

Commission Implementing Regulation (EU) 2019/2102 of 27 November 2019 amending Implementing Regulation (EU) 2015/2452 with regard to the disclosure of information used in the calculation of the adjustment for the loss-absorbing capacity of deferred taxes (Text with EEA relevance)

COMMISSION IMPLEMENTING REGULATION (EU) 2019/2102

of 27 November 2019

amending Implementing Regulation (EU) 2015/2452 with regard to the disclosure of information used in the calculation of the adjustment for the loss-absorbing capacity of deferred taxes

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking up and pursuit of the business of Insurance and Reinsurance (Solvency II)<sup>(1)</sup>, and in particular Article 56 thereof,

Whereas:

- (1) Commission Delegated Regulation (EU) 2019/981<sup>(2)</sup> has amended Delegated Regulation (EU) 2015/35<sup>(3)</sup> to introduce further principles on deferred taxes to ensure a level playing field in the Union. Certain templates laid down in Commission Implementing Regulation (EU) 2015/2452<sup>(4)</sup> should be adapted taking into account those amendments.
- (2) Implementing Regulation (EU) 2015/2452 should therefore be amended accordingly.
- (3) The amendments to Delegated Regulation (EU) 2015/35 that require the disclosure of information used in the calculation of the adjustment for the loss-absorbing capacity of deferred taxes are to apply from 1 January 2020. The amendments provided for in this Regulation are made to incorporate those requirements into the relevant templates laid down in Implementing Regulation (EU) 2015/2452. Therefore, this Regulation should apply from the same date.
- (4) This Regulation is based on the draft implementing technical standards submitted by the European Insurance and Occupational Pensions Authority to the Commission.
- (5) The European Insurance and Occupational Pensions Authority has conducted open public consultations on the draft implementing technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the opinion of the Insurance and Reinsurance Stakeholder Group established by Article 37 of Regulation (EU) No 1094/2010 of the European Parliament and of the Council<sup>(5)</sup>,

HAS ADOPTED THIS REGULATION:

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*Status: Point in time view as at 27/11/2019.*

*Changes to legislation: There are outstanding changes not yet made to Commission Implementing Regulation (EU) 2019/2102. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)*

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### *Article 1*

Implementing Regulation (EU) 2015/2452 is amended as follows:

- (1) Annex I is amended in accordance with Annex I to this Regulation;
- (2) Annex II is amended in accordance with Annex II to this Regulation.

### *Article 2*

This Regulation shall enter into force the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2020.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 27 November 2019.

*For the Commission*

*The President*

Jean-Claude JUNCKER

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## ANNEX I

Annex I to Implementing Regulation (EU) 2015/2452 is amended as follows:

- (1) in template S.25.01.21 — Solvency Capital Requirement — for undertakings on Standard Formula, the following tables are added:

‘Approach to tax rate

		Yes/No
		C0109
Approach based on average tax rate	R0590	

Calculation of loss absorbing capacity of deferred taxes

		LAC DT
		C0130’
LAC DT	R0640	
LAC DT justified by reversion of deferred tax liabilities	R0650	
LAC DT justified by reference to probable future taxable economic profit	R0660	
LAC DT justified by carry back, current year	R0670	
LAC DT justified by carry back, future years	R0680	
Maximum LAC DT	R0690	

- (2) in template S.25.02.21 — Solvency Capital Requirement — for undertakings using the standard formula and partial internal model the following tables are added:

‘Approach to tax rate

		Yes/No
		C0109
Approach based on average tax rate	R0590	

Calculation of loss absorbing capacity of deferred taxes

		LAC DT
		C0130’
Amount/estimate of LAC DT	R0640	

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Amount/estimate of LAC DT justified by reversion of deferred tax liabilities	R0650	
Amount/estimate of LAC DT justified by reference to probable future taxable economic profit	R0660	
Amount/estimate of LAC DT justified by carry back, current year	R0670	
Amount/estimate of LAC DT justified by carry back, future years	R0680	
Amount/estimate of Maximum LAC DT	R0690	

- (3) in template S.25.03.21 — Solvency Capital Requirement — for undertakings on Full Internal Models the following tables are added:

‘Approach to tax rate

		Yes/No
		C0109
Approach based on average tax rate	R0590	

Calculation of loss absorbing capacity of deferred taxes

		LAC DT
		C0130’
Amount/estimate of LAC DT	R0640	
Amount/estimate of LAC DT justified by reversion of deferred tax liabilities	R0650	
Amount/estimate of LAC DT justified by reference to probable future taxable economic profit	R0660	
Amount/estimate of LAC DT justified by carry back, current year	R0670	

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Amount/estimate of LAC DT justified by carry back, future years	R0680	
Amount/estimate of Maximum LAC DT	R0690	

## ANNEX II

Annex II to Implementing Regulation (EU) 2015/2452 is amended as follows:

- (1) in section ‘S.25.01 — Solvency Capital Requirement – for undertakings on standard formula’, the following rows are added in the table:

<b>‘Approach to tax rate</b>		
R0590/C0109	Approach based on average tax rate	One of the options in the following closed list shall be used: 1 – Yes 2 – No 3 – Not applicable as LAC DT is not used (in this case R0640 to R0690 are not applicable) See EIOPA Guidelines on loss-absorbing capacity of technical provisions and deferred taxes (EIOPA-BoS-14/177) <sup>a</sup>
<b>Calculation of adjustment for loss-absorbing capacity of deferred taxes</b>		
R0640/C0130	LAC DT	Amount of loss-absorbing capacity of deferred taxes, as defined in Article 207 of Delegated Regulation (EU) 2015/35. The LAC amount of this cell should be the same as the value in the cell R0150/C0100 in S.25.01.
R0650/C0130	LAC DT justified by reversion of deferred tax liabilities	Amount of loss-absorbing capacity of deferred taxes, calculated in accordance with Article 207 of Delegated Regulation (EU) 2015/35 justified by

<sup>a</sup> Guidelines EIOPA-BoS-14/177 of 2 February 2015 on the loss-absorbing capacity of technical provisions and deferred taxes (<https://eiopa.europa.eu/publications/eiopa-guidelines/guidelines-on-the-loss-absorbing-capacity-of-technical-provisions-and-deferred-taxes>).’;

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		reversion of deferred tax liabilities
R0660/C0130	LAC DT justified by reference to probable future taxable economic profit	Amount of loss-absorbing capacity of deferred taxes, calculated in accordance with Article 207 of Delegated Regulation (EU) 2015/35 justified by reference to probable future taxable economic profit
R0670/C0130	LAC DT justified by carry back, current year	Amount of loss-absorbing capacity of deferred taxes, calculated in accordance with Article 207 of Delegated Regulation (EU) 2015/35, justified by profits from past years. Amount of the losses allocated to the next year.
R0680/C0130	LAC DT justified by carry back, future years	Amount of loss-absorbing capacity of deferred taxes, calculated in accordance with Article 207 of Delegated Regulation (EU) 2015/35, justified by profits from past years. Amount of losses allocated to the years after next year.
R0690/C0130	Maximum LAC DT	Maximal amount of LAC DT that could be available, before the assessment whether the increase in net deferred tax assets can be used for the purposes of the adjustment, as provided for in Article 207(2) of Delegated Regulation (EU) 2015/35

**a** Guidelines EIOPA-BoS-14/177 of 2 February 2015 on the loss-absorbing capacity of technical provisions and deferred taxes (<https://eiopa.europa.eu/publications/eiopa-guidelines/guidelines-on-the-loss-absorbing-capacity-of-technical-provisions-and-deferred-taxes>).’;

(2) in section ‘S.25.02 — Solvency Capital Requirement – for undertakings using the standard formula and partial internal model’, the following rows are added in the table:

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**Approach to tax rate**

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R0590/C0109	Approach based on average tax rate	One of the options in the following closed list shall be used: 1– Yes 2 – No 3 – Not applicable as LAC DT is not used (in this case R0640 to R0690 are not applicable) See EIOPA Guidelines on loss-absorbing capacity of technical provisions and deferred taxes (EIOPA-BoS-14/177)
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**Calculation of adjustment for loss-absorbing capacity of deferred taxes**

R0640/C0130	Amount/estimate of LAC DT	Amount/estimate of loss-absorbing capacity of deferred taxes, calculated in accordance with Article 207 of Delegated Regulation (EU) 2015/35. The LAC amount of this cell should be the same as the value in the cell R0310/C0100 in S.25.02.
R0650/C0130	Amount/estimate of LAC DT justified by reversion of deferred tax liabilities	Amount/estimate of loss-absorbing capacity of deferred taxes, calculated in accordance with Article 207 of Delegated Regulation (EU) 2015/35, justified by reversion of deferred tax liabilities
R0660/C0130	Amount/estimate of LAC DT justified by reference to probable future taxable economic profit	Amount/estimate of loss-absorbing capacity of deferred taxes, calculated in accordance with Article 207 of Delegated Regulation (EU) 2015/35, justified by reference to probable future taxable economic profit
R0670/C0130	Amount/estimate of LAC DT justified by carry back, current year	Amount of loss-absorbing capacity of deferred taxes, calculated in accordance with Article 207 of Delegated Regulation (EU) 2015/35, justified by profits from past years.

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		Amount of the losses allocated to the next year.
R0680/C0130	Amount/estimate of LAC DT justified by carry back, future years	Amount of loss-absorbing capacity of deferred taxes, calculated in accordance with Article 207 of Delegated Regulation (EU) 2015/35, justified by profits from past years. Amount of losses allocated to the years after next year.
R0690/C0130	Amount/estimate of Maximum LAC DT	Maximal amount of loss-absorbing capacity of deferred taxes that could be available, before the assessment whether the increase in net deferred tax assets can be used for the purposes of the adjustment, as provided for in Article 207(2) of Delegated Regulation (EU) 2015/35

- (3) in section ‘S.25.03 — Solvency Capital Requirement – for groups using full internal model’, the following rows are added in the table:

R0590/C0109	Approach based on average tax rate	One of the options in the following closed list shall be used: 1 – Yes 2 – No 3 – Not applicable as LAC DT is not used (in this case R0640 to R0690 are not applicable) See EIOPA Guidelines on loss-absorbing capacity of technical provisions and deferred taxes (EIOPA-BoS-14/177)
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**Calculation of adjustment for loss-absorbing capacity of deferred taxes**

R0640/C0130	Amount/estimate of LAC DT	Amount/estimate of loss-absorbing capacity of deferred taxes, as defined in Article 207 of Delegated Regulation (EU) 2015/35. The LAC amount of this cell should
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		be the same as the value in the cell R0310/C0100 in S.25.02.
R0650/C0130	Amount/estimate of LAC DT justified by reversion of deferred tax liabilities	Amount/estimate of loss-absorbing capacity of deferred taxes, as calculated in accordance with Article 207 of Delegated Regulation (EU) 2015/35, justified by reversion of deferred tax liabilities
R0660/C0130	Amount/estimate of LAC DT justified by reference to probable future taxable economic profit	Amount/estimate of loss-absorbing capacity of deferred taxes, as calculated in accordance with Article 207 of Delegated Regulation (EU) 2015/35, justified by reference to probable future taxable economic profit
R0670/C0130	Amount/estimate of LAC DT justified by carry back, current year	Amount of loss-absorbing capacity of deferred taxes, calculated in accordance with Article 207 of Delegated Regulation (EU) 2015/35, justified by profits from past years. Amount of the losses allocated to the next year.
R0680/C0130	Amount/estimate of LAC DT justified by carry back, future years	Amount of loss-absorbing capacity of deferred taxes, calculated in accordance with Article 207 of Delegated Regulation (EU) 2015/35, justified by profits from past years. Amount of losses allocated to the years after next year.
R0690/C0130	Amount/estimate of Maximum LAC DT	Maximal amount of loss-absorbing capacity of deferred taxes that could be available, before the assessment whether the increase in net deferred tax assets can be used for the purposes of the adjustment as provided

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	for in Article 207(2) of Delegated Regulation (EU) 2015/35
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- (1) [OJ L 335, 17.12.2009, p. 1.](#)
- (2) 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) ([OJ L 161, 18.6.2019, p. 1.](#)).
- (3) 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) ([OJ L 12, 17.1.2015, p. 1.](#)).
- (4) Commission Implementing Regulation (EU) 2015/2452 of 2 December 2015 laying down implementing technical standards with regard to the procedures, formats and templates of the solvency and financial condition report in accordance with Directive 2009/138/EC of the European Parliament and of the Council ([OJ L 347, 31.12.2015, p. 1285.](#)).
- (5) Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC ([OJ L 331, 15.12.2010, p. 48.](#)).

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