Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Solvency 2 Regulations 2015. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY INSTRUMENTS

2015 No. 575

FINANCIAL SERVICES AND MARKETS

The Solvency 2 Regulations 2015

Made - - - -	*6th March 2015*
Laid before Parliament	*9th March 2015*
Coming into force in accordance with regulation 1	

The Treasury are a government department designated [F1] for the purposes of section 2(2) of the European Communities Act 1972 [F2] in relation to financial services.

The Treasury, in exercise of the powers conferred upon them by section 2(2) of the European Communities Act 1972, make the following Regulations:

F1 S.I. 2012/1759.

F2 1972 c.68; section 2(2) was amended by section 27 of the Legislative and Regulatory Reform Act 2006 (c. 51) and by section 3 of, and the Schedule to, the European Union (Amendment) Act 2008 (c. 7). By virtue of the amendment of section 1(2) made by section 1 of the European Economic Act 1993 (c. 51) regulations may be made under section 2(2) to implement obligations of the United Kingdom created by or arising under the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 (Cm 2073, OJ No L1, 3.11.1994, p.3) and the Protocol adjusting that Agreement signed at Brussels on 17th March 1993 (Cm 2183, OJ No L1, 3.1.1994, p.572).

PART 1

Citation, commencement and interpretation

Citation and commencement

1.—(1) These Regulations may be cited as the Solvency 2 Regulations 2015.

(2) Except where paragraph (3) applies, these Regulations come into force on 1st January 2016.

(3) Regulations 1, 2, 38 to 58 and paragraph 15 of Schedule 1 come into force on 31st March 2015.

(4) Before 1st January 2016, references to "the Solvency 2 Directive" in any amendment of FSMA that comes into force in accordance with paragraph (3) are to be read as if the amendments made by paragraphs 16(b) and 17(3) of Schedule 1 were already in force.

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Interpretation

2.—(1) In these Regulations—

"capital add-on" means the amount by which the solvency capital requirement of an insurance undertaking or reinsurance undertaking, or a group, is increased by the PRA;

"EEA solvency 2 parent" means a parent undertaking with its head office in an EEA State which is—

(a) an insurance undertaking or reinsurance undertaking which is a participating undertaking in at least one insurance undertaking, reinsurance undertaking or third-country insurance undertaking;

(b) an insurance holding company; or

(c) a mixed financial holding company;

"EIOPA" means the European Insurance and Occupational Pensions Authority established under the EIOPA Regulation;

"EIOPA Regulation" means Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24th November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority) [F3];

"Financial Conglomerates Directive" means Directive 2002/87/EC of the European Parliament and of the Council of 16th December 2002 on the supplementary supervision of credit institutions, insurance undertakings, and investment firms in a financial conglomerate [F4];

"FSMA" means the Financial Services and Markets Act 2000 [F5];

"home EEA State" means—

(a) for non-life insurance, the EEA State in which the head office of the insurance undertaking covering the risk is situated;

(b) for life insurance, the EEA State in which the head office of the insurance undertaking covering the commitment is situated;

(c) for reinsurance, the EEA State in which the head office of the reinsurance undertaking is situated;

"method 1" and "method 2" have the same meaning as in Articles 220 to 234 of the Solvency 2 Directive;

"non-EEA solvency 2 parent" means a parent undertaking which is—

(a) a third-country insurance undertaking; or

(b) an insurance holding company or mixed financial holding company with its head office outside the EEA;

"regulated entity" has the meaning given by Article 2(4) of the Financial Conglomerates Directive;

"Solvency 2 Directive" means 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) [F6];

"third country" means a country which is not an EEA State;

"third-country insurance undertaking" has the meaning given by Article 13(3) of the Solvency 2 Directive;

"UK solvency 2 parent" means a parent undertaking with its head office in the United Kingdom which is—

(a) an insurance undertaking or reinsurance undertaking which is a participating undertaking in at least one insurance undertaking, reinsurance undertaking or third-country insurance undertaking;

(b) an insurance holding company; or

(c) a mixed financial holding company;

"ultimate EEA solvency 2 parent" means an EEA solvency 2 parent which has no parent undertaking which is an EEA solvency 2 parent or a non-EEA solvency 2 parent;

"ultimate non-EEA solvency 2 parent" means a non-EEA solvency 2 parent which has no parent undertaking which is an EEA solvency 2 parent or non-EEA solvency 2 parent;

"ultimate UK solvency 2 parent" means a UK solvency 2 parent which has no parent undertaking which is an EEA solvency 2 parent or non-EEA solvency 2 parent.

(2) Except as provided by paragraph (1) or regulation 38(2)—

(a) any expression used in these Regulations which is defined in section 417 (definitions) or 424 (insurance) of, or Part 1 of Schedule 3 to, FSMA has the meaning given by that section or Part [F7];

(b) any other expression used in these Regulations which is used in the Solvency 2 Directive has the meaning which it is given in that Directive [F8].

F3 OJ no L331, 15.12.2010, p. 48.
F4 OJ no L035, 11.02.2003, p.1.
F5 2000 c.8.
F6 OJ no L335, 17.12.2009, p.1, as amended by Directive 2011/89/EU (OJ no L326, 8.12.2011, p. 113), Directive 2012/23/EU (OJ no L249, 14.9.2013, p. 1), Directive 2013/23/EU (OJ no L158, 10.6.2013, p. 362), Directive 2013/58/EU (OJ no L341, 18.12.2013, p. 1) and Directive 2014/51/EU (OJ no L153, 22.5.2014, p. 1).
F7 "FCA", "insurance undertaking", "PRA", "reinsurance undertaking", "rule" and "Tribunal" are defined in section 417 and "EEA State" is defined in Part 1 of Schedule 3.
F8 "Branch", "parent undertaking", "reinsurance" and "supervisory authority" are defined in Article 13.

PART 2

Supervision

Exercise of PRA and FCA functions

3.—(1) The PRA and FCA must in the exercise of their functions as supervisory authorities under the Solvency 2 Directive—

(a) take into account, in an appropriate way, a European Economic Area dimension;

(b) duly consider the potential impact of their decisions on the stability of the financial systems of other EEA States, in particular during emergency situations, taking into account the information available at the relevant time; and

(c) in times of exceptional movements in the financial markets, take into account the potential pro-cyclical effects of their actions.

Review of capital add-ons

4. Where the PRA imposes a capital add-on, it must review the capital add-on at least once a year.

Passporting: notification of home state regulator

5.—(1) This regulation applies to an insurance undertaking or reinsurance undertaking which—

(a) is established in an EEA State other than the United Kingdom; and

(b) either—

(i) in the case of an insurance undertaking, has insured a risk or entered into a commitment situated in the United Kingdom; or

(ii) in the case of a reinsurance undertaking, has exercised a right under Part 2 of Schedule 3 to FSMA to provide services in the United Kingdom.

(2) Where the PRA considers that the activities of such an insurance undertaking or reinsurance undertaking might affect the undertaking's financial soundness, the PRA must inform the supervisory authority of the undertaking's home EEA State accordingly.

EIOPA: information

6.—(1) The PRA must provide the following information to EIOPA on an annual basis—

(a) the average capital add-on per undertaking;

(b) the distribution of capital add-ons imposed by the PRA measured as a percentage of the solvency capital requirement, shown separately for—

(i) all insurance undertakings and reinsurance undertakings;

(ii) life insurance undertakings;

(iii) non-life insurance undertakings;

(iv) insurance undertakings pursuing both life and non-life activities;

(v) reinsurance undertakings;

(c) for each disclosure referred to in sub-paragraphs (a) and (b), the proportion of capital add-ons imposed by or under FSMA in pursuance of Articles 37(1)(a), (b) and (c) of the Solvency 2 Directive;

(d) the number of insurance undertakings and reinsurance undertakings benefiting from—

(i) the limitation on regular supervisory reporting referred to in Article 35(6) of the Solvency 2 Directive;

(ii) the exemption from reporting on an item-by-item basis referred to in Article 35(7) of the Solvency 2 Directive;

(e) for the insurance undertakings or reinsurance undertakings referred to in sub-paragraph (d), the total volume of capital requirements, premiums, technical provisions and assets, measured as a percentage of the total volume of capital requirements, premiums, technical provisions and assets of insurance undertakings and reinsurance undertakings in the United Kingdom;

(f) the number of groups benefiting from the limitation on regular supervisory reporting or the exemption from reporting on an item-by-item basis referred to in Article 254(2) of the Solvency 2 Directive; and

(g) for the groups referred to in sub-paragraph (f), the total volume of capital requirements, premiums, technical provisions and assets, measured as a percentage of the total volume of capital requirements, premiums, technical provisions and assets of all groups.

(2) Until the end of 2020, the PRA shall provide the following information to EIOPA on an annual basis—

(a) the number of insurance undertakings and reinsurance undertakings applying the matching adjustment, the volatility adjustment, the extension of the recovery period in accordance with Article 138(4) of the Solvency 2 Directive and the transitional measures set out in regulations 53 and 54;

(b) its assessment of the availability of long-term guarantees in insurance products and the behaviour of insurance undertakings and reinsurance undertakings as long-term investors in the United Kingdom market;

(c) its assessment of the impact at a national level of the relevant measures on the financial position of insurance undertakings and reinsurance undertakings, anonymised in respect of each undertaking;

(d) its assessment of the effect of the relevant measures on the investment behaviour of insurance undertakings and reinsurance undertakings and whether any of the relevant measures provide undue capital relief;

(e) its assessment of the effect of any extensions of the recovery period in accordance with Article 138(4) of the Solvency 2 Directive on the efforts of insurance undertakings and reinsurance undertakings to re-establish the required level of eligible own funds covering their solvency capital requirements or to reduce their risk profiles in order to ensure compliance with their solvency capital requirements;

(f) its assessment of whether the insurance undertakings and reinsurance undertakings that apply the transitional measures set out in regulations 53 and 54 comply with the phasing-in plans referred to in Article 308e of the Solvency 2 Directive; and

(g) its assessment of the prospects of those undertakings reducing their use of those transitional measures in the future, taking into account the United Kingdom's regulatory environment.

(3) In this regulation—

(a) a requirement to provide information about undertakings applies only in relation to undertakings that are PRA-authorised persons.

(b) "the relevant measures" means the matching adjustment, the volatility adjustment, the symmetric adjustment mechanism to the equity capital charge and the transitional measures set out in regulations 53 and 54.

EIOPA and EBA: notifications

7.—(1) The PRA must notify EIOPA when it authorises or cancels the authorisation of an insurance undertaking, reinsurance undertaking or third-country insurance undertaking.

(2) Each notification under paragraph (1) must include the name of the undertaking.

(3) Where the PRA exercises its discretion under paragraph (2) or (4) of regulation 11, it must inform EBA and EIOPA.

Other EEA States: information

8.—(1) Where a supervisory authority of another EEA State requests relevant information from the PRA, the PRA must send the information in aggregate form to the supervisory authority within a reasonable period of time.

(2) In this regulation "relevant information" means information which—

(a) is relevant to the EEA State; and

(b) has been provided to the PRA under rules implementing Article 159 of the Solvency 2 Directive.