Changes to legislation: *There are outstanding changes not yet made to Commission Implementing Regulation (EU) 2015/500. 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)EUR 2015 No. 500 may be subject to amendment by EU Exit Instruments made by the Prudential Regulation Authority under powers set out in The Financial Regulators' Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1115), regs. 2, 3, Sch. Pt. 2. These amendments are not currently available on legislation.gov.uk. Details of relevant amending instruments can be found on their website/s. (See end of Document for details) View outstanding changes*

Commission Implementing Regulation (EU) 2015/500 of 24 March 2015 laying down implementing technical standards with regard to the procedures to be followed for the supervisory approval of the application of a matching adjustment in accordance with Directive 2009/138/EC of the European Parliament and of the Council (Text with EEA relevance)

COMMISSION IMPLEMENTING REGULATION (EU) 2015/500

of 24 March 2015

laying down implementing technical standards with regard to the procedures to be followed for the supervisory approval of the application of a matching adjustment in accordance with Directive 2009/138/EC of the European Parliament and of the Council

(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 25 November 2009 of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II)[(1)] and in particular Article 86(3) thereof,

Whereas:

(1) Article 77b of Directive 2009/138/EC allows insurance and reinsurance undertakings to apply a matching adjustment to the relevant risk-free interest rate term structure, subject to prior approval by the supervisory authorities where certain conditions are met. Rules are to be established regarding the procedures to be followed for the approval of the application of a matching adjustment.

(2) In order for an application to be considered complete, it should include all relevant information necessary for the assessment and decision by the supervisory authorities. To provide a harmonised basis for the assessment and decision by supervisory authorities, an application should include evidence demonstrating that each of the conditions set out in Article 77b of Directive 2009/138/EC have been met.

(3) The application for a matching adjustment is a strategic decision for risk management and capital planning purposes. Based on the ultimate responsibility of the administrative, management or supervisory body for compliance as set out in Article 40 of Directive 2009/138/EC, its involvement in the decision-making process on the application should be carefully considered.

(4) In addition to Article 77b of Directive 2009/138/EC, that Directive contains other requirements in Article 44, 45 and 77c which apply to all insurance or reinsurance undertakings using a matching adjustment. An application should therefore include evidence that all of these requirements will be satisfied if approval is granted.

Changes to legislation: *There are outstanding changes not yet made to Commission Implementing Regulation (EU) 2015/500. 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)EUR 2015 No. 500 may be subject to amendment by EU Exit Instruments made by the Prudential Regulation Authority under powers set out in The Financial Regulators' Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1115), regs. 2, 3, Sch. Pt. 2. These amendments are not currently available on legislation.gov.uk. Details of relevant amending instruments can be found on their website/s. (See end of Document for details) View outstanding changes*

(5) The procedures to be followed for the approval of the matching adjustment envisage ongoing communication between the supervisory authorities and insurance and reinsurance undertakings. This includes communication before a formal application is submitted to the supervisory authorities and, after an application has been approved, through the supervisory review process. Such ongoing communication is necessary to ensure that supervisory judgements are based on relevant and up-to-date information and evidence.

(6) To ensure a smooth and efficient process, supervisory authorities should be able to request that insurance and reinsurance undertakings make modifications to an application in order to address areas where the submitted evidence is insufficient to demonstrate compliance with the relevant conditions set by Article 77b of Directive 2009/138/EC, before deciding whether to finally accept or reject the application.

(7) In addition to considering the evidence included within an application, supervisory authorities should also consider other factors that are relevant when reaching a decision as to whether the requirements of Directive 2009/138/EC have been satisfied.

(8) Since matching portfolios may be managed on a going concern basis, undertakings that have received approval to use a matching adjustment to value the corresponding liabilities should also be allowed to use that adjustment to value future insurance obligations, to the extent that those obligations and the assets matching them possess the same features as the obligations and assets included in the initial matching portfolio and, consequently, entail the same risks for the undertaking concerned.

(9) Due to interdependencies between different approval applications under Directive 2009/138/EC, when applying for approval of matching adjustment the insurance or reinsurance undertaking should inform the supervisory authority of other applications concerning items in Article 308a(1) of Directive 2009/138/EC, which are currently ongoing or foreseen within the next six months. Such requirement is necessary to ensure supervisory assessments are based on transparent and unbiased information.

(10) This Regulation is based on the draft implementing technical standards submitted by the European Insurance and Occupational Pensions Authority to the European Commission.

(11) 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 in accordance with Article 37 of Regulation (EU) No 1094/2010 of the European Parliament and of the Council[(2)],

(12) In order to enhance legal certainty about the supervisory regime during the phasing-in period provided for in Article 308a of Directive 2009/138/EC, which will start on 1 April 2015, it is important to ensure that this Regulation enters into force as soon as possible, on the day after that of its publication in the *Official Journal of the European Union*.

***Changes to legislation:** There are outstanding changes not yet made to Commission Implementing Regulation (EU) 2015/500. 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)EUR 2015 No. 500 may be subject to amendment by EU Exit Instruments made by the Prudential Regulation Authority under powers set out in The Financial Regulators' Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1115), regs. 2, 3, Sch. Pt. 2. These amendments are not currently available on legislation.gov.uk. Details of relevant amending instruments can be found on their website/s. (See end of Document for details) View outstanding changes*

HAS ADOPTED THIS REGULATION:

Article 1

Application to use a matching adjustment

1 Insurance and reinsurance undertakings applying to use a matching adjustment shall submit a written application for prior approval to the supervisory authorities.

2 The application shall be submitted in one of the official languages of the Member State in which the insurance or reinsurance undertaking has its head office, or in a language previously agreed by the supervisory authority, and shall contain at least the information required by Articles 3 to 6 of this Regulation.

3 Insurance and reinsurance undertakings shall ensure that the application includes any other relevant information that they consider may be necessary for the assessment and decision by the supervisory authority. The application shall contain documentary evidence of the insurance or reinsurance undertaking's internal decision-making process related to the application.

4 Where an application is submitted in respect of more than one portfolio of insurance or reinsurance obligations, the application shall set out the evidence required by Articles 3 to 6 of this Regulation separately for each portfolio that is covered by the application.

Article 2

Content of the application relating to the assigned portfolio of assets

In relation to the assigned portfolio of assets required by paragraph 1(a) of Article 77b of Directive 2009/138/EC, the application shall include at least the following:

(a) evidence that the assigned portfolio of assets meets all of the relevant conditions specified in Article 77b(1) of Directive 2009/138/EC;

(b) details of the assets within the assigned portfolio, which shall consist of line-by-line asset information together with the procedure used to group such assets by asset class, credit quality and duration for the purposes of determining the fundamental spread referred to in paragraph 1(b) of Article 77c of Directive 2009/138/EC;

(c) a description of the process used to maintain the assigned portfolio of assets in accordance with paragraph 1(a) of Article 77b of Directive 2009/138/EC, including the process for maintaining the replication of expected cash-flows where these have materially changed.

Article 3

Content of the application relating to the portfolio of insurance or reinsurance obligations

In relation to the portfolio of insurance or reinsurance obligations to which the matching adjustment is intended to apply, the application shall contain at least the following:

Changes to legislation: *There are outstanding changes not yet made to Commission Implementing Regulation (EU) 2015/500. 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)EUR 2015 No. 500 may be subject to amendment by EU Exit Instruments made by the Prudential Regulation Authority under powers set out in The Financial Regulators' Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1115), regs. 2, 3, Sch. Pt. 2. These amendments are not currently available on legislation.gov.uk. Details of relevant amending instruments can be found on their website/s. (See end of Document for details) View outstanding changes*

(a) evidence that the insurance or reinsurance obligations meet all of the criteria specified in points (d), (e), (g) and (j) of paragraph 1 of Article 77b of Directive 2009/138/EC;

(b) where mortality risk is present, quantitative evidence that the best estimate of the portfolio of insurance or reinsurance obligations does not increase by more than 5 % under the mortality risk stress specified in Article 52 of the Commission Delegated Regulation (EU) 2015/35[(3)].

Article 4

Content of the written application relating to cash-flow matching and portfolio management

In relation to the cash-flow matching and management of the eligible portfolio of obligations and the assigned portfolio of assets, the application shall contain at least the following:

(a) quantitative evidence that the criteria of paragraph 1(c) of Article 77b of Directive 2009/138/EC are met, including a quantitative and qualitative assessment of whether any mismatch gives rise to risks which are material in relation to the risks inherent in the insurance business to which the matching adjustment is intended to be applied;

(b) evidence that adequate processes will be in place to properly identify, organise and manage the portfolio of obligations and assigned portfolio of assets separately from other activities of the undertaking, and to ensure that the assigned assets will not be used to cover losses arising from other activities of the undertaking, in accordance with paragraph 1(b) of Article 77b of Directive 2009/138/EC;

(c) evidence of how the own funds will be adjusted in accordance with Article 81 of Directive 2009/138/EC to reflect any reduced transferability;

(d) evidence of how the Solvency Capital Requirement (SCR) will be adjusted to appropriately reflect any reduced scope for risk diversification. Where relevant this shall include evidence of compliance with Articles 216, 217 and 234 of the Delegated Regulation (EU) 2015/35. Where insurance and reinsurance undertakings intend to calculate the Solvency Capital Requirement using an internal model but have not been granted the necessary supervisory approval, the evidence required by this paragraph shall be submitted on the basis of the standard formula result as well as the unapproved internal model.

Article 5

Additional content of the written application

In addition to the information specified in Articles 3 to 4 of this Regulation, the application shall also include the following:

(a) confirmation that the conditions of Article 77b(3) of Directive 2009/138/EC will be met if supervisory approval to apply a matching adjustment is granted;

(b) the liquidity plan required under Article 44(2) of Directive 2009/138/EC;

(c) the assessments required under Article 44(2a)(b) of Directive 2009/138/EC;

(d) the assessments required under Article 45(2a) of Directive 2009/138/EC;