

- a individual counterparties;
- b groups of individual but interconnected counterparties, for example undertakings within the same corporate group;
- c specific geographical areas or industry sectors;
- d natural disasters or catastrophes.

3 When determining appropriate thresholds in a particular group for significant risk concentrations to be reported, the group supervisor shall consider the following elements:

- a the solvency and liquidity position of the group;
- b the complexity of the structure of the group;
- c the importance of regulated entities from other financial sectors or non-regulated entities carrying out financial activities;
- d the diversification of the group's investments portfolio;
- e the diversification of the group's insurance activities, in terms of geographical areas and lines of business.

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Article 377

Significant intragroup transactions (definition, identification)

1 Participating insurance and reinsurance undertakings, insurance holding companies or mixed financial holding companies shall consider as significant intragroup transactions the intragroup transactions that materially influence the solvency or liquidity position of the group or of one of the undertakings involved in these transactions.

2 For the purposes of identifying significant intragroup transactions, participating insurance and reinsurance undertakings, insurance holding companies or mixed financial holding companies shall consider at least all of the following:

- a investments;
- b intercompany balances, including loans, receivables and arrangements to centralise the management of assets or cash;
- c guarantees and commitments such as letters of credit;
- d derivative transactions;
- e dividends, coupons, and other interest payments;
- f reinsurance operations;
- g provision of services or agreements to share costs;
- h purchase, sale or lease of assets.

Status:

Point in time view as at 10/10/2014.

Changes to legislation:

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