STATUTORY INSTRUMENTS

# 2015 No. 575

# The Solvency 2 Regulations 2015

## PART 4

Approvals

### CHAPTER 2

Specific Approvals

**Modifications etc. (not altering text)**

**C1** Pt. 4 modified (31.12.2020) by The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), **12** (as amended by S.I. 2020/1385, regs. 1(2), **54(2)** and S.I. 2020/1301, regs. 1, 3, **Sch. para. 27(e)**)

#### Verification that the Solvency 2 Directive does not apply

**41.**—(1) An insurance undertaking may apply to the PRA for verification that the conditions specified in **[**[F1]the United Kingdom law which implemented Article 4(4) of the Solvency 2 Directive**]** are satisfied.

(2) Where the PRA receives an application under paragraph (1), the PRA may approve the application.

(3) The PRA may revoke an approval granted under paragraph (2) where the conditions specified in **[**[F1]the United Kingdom law which implemented Article 4(4) of the Solvency 2 Directive**]** cease to be satisfied.

**Textual Amendments**

**F1** Words in reg. 41 substituted (31.12.2020) by The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), **10(5)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2))

#### Matching adjustment

**42.**—(1) An insurance undertaking, reinsurance undertaking or third-country insurance undertaking may apply to the PRA for permission to apply a matching adjustment to a risk-free interest rate term structure in order to calculate the best estimate of a portfolio of life insurance or reinsurance obligations.

(2) The PRA must approve an application made under paragraph (1) if the conditions specified in paragraph (4) would be satisfied if approval were granted.

(3) The PRA must revoke an approval granted under paragraph (2) if an undertaking fails to comply with a condition specified in sub-paragraphs (a) to (k) of paragraph (4) in relation to that approval for a period of two months or more.

(4) The conditions referred to in paragraphs (2) and (3) are—

(a) the undertaking assigns a portfolio of assets, consisting of bonds or other assets with similar cash flow characteristics, to cover the best estimate of the portfolio of insurance or reinsurance obligations;

(b) the undertaking maintains the assignment referred to in sub-paragraph (a) over the lifetime of the obligations, except for the purpose of maintaining the replication of expected cash flows between assets and liabilities where the cash flows have materially changed;

(c) the portfolio of insurance or reinsurance obligations to which the matching adjustment is applied and the assigned portfolio of assets are—

(i) identified; and

(ii) organised and managed separately from the other activities of the undertaking;

(d) the assigned portfolio of assets referred to in sub-paragraph (c) cannot be used to cover losses arising from the other activities of the undertaking;

(e) the expected cash flows of the assigned portfolio of assets replicate each of the expected cash flows of the portfolio of insurance or reinsurance obligations in the same currency;

(f) any mismatch between the expected cash flows referred to in sub-paragraph (e) does not give rise to risks which are material in relation to the risks inherent in the insurance business to which the matching adjustment is applied;

(g) the contracts underlying the portfolio of insurance or reinsurance obligations do not give rise to future premium payments;

(h) the only underwriting risks connected to the portfolio of insurance or reinsurance obligations are longevity risk, expense risk, revision risk or mortality risk;

(i) where the underwriting risk connected to the portfolio of insurance or reinsurance obligations includes mortality risk, the best estimate of the portfolio of insurance or reinsurance obligations does not increase by more than 5% under a mortality risk stress that is calibrated in accordance with rules implementing paragraphs (2) to (5) of Article 101 of the Solvency 2 Directive;

(j) the contracts underlying the insurance or reinsurance obligations include—

(i) no options for the policyholder; or

(ii) only a surrender option with a surrender value not exceeding the value of the assets, valued in accordance with **[**[F2]rules 2.1 and 2.2 of the Valuation part of the PRA Rulebook**]**, covering the insurance or reinsurance obligations at the time the surrender option is exercised;

(k) the cash flows of the assigned portfolio of assets are—

(i) fixed and cannot be changed by the issuers of the assets or any third parties; or

(ii) fixed except for a dependence on inflation, and the assets replicate the cash flows of the portfolio of insurance or reinsurance obligations that depend on inflation;

(l) the undertaking does not apply a volatility adjustment to the risk free interest rate term structure in accordance with an approval granted under regulation 43;

(m) the undertaking does not apply a transitional measure to the risk free interest rates in accordance with an approval granted under regulation 53;

(n) the undertaking has not ceased to apply a matching adjustment to the risk-free interest rate term structure in the 24 months prior to the application.

(5) For the purposes of paragraph (4), the insurance or reinsurance obligations of an insurance or reinsurance contract must not be split into different parts when composing the portfolio of insurance or reinsurance obligations.

(6) For the purposes of sub-paragraph (4)(k)(i), where issuers or third parties have the right to change the cash flows of an asset, that right does not disqualify the asset from admissibility to the assigned portfolio, provided the investor receives sufficient compensation to allow it to obtain the same cash flow by re-investing the compensation in assets of an equivalent or better quality.

(7) In this regulation, "life insurance and reinsurance obligations"—

(a) includes annuities stemming from non-life insurance or reinsurance contracts; **[**[F3]and**]**

(b) in the case of a third-country insurance undertaking [F4]..., refers only to insurance and reinsurance obligations assumed in the United Kingdom; [F5]...

[F6](c) . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

**Textual Amendments**

**F2** Words in reg. 42(4)(j)(ii) substituted (31.12.2020) by The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), **10(6)(a)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2))

**F3** Word in reg. 42(7)(a) inserted (31.12.2020) by The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), **10(6)(b)(i)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2))

**F4** Words in reg. 42(7)(b) omitted (31.12.2020) by virtue of The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), **10(6)(b)(ii)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2))

**F5** Word in reg. 42(7)(b) omitted (31.12.2020) by virtue of The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), **10(6)(b)(iii)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2))

**F6** Reg. 42(7)(c) omitted (31.12.2020) by virtue of The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), **10(6)(b)(iv)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2))

### Volatility adjustment

**43.**—(1) An insurance undertaking, reinsurance undertaking or third-country insurance undertaking may apply to the PRA for permission to apply a volatility adjustment to the relevant risk-free interest rate term structure in order to calculate the best estimate referred to in Article 77(2) of the Solvency 2 Directive.

(2) The PRA must approve an application made under paragraph (1) if the proposed application of the volatility adjustment would satisfy all the conditions specified in paragraph (4).

(3) The PRA must revoke an approval granted under paragraph (2) where the application of the volatility adjustment does not satisfy a condition specified in paragraph (4).

(4) The conditions referred to in paragraphs (2) and (3) are—

(a) the volatility adjustment is applied correctly to the relevant risk-free interest rate term structure in order to calculate the best estimate;

(b) the undertaking does not breach a relevant requirement as a result or consequence of applying the volatility adjustment;

(c) the application of the volatility adjustment does not create an incentive for the undertaking to engage in pro-cyclical investment behaviour.

(5) In paragraph (4)(b), a " relevant requirement" is—

(a) a requirement imposed by or under FSMA in pursuance of **[**F7the United Kingdom law which implemented**]** the Solvency 2 Directive; or

(b) a requirement of a directly applicable regulation made under the Solvency 2 Directive **[**F8which forms part of retained EU law**]**.

**Textual Amendments**

**F7** Words in reg. 43(5)(a) inserted (31.12.2020) by The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), **10(7)(a)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2))

**F8** Words in reg. 43(5)(b) inserted (31.12.2020) by The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), **10(7)(b)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2))

### Supervisory approval of ancillary own-funds

**44.**—(1) An insurance undertaking, reinsurance undertaking or third-country insurance undertaking may apply to the PRA for permission to take the amount of an ancillary own-fund item into account when determining its own funds in accordance with rules implementing Article 90 of the Solvency 2 Directive and any directly applicable regulations made under Article 92.

(2) Where the PRA receives an application under paragraph (1), the PRA must approve—

(a) a monetary amount for each ancillary own-fund item; or

(b) a method by which each ancillary own-fund item may be determined for a specified period of time.

(3) Where the PRA grants approval under paragraph (2)—

(a) the undertaking may apply to vary that approval; and

(b) the PRA may vary that approval.

(4) The PRA must base its approval or variation of approval on an assessment of—

(a) the status of the counterparties concerned, in relation to their ability and willingness to pay;

(b) the recoverability of the funds, taking account of the legal form of the ancillary own-fund item and any conditions which would prevent the item from being successfully paid in or called up; and

(c) any information on the outcome of past calls which insurance undertakings, reinsurance undertakings and third-country insurance undertakings have made for ancillary own fund items they have paid in or called up, to the extent that such information can be reliably used to assess the expected outcome of future calls.

### Eligible own funds for an intermediate insurance holding company

**45.**—(1) This regulation applies where the PRA is the group supervisor of a group which includes an intermediate insurance holding company or an intermediate mixed financial holding company.

(2) The intermediate insurance holding company or an intermediate mixed financial holding company may apply to the PRA for permission to include eligible own funds in the calculation of group solvency.

(3) Where the PRA receives an application under paragraph (2) , the PRA must approve—

(a) a monetary amount for each ancillary own-fund item; or

(b) a method by which each ancillary own-fund item may be determined for a specified period of time.

(4) Where the PRA grants approval under paragraph (3)—

(a) the undertaking may apply to vary that approval; and

(b) the PRA may vary that approval.

(5) The PRA must base its approval or variation of approval on an assessment of—

(a) the status of the counterparties concerned, in relation to their ability and willingness to pay;

(b) the recoverability of the funds, taking account of the legal form of the ancillary own-fund item and any conditions which would prevent the item from being successfully paid in or called up; and

(c) any information on the outcome of past calls which intermediate insurance holding companies and intermediate mixed financial holding companies have made for each ancillary own-fund item, to the extent that information can be reliably used to assess the expected outcome of future calls.

**Classification of funds**

**46.**—(1) This regulation applies to an own-fund item which is not included in the list of own-fund items referred to in Article 97(1) of the Solvency 2 Directive.

(2) An insurance undertaking, reinsurance undertaking or third-country insurance undertaking may apply to the PRA for approval of its assessment and classification of an own-fund item referred to in paragraph (1).

(3) The PRA may approve an application made under paragraph (2).

(4) Where the PRA grants approval under paragraph (3)—

(a) the undertaking may apply to vary the approval;

(b) the PRA may vary the approval; or

(c) the PRA may revoke the approval.

(5) The PRA must base its decision to grant, vary or revoke approval on the criteria referred to in Article 94 of the Solvency 2 Directive.

**Basic Solvency Capital Requirement**

**47.**—(1) This regulation applies where an insurance undertaking, reinsurance undertaking or third-country insurance undertaking uses the standard formula to calculate its basic solvency capital requirement.

(2) In order to calculate its life, non-life and health underwriting risk modules, the undertaking may apply to the PRA for approval to use a subset of parameters specific to the undertaking instead of a subset of parameters of the standard formula.

(3) The PRA may only approve an application made under paragraph (2) when—

(a) the parameters the undertaking has applied to use are calibrated on the basis of the internal data of the undertaking concerned, or on the basis of data which are directly relevant to the operations of that undertaking using standardised methods; and

(b) the PRA has verified the completeness, accuracy and appropriateness of the data used.

(4) Where the PRA grants approval under paragraph (3)—

(a) the undertaking may apply to vary the approval;

(b) the PRA may vary the approval provided sub-paragraphs (a) and (b) of paragraph (3) continue to be satisfied; or

(c) the PRA may revoke the approval.

**Models**

**48.**—(1) An insurance undertaking, reinsurance undertaking or third-country insurance undertaking may apply to the PRA for approval of—

(a) a full or partial internal model;

(b) major changes to an approved internal model; or

(c) the policy for changing an approved internal model.

(2) The PRA may require an undertaking to run its internal model—

(a) on relevant benchmark portfolios; or

(b) using assumptions based on external rather than internal data,

in order to verify the calibration of the internal model and to check that its specification is in line with generally accepted market practice.

(3) The PRA must approve an application made under paragraph (1) if—

(a) the internal model complies with the requirements of rules implementing Article 112 of the Solvency 2 Directive;

(b) the internal model complies with the requirements of any directly applicable regulations made under Article 127 of the Solvency 2 Directive;

(c) the systems of the undertaking for identifying, measuring, monitoring, managing and reporting risk are adequate; and

(d) in the case of a partial internal model, the model fulfils the requirements of rules implementing Article 113 of the Solvency 2 Directive and any directly applicable regulation made under Article 114 of the Solvency 2 Directive.

(4) The PRA must give a decision on an application made under paragraph (1) within six months of its receipt of the completed application.

(5) Where the PRA grants approval under paragraph (3), the PRA may—

(a) vary the approval;

(b) revoke the approval.

(6) In this regulation "internal model" includes a partial internal model.

**Group applications**

**49.**—(1) An insurance undertaking or reinsurance undertaking may make a group application to the PRA where the PRA is the group supervisor for the group to which the undertaking belongs.

**[**[F9](2) The PRA may approve an application made under paragraph (1).**]**

(3) Where the PRA grants an approval under paragraph (2), the approval may include conditions to which the approval is subject.

(4) The PRA may revoke an approval granted under paragraph (2).

**Textual Amendments**

**F9** Reg. 49(2) substituted (31.12.2020) by The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), **10(8)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2))

### Third-country insurance undertakings: approval of supervision in more than one EEA State

[F10]**50.** . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

**Textual Amendments**

**F10** Reg. 50 omitted (31.12.2020) by virtue of The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), **10(9)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2))

### Withdrawal of authorisation for third-country insurance undertakings authorised in more than one EEA State

[F11]**51.** . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

**Textual Amendments**

**F11** Reg. 51 omitted (31.12.2020) by virtue of The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), **10(9)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2))

### Subsidiaries: application of Articles 238 and 239 of the Solvency 2 Directive

[F12]**52.** . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

**Textual Amendments**

**F12** Reg. 52 omitted (31.12.2020) by virtue of The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (S.I. 2019/407), regs. 1(2), **10(9)** (as amended by S.I. 2020/1385, regs. 1(2), 54(2))

### Transitional measures on risk-free interest rates

**53.**—(1) An insurance undertaking, reinsurance undertaking or third-country insurance undertaking may apply to the PRA for permission to apply a transitional adjustment to a risk-free interest rate term structure with respect to admissible insurance or reinsurance obligations.

(2) Admissible insurance or reinsurance obligations are insurance or reinsurance obligations that meet all of the following requirements—

(a) the contracts that give rise to the insurance or reinsurance obligations are concluded before 1st January 2016;

(b) the technical provisions for the insurance and reinsurance obligations are determined in accordance with rules implementing Article 20 of Directive 2002/83/EC of the European Parliament and of the Council of 5th November 2002 concerning life assurance [M1] until 1st January 2016;

(c) the insurance or reinsurance obligations are not subject to a matching adjustment in accordance with an approval granted under regulation 42.

(3) For the purposes of paragraph (2)(a), the renewal of a contract does not give rise to a new contract.

(4) The PRA must approve an application made under paragraph (1) if the condition specified in paragraph (6) would be satisfied if the approval is granted.

(5) Where the PRA grants approval under paragraph (4)—

(a) the undertaking may apply to vary the approval;

(b) the PRA must vary the approval on an application made under sub-paragraph (a) if the condition specified in paragraph (6) would be satisfied in relation to the approval as varied;

(c) the PRA must revoke the approval if the condition specified in paragraph (6) ceases to be satisfied;

(d) the PRA must revoke the approval if the condition specified in paragraph (7) is satisfied.

(6) The condition referred to in paragraphs (4), (5)(b) and (5)(c) is that the transitional adjustment is calculated in accordance with rules implementing Article 308c of the Solvency 2 Directive.

(7) The condition referred to in paragraph (5)(d) is that a progress report submitted to the PRA under rules implementing Article 308e of the Solvency 2 Directive shows that it is unrealistic to expect compliance with the solvency capital requirement by 2032.

**Marginal Citations**
**M1** OJ No L345, 19.12.02, p 1.

**Transitional measures on technical provisions**

**54.**—(1) An insurance undertaking, reinsurance undertaking or third-country insurance undertaking may apply to the PRA for permission to—

(a) apply a transitional deduction to its technical provisions or to such of its technical provisions as are contained within an homogenous risk group; or

(b) recalculate the amount of those technical provisions (and any matching adjustment or volatility adjustment to those technical provisions) at periods of 24 months or less.

(2) The PRA must approve an application made under paragraph (1)(a) if—

(a) conditions 1 and 2 are satisfied; and

(b) condition 3 is satisfied or would be satisfied if the amount of the approved deduction were limited.

(3) The PRA must approve an application made under paragraph (1)(b) if condition 4 is satisfied.

(4) The PRA may also grant the approval referred to in paragraph (1)(b) other than on an application under that paragraph if condition 4 is satisfied.

(5) Where the PRA approves an application under paragraph (2), the PRA may—

(a) make the approval subject to a condition limiting the amount of the approved deduction; or

(b) at any time after granting approval, vary the approval so that—

(i) the approval is subject to a condition limiting the amount of the approved deduction; or

(ii) if the approval is already subject to a condition imposed under sub-paragraph (a) or (b)(i), amend the condition to change the limit.

(6) A limit specified in a condition imposed under paragraph (5) must be no larger than is necessary to ensure that condition 3 is satisfied.

(7) Where the PRA grants approval under paragraph (2), (3) or (4) the undertaking may apply to vary the approval.

(8) Paragraphs (2) to (6) apply to an application to vary an approval under paragraph (7) as they would apply to an application for the approval as varied.

(9) The PRA must revoke an approval granted under paragraph (2) if—

(a) condition 1 or 2 is not satisfied;

(b) condition 3 cannot be satisfied by imposing a condition limiting the amount of the approved deduction; or

(c) condition 5 is satisfied.

(10) In this regulation—

(a) "GENPRU 1.2.26R" means the rule known as GENPRU 1.2.26R (requirement to have adequate financial resources) in the PRA's General Prudential Sourcebook as at 31st December 2015, treated as having been made by the PRA on 7th March 2013 under the Financial Services Act 2012 (Transitional Provisions) (Rules and Miscellaneous Provisions) Order 2013 **M2**;

(b) "INSPRU 7" means the rules and guidance known as INSPRU 7 (individual capital assessment) in the PRA's Prudential Sourcebook for Insurers as at 31st December 2015, made or treated as having been made by the PRA on 7th March 2013 under FSMA and the Financial Services Act 2012 (Transitional Provisions) (Rules and Miscellaneous Provisions) Order 2013; and

(c) conditions specified in the first column of Table 3 have the meaning given in the second column of Table 3.

**Table 3**

| Condition | Meaning |
|---|---|
| 1 | The transitional deduction satisfies the following condition for all $T_N$— <br> $$0 \leq T_N \leq (X_N - Y_N)\left(1 - \frac{N}{16}\right) \qquad (N = 0,1,2 \ldots 16)$$ <br> where— <br> $T_N$ is the amount of the transitional deduction in the year $N$, so that $T_0$ is the transitional deduction in 2016, $T_1$ is the transitional deduction in 2017, $T_2$ is the transitional deduction in 2018 and continuing until $T_{16}$ which is the transitional deduction in 2032. <br> $X_N$ is the amount of the technical provisions to which the approval or application for approval relates, calculated for the year $N$, less the amount recoverable (if any) from reinsurance contracts and special purpose vehicles. The technical provisions for the year $N$ must be calculated in accordance with rules implementing Article 76 of the Solvency 2 Directive, applied as at the last date ("the relevant date") before the year $N$ at which technical provisions may be recalculated in accordance with an approval granted under paragraph (1)(b) or, if no such approval has been granted, as at 1st January 2016. Where a matching adjustment or volatility adjustment was applied to those technical provisions on 1st January 2016 in accordance with an approval granted under regulation 42 or 43 (as the case may be), the calculation must take into account the matching adjustment or volatility adjustment, recalculated for the relevant date in accordance with an approval granted under paragraph (1)(b) (if any). |

$Y_N$ is the amount of the technical provisions to which the approval or application for approval relates, calculated for the year *N*, less the amount recoverable (if any) from reinsurance contracts. The technical provisions for the year *N* must be calculated in accordance with INSPRU 7, applied as at the last date before the year *N* at which technical provisions may be recalculated in accordance with an approval granted under paragraph (1)(b) or, if no such approval has been granted, as at 31st December 2015.

*N* represents the years from 2016 to 2032. *N* takes integer values from 0 to 16, so that 2016 is year 0, 2017 is year 1, 2018 is year 2, and continuing until 2032 which is year 16.

2 A transitional deduction is not applied in any year after 2032.

3 The transitional deduction does not result in the financial resources which the undertaking is required to maintain in accordance with requirements imposed by or under FSMA in pursuance of the Solvency 2 Directive being less than the financial resources which the undertaking would be required to maintain in accordance with GENPRU 1.2.26R if GENPRU 1.2.26R still applied to the undertaking.

4 The risk profile of the undertaking has changed materially.

5 A progress report submitted to the PRA under rules implementing Article 308e of the Solvency 2 Directive shows that it is unrealistic to expect compliance with the solvency capital requirement by 2032.

**Marginal Citations**

**M2** S.I. 2013/161.