

Draft Regulations laid before Parliament under paragraphs 1(1) and (2) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of each House of Parliament.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2018 No. 0000

EXITING THE EUROPEAN UNION

FINANCIAL SERVICES

**The Solvency 2 and Insurance (Amendment etc.) (EU Exit)
Regulations 2018**

Made - - - - - ***
Coming into force in accordance with regulation 1(2) - - - - - ***

The Treasury, in exercise of the powers conferred by section 8(1) of the European Union (Withdrawal) Act 2018^(a), make the following Regulations:

A draft of these Regulations has been approved by a resolution of each House of Parliament in accordance with paragraphs 1(1) and (2) of Schedule 7 to the European Union (Withdrawal) Act 2018.

PART 1

General provision

Citation and commencement

1.—(1) These Regulations may be cited as the Solvency 2 and Insurance (Amendment etc.) (EU Exit) Regulations 2018.

(2) These Regulations come into force on exit day.

PART 2

Amendment of primary legislation

2.—(1) The Financial Services and Markets Act 2000^(b) is amended as follows.

(2) In section 284A (Transformer vehicles) ^(c), in subsection (9) omit “an EU instrument and”.

(3) In section 316(Direction by a regulator)^(a), in subsection (4) omit paragraph (b).

^(a) 2018 c. 16.

^(b) 2000 c. 8.

^(c) Section 284A was inserted by section 31(1) and (2) of the Bank of England and Financial Services Act 2016 (c.14)

PART 3

Amendments of subordinate legislation

Amendments of the Solvency 2 Regulations 2015

3. The Solvency 2 Regulations 2015**(b)** are amended in accordance with this Part.

Interpretation

4.—(1) In Part 1 (citation, commencement and interpretation), regulation 2 (interpretation) is amended as follows.

(2) For paragraph (1) substitute—

“(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;

“capital requirements regulation” means Regulation (EU) No. 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No. 648/2012;

“college of supervisors” means a permanent but flexible structure for the co-operation, co-ordination and facilitation of decision making concerning the supervision of a group;

“Financial Conglomerates Directive” means Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings, and investment firms in a financial conglomerate, as it had effect immediately before exit day;

“FSMA” means the Financial Services and Markets Act 2000;

“common management relationship” means a relationship between two or more undertakings which satisfies the following conditions—

(a) the undertakings are not connected in the manner described in section 1162 of, and Schedule 7 to, the Companies Act 2006, and

(b) either—

(i) the undertakings are managed on a unified basis pursuant to a contract with one of them, or provisions in the undertakings’ respective memorandum or articles of association, or

(ii) the administrative, management or supervisory bodies of those undertakings consist, for the major part, of the same persons in office during the financial year in respect of which it is being decided whether such a relationship exists;

“insurance holding company” means a parent undertaking which is not a mixed financial holding company and the main business of which is to acquire and hold participations in subsidiary undertakings, where those subsidiary undertakings are exclusively or mainly insurance or reinsurance undertakings, or third-country insurance or reinsurance undertakings, at least one of such subsidiary undertakings being an insurance or reinsurance undertaking;

“method 1” and “method 2” have the meaning given in rule 1.2 of the Group Supervision part of the PRA Rulebook;

“non-United Kingdom solvency 2 parent” means a parent undertaking which is—

(a) a third-country insurance undertaking, or

(a) Section 316 was amended by the Financial Services Act 2012 section (1) to (5).

(b) S.I. 2015/575.

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

“mixed-activity insurance holding company” means a parent undertaking other than an insurance undertaking, a third-country insurance undertaking, a reinsurance undertaking, a third-country reinsurance undertaking, an insurance holding company or a mixed financial holding company, which includes at least one insurance or reinsurance undertaking among its subsidiary undertakings;

“parent undertaking” means—

- (a) a parent undertaking, within the meaning of section 420 of FSMA, or
- (b) an undertaking which, in the opinion of the PRA, effectively exercises a dominant influence over another undertaking;

“participating undertaking” means —

- (a) an undertaking which is either a parent undertaking or other undertaking which holds a participation, or an undertaking linked with another undertaking by a common management relationship, or
- (b) an undertaking which holds, directly or indirectly, voting rights or capital in another undertaking over which, in the opinion of the PRA, it effectively exercises a significant influence;

“regulated entity” has the meaning given in regulation 1(2) of the Financial Conglomerates and Other Financial Groups Regulations 2004(a);

“related undertaking” means either a subsidiary undertaking or other undertaking in which a participation is held, or an undertaking linked with another undertaking by a common management relationship;

“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, as it has effect immediately before exit day;

“Solvency 2 Regulation” means 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;

“subsidiary undertaking” means—

- (a) a subsidiary undertaking, within the meaning of section 420 of FSMA, or
- (b) an undertaking over which, in the opinion of the PRA, a parent undertaking effectively exercises a dominant influence;

“third country” means a country other than the United Kingdom;

“third-country insurance undertaking” means an undertaking which if its head office were situated in the United Kingdom—

- (a) would require permission under Part 4A of FSMA to carry out regulated activities relating to reinsurance, and
- (b) immediately before exit day, would have required authorisation as a reinsurance undertaking in accordance with Article 14 of the Solvency 2 Directive;

“supervisory authority” means the national authority or the national authorities empowered by law or regulation to supervise third-country insurance undertakings and/or third-country reinsurance undertakings;

“third-country reinsurance undertaking”, means an undertaking which would require authorisation as a reinsurance undertaking in accordance with the United Kingdom enactments or rules implementing Article 14 of the Solvency 2 Directive if its head office were situated in the United Kingdom;

(a) S.I. 2004/1862.

“United Kingdom 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 non-United Kingdom solvency 2 parent” means a non-United Kingdom solvency 2 parent which has no parent undertaking which is a United Kingdom solvency 2 parent or non-United Kingdom solvency 2 parent;

“ultimate United Kingdom solvency 2 parent” means a United Kingdom solvency 2 parent which has no parent undertaking which is a United Kingdom solvency 2 parent.”

(3) After paragraph (1), insert—

“(1A) Reference to “group” in these Regulations, is to a group of undertakings that—

- (a) does not include any undertaking not included in the scope of group supervision in accordance with a direction issued by the PRA under section 138A of FSMA; and
- (b) either—
 - (i) consists of a participating undertaking, its subsidiaries and the entities in which the participating undertaking or its subsidiaries hold a participation, as well as undertakings linked to each other by a common management relationship, or
 - (ii) is based on the establishment, contractually or otherwise, of strong and sustainable financial relationships among those undertakings, and that may include mutual or mutual-type associations, provided that—
 - (aa) one of those undertakings effectively exercises, through centralised coordination, a dominant influence over the decisions, including financial decisions, of the other undertakings that are part of the group; and
 - (bb) the establishment and dissolution of such relationships are subject to prior approval by the PRA.

(1B) For the purposes of paragraph (1A), the undertaking exercising the centralised coordination shall be considered as the parent undertaking, and the other undertakings shall be considered as subsidiaries.”

(4) After paragraph (2) insert—

“(3) A reference in these Regulations to the PRA Rulebook is to be read as including a reference to a rule, having equivalent effect in the Rulebook published by the PRA containing rules made by the PRA under FSMA as that rule has effect on exit day.

(4) References to the United Kingdom enactments or rules which implemented the Solvency 2 Directive, or a provision thereof, are to the law of the United Kingdom or any part of the United Kingdom which was relied on immediately before exit day to implement Directive 2009/138/EU and its implementing measures—

- (a) as they have effect on exit day, in the case of rules made by the Financial Conduct Authority or by the Prudential Regulation Authority under the Financial Services and Markets Act 2000, and
- (b) as amended from time to time, in all other cases.

(5) Regulations made by the Treasury under these Regulations are to be made by statutory instrument.

(6) A statutory instrument which contains regulations under these Regulations is subject to annulment in pursuance of a resolution of either House of Parliament.”

Supervision

- 5.—(1) Part 2 (supervision) is amended as follows.
- (2) In regulation 3 (exercise of PRA and FCA functions), in paragraph (1)—
- (a) for the “Solvency 2 Directive” substitute “the United Kingdom enactment or rules which implemented the Solvency 2 Directive”;
 - (b) omit sub-paragraph (a) and (b).
- (3) After regulation 4 (review of capital add-ons) insert—

“Non-compliance with solvency capital requirement and exceptional adverse situations

4A.—(1) The PRA may extend the period of six months for which an insurance undertaking or reinsurance undertaking must take the measures necessary to achieve the re-establishment of the level of eligible own funds covering the solvency capital requirement or the reduction of its risk profile to ensure compliance with the solvency capital requirement by up to—

- (a) three months; or
- (b) in the event of a declaration by the Prudential Regulation Committee of the Bank of England under paragraph (2) and considering all relevant factors including the average duration of the technical provisions, seven years.

(2) The Prudential Regulation Committee of the Bank of England must declare the existence of exceptional adverse situations, in the circumstances set out in paragraph (3).

(3) Exceptional adverse situations exist where the financial situation of insurance or reinsurance undertakings representing a significant share of the market or of the affected lines of business are seriously or adversely affected by one or more of the following conditions—

- (a) a fall in financial markets which is unforeseen, sharp and steep;
- (b) a persistent low interest rate environment; and
- (c) a high-impact catastrophic event.

(4) The Prudential Regulation Committee of the Bank of England must assess on a regular basis whether the conditions referred to in paragraph (2) still apply. The Prudential Regulation Committee of the Bank of England must declare when an exceptional adverse situation has ceased to exist.

(5) An extension referred to in paragraph (1)(b) must be withdrawn where the insurance undertaking or reinsurance undertaking submits to the PRA a progress report that shows that there was no significant progress in achieving the re-establishment of the level of eligible own funds covering the solvency capital requirement or the reduction of the risk profile to ensure compliance with the solvency capital requirement between the date of the observation of non-compliance of the solvency capital requirement and the date of the submission of the progress report.

Duty to publish technical information

4B.—(1) On or before 10 April 2019, for the quarter ending 31 March 2019, and at least quarterly thereafter, for each subsequent quarter, the PRA must publish on its website the following information for each relevant currency—

- (a) the relevant risk-free interest rate term structure used to calculate the best estimate, without any matching adjustment or volatility adjustment;
- (b) for each relevant duration, credit quality and asset class, a fundamental spread for the calculation of the matching adjustment to the relevant risk-free interest rate term structure used to calculate the best estimate for a portfolio of life insurance or reinsurance obligations; and

- (c) for each relevant national insurance market, a volatility adjustment to the relevant risk-free interest rate term structure used to calculate the best estimate.

(2) Paragraph 17(9)(b) of Schedule 6A to the Bank of England Act 1998 does not prohibit the making of a rule that imposes an obligation on PRA-authorized persons by reference to information published by the PRA under this regulation.

(3) The volatility adjustment referred to in paragraph (1) must, for each relevant currency—

- (a) be based on the spread between the interest rate that could be earned from the assets included in the reference portfolio for that currency and the rates of the relevant basic risk-free interest rate term structure for that currency; and
- (b) correspond to 65% of the risk-corrected currency spread.

(4) The reference portfolio for a currency is one that is representative of the assets which are denominated in that currency and which insurance and reinsurance undertakings are invested in to cover the best estimate for insurance and reinsurance obligations denominated in that currency.

(5) The risk-corrected currency spread must be calculated as the difference between the spread referred to in paragraph (3)(a) and the portion of the spread that is attributable to a realistic assessment of expected losses or unexpected credit or other risk of the assets.

(6) For each relevant country, the volatility adjustment to the risk-free interest rates referred to in paragraph 3(b) for the currency of that country shall, before application of the 65% factor, be increased by the difference between the risk-corrected country spread and twice the risk-corrected currency spread, whenever that difference is positive and the risk-corrected country spread is higher than 100 basis points. The risk-corrected country spread must be calculated in the same way as the risk-corrected currency spread for the currency of that country, but based on a reference portfolio that is representative for the assets which insurance and reinsurance undertakings are invested in to cover the best estimate for insurance and reinsurance obligations of products sold in the insurance market of that country and denominated in the currency of that country.”

- (4) Omit regulations 5 to 9.

Groups

6.—(1) Part 3 (groups) is amended as follows.

(2) Before regulation 10 (risk concentration and intra-group transactions) insert—

“9A. This Part applies to the following types of groups—

- (a) insurance or reinsurance undertakings, which are a participating undertaking in at least one insurance undertaking, reinsurance undertaking, third-country insurance undertaking or third-country reinsurance undertaking;
- (b) insurance or reinsurance undertakings, the parent undertaking of which is an insurance holding company or a mixed financial holding company which has its head office in the United Kingdom;
- (c) insurance or reinsurance undertakings, the parent undertaking of which is an insurance holding company or a mixed financial holding company which has its head office in a third country or a third-country insurance or reinsurance undertaking; and
- (d) insurance or reinsurance undertakings, the parent undertaking of which is a mixed-activity insurance holding company.

9B. Where the participating insurance or reinsurance undertaking or the insurance holding company or the mixed financial holding company referred to in regulation 9A(a) and (b) is itself a subsidiary undertaking of another insurance or reinsurance undertaking or

of another insurance holding company or of another mixed financial holding company which has its head office in the United Kingdom, the United Kingdom provisions which implemented Articles 218 to 258 of the Solvency 2 Directive apply only at the level of the ultimate parent insurance or reinsurance undertaking, insurance holding company or mixed financial holding company which has its head office in the United Kingdom.”

(3) Regulation 10 is amended as follows—

- (a) for “of a group” substitute “of a type of group referred to in regulation 9A(a) or (b);
- (b) in Table 1, in the second row, in the second column—
 - (i) in the first paragraph, in sub-paragraph (a), for “an EEA State” substitute “the United Kingdom”;
 - (ii) in the second paragraph—
 - (aa) after “supplementary supervision”, insert “by the FCA, where the FCA is the supplementary supervisor or the PRA”;
 - (bb) before “Article 5(2)”, insert “the United Kingdom enactments or rules implementing”;
 - (iii) in the third paragraph, for “other supervisory authorities concerned in supervising the group”, substitute “FCA”;
- (c) omit the third row.

(4) In regulation 11 (equivalent provisions)—

- (a) for paragraph (2) substitute—

“(2) Where the mixed financial holding company is subject to equivalent provisions under any enactment or rules implementing the Solvency 2 Directive and the Financial Conglomerates Directive, the PRA may apply only the relevant provisions of the enactments or rules implementing the Financial Conglomerates Directive to the mixed financial holding company.”;
- (b) in paragraph (3), for “other supervisory authorities concerned in supervising the group”, substitute “FCA, where there is a firm in the group that is authorised and regulated by the FCA”;
- (c) for paragraph (4) substitute—

“(4) Where the mixed financial holding company is subject to equivalent provisions under any enactment or rules implementing the following two sets of legislation—

 - (a) the Solvency 2 Directive, and
 - (b) the capital requirements directive and the capital requirement regulation,

the PRA may apply only the enactments or rules relating to the most significant sector, as determined in accordance with the enactment or rules implementing Article 3(2) of the Financial Conglomerates Directive.”
- (d) in paragraph (5), for “consolidating supervisor under the Capital Requirements Directive” substitute “FCA, where the FCA is the consolidating supervisor under the Capital Requirements Regulation”.

(5) Omit regulations 12 to 14.

(6) For regulation 15 substitute—

“Supervision of group solvency and frequency of calculation

15.—(1) Subject to paragraph (2), where the PRA is the group supervisor of a type of group referred to in regulation 9A(a) or (b), the PRA must—

- (a) ensure that the calculations referred to in rules 4.1 and 4.2 of the Group Supervision part of the PRA Rulebook are carried out at least annually to ensure that the group has adequate financial resources at the level of the ultimate United Kingdom Solvency 2 parent;

- (b) conduct supervisory reviews to determine whether the insurance undertakings or reinsurance undertakings in the group are complying with the requirement to ensure that the group has adequate financial resources at the level of the ultimate United Kingdom Solvency 2 parent; and
 - (c) where the group is not headed by an insurance undertaking or reinsurance undertaking that is authorised by the PRA, consult the undertakings in the group before identifying an undertaking other than an insurance holding company or a mixed financial holding company to supply relevant data for, and the results of, the calculations referred to in paragraph (1)(a).
- (2) Subject to paragraph (3), where the PRA is required to rely on supervision exercised by a supervisory authority in a third country which has a prudential group supervision regime which is determined as equivalent in accordance with regulation 35, the PRA may determine that paragraph (1)—
- (a) does not apply, or
 - (b) applies with only such modifications as may be specified in the determination.
- (3) The PRA may not give a determination under paragraph (2) unless it is satisfied that—
- (a) compliance by insurance or reinsurance undertakings in the group with rules or requirements imposed by the PRA pursuant to paragraph (1) would be unduly burdensome; and
 - (b) the determination would not adversely affect the advancement of any of the PRA’s objectives.
- (4) The PRA may revoke or vary a determination given under paragraph (2).”
- (7) In regulation 16 (choice of method)—
- (a) in paragraph (1), omit “and the other supervisory authorities concerned in the supervision of the group”;
 - (b) omit paragraph (2).
- (8) In regulation 17, (inclusion of proportional share)—
- (a) in paragraph (2)(b)(ii) and (iii), for “a supervisory authority”, substitute “the PRA”;
 - (b) in paragraph (3), omit “and the other supervisory authorities concerned in the supervision of the group”;
 - (c) after paragraph (3), insert—
“(4) The PRA may allow for the solvency deficit of the subsidiary undertaking to be considered on a proportional basis where, in the opinion of the PRA, the responsibility of the parent undertaking owning a share of the capital is strictly limited to that share of the capital.”
- (9) Omit regulation 18 (related undertakings: calculation of group solvency).
- (10) In regulation 19 (participating undertakings: calculation of group solvency)—
- (a) in paragraph (1)(b) for, “which is a participating undertaking in” substitute “for which the calculation of the group solvency includes”;
 - (b) in paragraph (1)(c), after “to that specified in” insert “the United Kingdom enactments and rules which implemented”;
 - (c) after paragraph (2) insert—
“(2A) Where the Treasury has made regulations under Article 379A of the Solvency 2 Regulation, or the Commission have adopted a delegated act under Article 227 of the Solvency 2 Directive prior to exit day, determining that the supervisory regime of a third country is provisionally equivalent, that third country is deemed to be equivalent for the purposes of paragraph (2)”;
 - (d) for paragraph (3) substitute—

“(3) Where no decision has been made by the Treasury pursuant to Article 379A of the Solvency 2 Regulation, and the Commission has not adopted a delegated act under Article 227 of the Solvency 2 directive prior to exit day, the PRA—

- (a) may on its own initiative, or
- (b) must on the request of the insurance or reinsurance undertaking for which the calculation of the group solvency includes a third-country insurance undertaking or third-country reinsurance undertaking,

verify whether a solvency regime in the third country is at least equivalent to the United Kingdom enactments and rules which implemented Chapter 6 of Title 1, of the Solvency 2 Directive.”;

- (e) in paragraph (4)—
 - (i) omit sub-paragraph (a);
 - (ii) in sub-paragraph (b), for “any directly applicable regulation made under paragraph (3) of article 227”, substitute “Article 379 of the Solvency 2 Regulation”;
 - (iii) in sub-paragraph (c), before “Chapter 6 of Title 1 of the Solvency 2 Directive”, insert “the United Kingdom enactments and rules which implemented”;

- (f) after paragraph (4) insert—

“(5) The PRA must publish and keep up to date on its website a list of all third countries referred to in paragraph (3).”.

(11) In regulation 20 (internal models and capital add-ons)—

- (a) in paragraph (1)—
 - (i) omit the words from “the cases” to “in particular”;
 - (ii) in sub-paragraph (b)—
 - (aa) for “supervisory authorities concerned” substitute “PRA”;
 - (bb) omit “in accordance with Article 37 or 231(7) of the Solvency 2 Directive”;
- (b) in paragraph (3), omit “the PRA is a member of the college of supervisors and”;
- (c) in paragraph (4), omit “and the other members of the college of supervisors”;
- (d) omit paragraph (5).

(12) Omit regulations 21 to 23.

(13) In regulation 24 (supervision of risk concentration and intra-group transactions)—

- (a) in paragraph (1), for “of a group” substitute “of a type of group referred to in regulation 9A(a) or (2);
- (b) in paragraph (2), omit “and the other supervisory authorities concerned in the supervision of the group”;
- (c) omit paragraph (3).

(14) In regulation 25 (supervision of system of governance)—

- (a) for “of a group” substitute “of a type of group referred to in regulation 9A(a) or (b)”;
- (b) at the end of subparagraph (b), omit “and”;
- (c) omit subparagraph (c).

(15) For regulation 26, (rule for deciding the group supervisor) substitute—

“Rule for deciding the group supervisor

26. Where an insurance undertaking or reinsurance undertaking that is authorised by the PRA under Part 4A of FSMA is part of a group, the PRA is the group supervisor and must supervise that group.”

(16) Omit regulation 27.

- (17) In regulation 28 (duties of group supervisor and establishment of college of supervisors)—
- (a) in the title omit “and establishment of college of supervisors”;
 - (b) in paragraph (1)—
 - (i) for “Paragraphs (2) to (7) apply” substitute “Paragraph (2) applies”;
 - (ii) for “of a group” substitute “of a type of group referred to in regulation 9A(a) or (b)”;
 - (iii) omit “and paragraph (8) applies where the PRA is a member of a college of supervisors for a group but is not the group supervisor”;
 - (c) in paragraph (2)—
 - (i) omit sub-paragraph (a);
 - (ii) in sub-paragraph (c), omit, “set out in Articles 218 to 245 of the Solvency 2 Directive”;
 - (iii) in sub-paragraph (e), for “fulfil the requirements set out in rules implementing Articles 42 and 257 of the Solvency 2 Directive” substitute “are fit and proper to carry out their functions”;
 - (iv) omit sub-paragraph (f);
 - (v) in sub-paragraph (g), for “lead the process for validating”, substitute “determine applications for”;
 - (vi) omit sub-paragraph (h);
 - (vii) in sub-paragraph (i), after “group supervisor by the”, insert “United Kingdom enactment or rules which implemented the”;
 - (d) omit paragraphs (3) to (8).
- (18) Omit regulations 29 to 34.
- (19) For regulation 35 (non-EEA solvency 2 parent undertakings: equivalence) substitute—

“Non-United Kingdom solvency 2 parent undertakings: equivalence

35.—(1) The PRA must rely on the equivalent group supervision exercised by the third country supervisory authorities, where the conditions in paragraph (2) are, or the condition in paragraph (3) is met.

(2) The conditions are—

- (a) either (i) or (ii);
 - (i) the Treasury has made regulations under regulation 380A(1) of the Solvency 2 Regulation, or the Commission has adopted a delegated act under Article 260(3) of the Solvency 2 Directive prior to exit day, determining that the prudential regime of the third country is equivalent; or
 - (ii) the Treasury has made regulations under regulation 380A(4) of the Solvency 2 Regulation, or the Commission has adopted a delegated act under Article 260(5) of the Solvency 2 Directive prior to exit day, determining that the prudential regime of the third country is temporarily equivalent;
- (b) that determination still applies;
- (c) there is no insurance undertaking or reinsurance undertaking situated in the United Kingdom with a balance sheet total that exceeds the balance sheet total of the parent undertaking situated in the third country; and
- (d) the PRA has verified that the group is subject to supervision by a third-country supervisory authority in accordance with that equivalent or temporarily equivalent regime.

(3) The alternative condition is that the PRA has verified that the group is subject to supervision by a third country supervisory authority which is equivalent in accordance with paragraph (5).

- (5) Where the conditions referred to in paragraph (2) do not apply, the PRA—
- (a) must take a decision on equivalence at the request of the parent undertaking or the insurance undertaking or reinsurance undertaking; or
 - (b) may take a decision on equivalence on its own initiative, in accordance with paragraph (5).

- (5) Where the PRA takes a decision on equivalence, the PRA must—
- (a) verify equivalence at the level of the ultimate non-United Kingdom solvency 2 parent;
 - (b) ensure that its decision on equivalence does not contradict any previous decision taken in relation to the third country, except where it is necessary to do so in order to take into account significant changes to the supervisory regime laid down in Part 3 of these Regulations and the PRA Rulebook on Group Supervision or to the supervisory regime in the third country; and
 - (c) take its decision on equivalence in accordance with the criteria set out in Regulation 380 of the Solvency 2 Regulation.

(6) Where the PRA is required to rely on supervision exercised by a supervisory authority in a third country which, in accordance with paragraph (2) or (3), has a prudential group supervision regime which is determined as equivalent to Part 3 of these Regulations and the PRA Rulebook on Group Supervision—

Except where paragraph (7) applies, the PRA must consult the other members of the college of supervisors before taking a decision which is of importance to the supervisory tasks of another supervisory authority with regard to—

- (i) changes in the shareholder, organisational or management structure of insurance undertakings or reinsurance undertakings in the group, which require the approval or authorisation of the other supervisory authority;
- (ii) a decision on the extension of the recovery period under rule 3.1(3) of the Undertakings in Difficulty part, and rule 4.4 of, the PRA Rulebook on Group Supervision; or
- (iii) the imposition of a capital add-on, a limitation on the use of an internal model for calculating the solvency capital requirement, or any other major sanctions or exceptional measures taken by the other supervisory authority.

(7) Paragraph (6) does not apply in cases of urgency or where consultation may jeopardise the effectiveness of the PRA’s decision, provided the PRA informs the other supervisory authorities concerned without delay.

(8) The PRA must also consult a supervisory authority before taking a decision based on information received from that supervisory authority.”

(20) For regulation 36 (parent undertaking outside the EEA: absence of equivalence) substitute—

“Parent undertaking outside the United Kingdom: absence of equivalence

36.—(1) This regulation applies where—

- (a) a parent undertaking of an insurance undertaking or reinsurance undertaking established in the United Kingdom has its head office in a third country; and
- (b) both of the following conditions are satisfied—

(2) either on of the conditions in paragraph (2) is satisfied and one of the conditions in paragraph (3) is satisfied—

- (i) the prudential group supervision regime of the third country has not been determined to be equivalent by the Treasury or the PRA, and the Commission has not adopted a delegated act under Article 260(3) of the Solvency 2

Directive prior to exit day, determining that the prudential regime of the third country is equivalent to Title 3 of the Solvency 2 Directive; or

- (ii) the prudential group supervision regime has been determined to be equivalent by the Treasury, the PRA or the Commission, but has not verified that the group is subject to supervision by a third-country supervisory authority in accordance with that equivalent regime; and

(3) either—

- (i) the prudential group supervision regime of the third country has not been determined to be temporarily equivalent; or
- (ii) if the prudential group supervision regime of the third country has been determined to be temporarily equivalent, the group is not subject to that regime or the group contains an insurance undertaking or reinsurance undertaking in the United Kingdom with a balance sheet total that exceeds the balance sheet total of the parent undertaking situated in the third country.

(4) The PRA must, at the level of the ultimate non-United Kingdom solvency 2 parent—

- (a) ensure appropriate supervision of the insurance undertakings and reinsurance undertakings that are authorised by the PRA in the group; and
- (b) ensure the objectives of group supervision are achieved.

(5) The PRA may require the group to establish an insurance holding company or mixed financial holding company with its head office in the United Kingdom.”

(21) After regulation 36 insert—

“Parent undertakings outside the United Kingdom: levels

36A.—(1) Where the parent undertaking of an insurance undertaking or reinsurance undertaking with its head office outside the United Kingdom” is itself a subsidiary of—

- (a) an insurance holding company or a mixed financial holding company which has its head office in a third country, or
- (b) a third-country insurance or reinsurance undertaking,

regulation 35 only applies at the level of the ultimate parent undertaking which is a third-country insurance holding company, a third-country mixed financial holding company, a third- country insurance undertaking or a third- country reinsurance undertaking.

(2) The PRA may, however, in the absence of equivalent supervision referred to in regulation 35, carry out a new verification of equivalence at a lower level where a parent undertaking of insurance or reinsurance undertakings exists, whether at the level of a third-country insurance holding company, a third country mixed financial holding company, a third-country insurance undertaking or a third-country reinsurance undertaking.

(3) In those circumstances, regulation 35 applies with any necessary changes at that lower level.

(4) Where subsection (2) applies, the PRA must explain its decision to the group to which the insurance undertaking or reinsurance undertaking belongs.”

(22) In regulation 37 (intra-group transactions), after paragraph (2), insert—

“(3) The requirements in regulation 24 apply to the transactions specified in paragraph (2).”

(23) Omit Schedule 3.

Approvals

7.—(1) Part 4 (approvals) is amended as follows.

- (2) In regulation 38 (meaning of “approval”, “group application”, “protected item” and “branch”)—
- (a) in paragraph (1), omit “and in Schedules 4 and 5”;
 - (b) omit paragraph (2).
- (3) In regulation 39 (applications: eligibility, process, information and documents)—
- (a) in paragraph (3), omit “subject to paragraph (9)”;
 - (b) in paragraph (8)(a), after “directly applicable regulation” insert “that forms part of retained EU law”;
 - (c) omit paragraph (9);
 - (d) in paragraph (10) (d), for “capital requirements specified in Sections 4 and 5 of Chapter 6 of Title 1 of the Solvency 2 Directive” substitute “solvency capital requirement and minimum capital requirement”.
- (4) Omit regulation 40 (additional process: applications from groups and applications to more than one supervisory authority).
- (5) In regulation 41 (verification that the Solvency 2 Directive does not apply), for “Article 4(4) of the Solvency 2 Directive”, in each place it occurs, substitute “the United Kingdom enactments or rules which implemented Article 4(4) of the Solvency 2 Directive”.
- (6) In regulation 42 (matching adjustment)—
- (a) in paragraph (4), for “rules implementing, and any directly applicable regulation made under, Article 75 of the Solvency 2 Directive” substitute “rules 2.1 and 2.2 of the Valuation part of the PRA Rulebook”;
 - (b) in paragraph (7)—
 - (i) in sub-paragraph (b), omit “which has not been granted an approval under regulation 50”;
 - (ii) omit sub-paragraph (c).
- (7) In regulation 43 (volatility adjustment), in paragraph (5)—
- (a) in sub-paragraph (a), before “the Solvency 2 Directive” insert “the United Kingdom enactments or rules implementing”;
 - (b) in sub-paragraph (b), after “a directly applicable regulation made under the Solvency 2 Directive” insert “which forms part of retained EU law”.
- (8) In regulation 49 (group applications), for paragraph (2) substitute “The PRA may approve an application made under paragraph (1).”
- (9) Omit regulations 50 to 52.
- (10) Omit Schedules 4 and 5.

PART 4

Amendments of retained direct EU legislation

Amendments of Commission Delegated Regulation (EU) No 2015/35

8.—(1) Commission Delegated Regulation (EU) No 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) is amended as follows.

(2) Except as provided by paragraph 2 any other expression used in these Regulations which is used in the Solvency 2 Directive (a) has the meaning which is given in that Directive, as it has effect immediately before exit day.

(3) In Article 1—

- (a) in paragraph 1, for “Article 75 of Directive 2009/138/EC” substitute “rules 2.1 and 2.2 of the PRA Rulebook on Valuation”;
- (b) in paragraphs 19 to 24 [insert CRR references];
- (c) in paragraph 50, for “Article 2(4) of Directive 2002/87/EC of the European Parliament and the Council” substitute “Regulation 1(2) of the Financial Conglomerates and Other Financial Groups Regulations 2004”;
- (d) in paragraph 51, for “Article 2(4) of Directive 2002/87/EC” substitute “Regulation 1(2) of the Financial Conglomerates and Other Financial Groups Regulations 2004”;
- (e) insert—

““subsidiary undertaking” has the meaning given in the Solvency 2 Regulations 2015;

“related undertaking” has the meaning given in the Solvency 2 Regulations 2015;

“UCITS management company” has the same meaning as in the definition of “management company in section 237 of the Financial Services and Markets Act 2000”;

“alternative investment fund manager” has the meaning given in regulation 4(1) of the Alternative Investment Managers Regulations 2013”;

“institutions for occupational retirement provision” means an institution, irrespective of its legal form, operating on a funded basis, established separately from any sponsoring undertaking or trade for the purpose of providing retirement benefits in the context of an occupational activity on the basis of an agreement or a contract agreed:

- (a) individually or collectively between the employers and the employees or their respective representatives; or
- (b) with self-employed persons, in compliance with United Kingdom legislation;

and which carries out activities directly arising therefrom”;

“domestic insurance undertaking” means an undertaking authorised and supervised by third-country supervisory authorities which would require authorisation as an insurance undertaking if its head office were situated in the United Kingdom”;

“domestic reinsurance undertaking” means an undertaking authorised and supervised by third-country supervisory authorities which would require authorisation as a reinsurance undertaking if its head office were situated in the United Kingdom ”;

(f) after paragraph 58, insert—

“59. References in this Regulation to the following Directives, or to provisions of those Directives, are to be read as references to the United Kingdom enactments or rules which implemented those Directives, or provisions of those Directives, unless stated otherwise:

- (a) Directive 2002/87/EC,
- (b) Directive 2003/41/EC,
- (c) Directive 2005/60/EC,
- (d) Directive 2009/13/EC,
- (e) Directive 2009/65/EC,
- (f) Directive 2009/138/EC,
- (g) Directive 2011/61/EU,
- (h) Directive 2013/36/EU,

(a) The Solvency 2 Directive

- (i) Directive 2014/65/EU”.

60. A reference in this Regulation to the PRA Rulebook is to be read as including a reference to a rule having equivalent effect in the Rulebook published by the PRA containing rules made by the PRA under FSMA as that rule has effect on exit day.

61. References to the United Kingdom enactments or rules which implemented the Solvency 2 Directive, or a provision thereof, are to the law of the United Kingdom or any part of the United Kingdom which was relied on immediately before exit day to implement Directive 2009/138/EU and its implementing measures—

- (a) as they have effect on exit day, in the case of rules made by the Financial Conduct Authority or by the Prudential Regulation Authority under the Financial Services and Markets Act 2000, and
- (b) as amended from time to time, in all other cases.

62. The provisions specified in Schedule 1 to this Regulation are deemed to be rules made by the PRA under section 137G of the Financial Services and Markets Act 2000 that come into force on exit day.”

(4) In Section 2, for the heading substitute “Technical standards”.

(5) For Article 3 substitute—

“Article 3

The PRA’s powers to make technical standards and publish technical information

1. For the purposes of using credit assessments from external credit assessment institutions (ECAIs) in the calculation of the Solvency Capital Requirement in accordance with the standard formula, the PRA [in consultation with the FCA] may make technical standards on the allocation of credit assessments from ECAIs to an objective scale of credit quality steps.

The objective scale of credit quality steps referred to in Article 109a(1) of Directive 2009/138/EC shall include credit quality steps 1 to 6.

2. The allocation of credit quality steps referred to in the first paragraph shall be consistent with the use of external credit assessments from ECAIs in the calculation of the capital requirements for credit institutions as defined in Article 4(1)(1) of Regulation (EU) No 575/2013 and financial institutions as defined in Article 4(1) (26) thereof.

3. For the purposes of facilitating the calculation of the market risk module referred to in rule 3.11 of the Solvency Capital Requirement – Standard Formula part of the PRA Rulebook, facilitating the calculation of the counterparty default risk module referred to in rule 3.12 of that part of the Rulebook, evaluating risk mitigation techniques referred to in rule 3.5 of the Solvency Capital Requirement – General Provisions part of the PRA Rulebook, and calculating technical provisions, the PRA may make technical standards on:

- (a) lists of regional governments and local authorities, exposures to whom are to be treated as exposures to the central government of the jurisdiction in which they are established, provided that there is no difference in risk between such exposures because of the specific revenue-raising powers of the former, and specific institutional arrangements exist, the effect of which is to reduce the risk of default;
- (b) the equity index referred to in Article 172(1) of this Regulation, in accordance with the detailed criteria established in Article 172;
- (c) the adjustments to be made for currencies pegged to the euro in the currency risk sub-module referred to in rule 3.11 of the Solvency Capital Requirement – Standard Formula part of the PRA Rulebook, in accordance with the detailed criteria for the adjustments for currencies pegged to the euro for the purpose of facilitating the calculation of the currency risk sub-module.

4. The PRA must publish technical information including information concerning the symmetric adjustment referred to in the Solvency Capital Requirement – Standard Formula part of the PRA Rulebook on at least a quarterly basis.
5. For the purpose of facilitating the calculation of the health underwriting risk module referred to in rule 3.10 of the Solvency Capital Requirement – Standard Formula part of the PRA Rulebook, the PRA may make technical standards on standard deviations in relation to specific national legislative measures of third countries which permit the sharing of claims payments in respect of health risk amongst insurance and reinsurance undertakings and which meet the criteria in paragraph 6.
6. The technical standards referred to in paragraph 5 shall apply only to the national legislative measures of third countries which permit the sharing of claims payments in respect of health risk amongst insurance and reinsurance undertakings and which meet the following criteria:
 - (a) the mechanism for the sharing of claims is transparent and fully specified in advance of the annual period to which it applies;
 - (b) the mechanism for the sharing of claims, the number of insurance undertakings that participate in the health risk equalisation system (HRES) and the risk characteristics of the business subject to the HRES ensure that for each undertaking participating in the HRES the volatility of annual losses of the business subject to the HRES is significantly reduced by means of the HRES, both in relation to premium and to reserve risk;
 - (c) health insurance subject to the HRES is compulsory and serves as a partial or complete alternative to health cover provided by the statutory social security system;
 - (d) in the event of default of insurance undertakings participating in the HRES, one or more Member States' governments guarantee to meet the policy holder claims of the insurance business that is subject to the HRES in full.
- (6) In Article 9, in paragraphs 1 to 4, in each place where it occurs omit “adopted by the Commission”.
- (7) In Article 10, in paragraph 4 omit “adopted by the Commission”.
- (8) In Article 13—
 - (a) in paragraph (2)(b), for “Article 229 of Directive 2009/138/EC” substitute “rule 10.6 of the Group Supervision part of the PRA Rulebook”;
 - (b) in paragraph 4, for “an insurance or reinsurance undertaking or” substitute “either (a) required to calculate technical provisions in accordance with any national measures transposing Articles 76 to 85 of that Directive; or (b)”;
 - (c) in paragraph 5—
 - (i) for “insurance or reinsurance undertakings” substitute “those referred to in paragraph 4”.
 - (ii) omit “adopted by the Commission”.
- (9) In Article 14, in paragraph 1, omit “adopted by the Commission”.
- (10) In Article 23, in paragraph 5, for “Article 41(1) of Directive 2009/138/EC” substitute “the governance requirements set out in rule 2.2 of the Conditions Governing Business part of the PRA Rulebook”.
- (11) In Article 28, omit “as endorsed by the Commission”.
- (12) In Article 48, for “Article 101(3) of Directive 2009/138/EC” substitute “rules 3.3 and 3.4 of the Solvency Capital Requirement – General Provisions part of the PRA Rulebook”.
- (13) In Article 68—
 - (a) in paragraph 1—
 - (i) for “Article 88 of Directive 2009/138/EC” substitute “the Own Funds part of the PRA Rulebook”;

- (ii) for “Article 92(2) of that Directive” substitute “paragraph 6”;
- (b) in paragraph 2, for “Article 92(2) of that Directive” substitute “paragraph 6 below”;
- (c) in paragraph 3, for “Annex I of Directive 2002/87/EC” substitute “the Financial Conglomerates part of the PRA Rulebook”;
- (d) after paragraph 5 insert—

“6. Participations in financial and credit institutions shall comprise the following:

- (a) participations which insurance and reinsurance undertakings hold in:
 - (i) credit institutions and financial institutions within the meaning of the United Kingdom enactments and rules which implemented Article 4(1) and (5) of Directive 2006/48/EC;
 - (ii) investment firms within the meaning of the United Kingdom enactments and rules which implemented point 1 of Article 4(1) of Directive 2004/39/EC;
- (b) subordinated claims and instruments referred to in the United Kingdom enactments and rules which implemented Articles 63 and 64(3) of Directive 2006/48/EC which insurance and reinsurance undertakings hold in respect of the entities defined in point (a) of this paragraph in which they hold a participation.”

(14) In Article 70, in paragraph 1(f), for “Article 92(2) of Directive 2009/138/EC” substitute “Article 68(6) of this Regulation”;

(15) In Article 104, in paragraph 1(b), for “Article 75 of Directive 2009/138/EC” substitute “rules 2.1 and 2.2 of the Valuation part of the PRA Rulebook”;

(16) In Article 149—

- (a) in paragraphs 1, 3 and 4, for “Article 109a(4) of Directive 2009/138/EC” substitute “Article 3(5) of this Regulation”;
- (b) in paragraph 5, omit “in accordance with Article 110 of that Directive 2009/138/EC”.

(17) In Article 164a, in paragraph 1(f)(i), omit “in the EEA or”.

(18) In Article 164b, in paragraph 1, omit “the EEA or”.

(19) In Article 166, in paragraph 3, for “Article 92(2) of Directive 2009/138/EC” substitute “Article 68(6) of this Regulation”.

(20) In Article 167, in paragraph 3, for “Article 92(2) of Directive 2009/138/EC” substitute “Article 68(6) of this Regulation”.

(21) In Article 168—

- (a) in paragraph 2, omit “the European Economic Area (EEA) or”;
- (b) in paragraph 5, for “Article 92(2) of Directive 2009/138/EC” substitute “Article 68(6) of this Regulation”;
- (c) in paragraph 6—
 - (i) in point (c), for “Union”, in each place where it occurs, substitute “United Kingdom”;
 - (ii) in point (d), for “European long-term investment funds” substitute “United Kingdom long-term investment funds”.

(22) In Article 170, in paragraphs 1 and 2, for “the provisions set out in Article 304 of Directive 2009/138/EC” substitute “a duration-based equity risk sub-module”.

(23) In Article 172, in paragraph 1, for “referred to in Article 106(2) of Directive 2009/138/EC” substitute “upon which the symmetric adjustment to the standard equity capital charge is to be based”.

(24) In Article 173, in paragraph 1, for “pursuant to Article 304 of that Directive” substitute “sub-module”.

(25) In Article 176, in paragraph 6, for “Article 92(2) of Directive 2009/138/EC” substitute “Article 68(6) of this Regulation”.

- (26) In Article 177, in paragraph 2—
- (a) in point (b), omit “the EEA or”;
 - (b) in point (h)(i)—
 - (i) for “national law of the Member State where the loans were originated”, substitute “the loans were originated in the United Kingdom and United Kingdom law”;
 - (ii) omit, “and that Member State has notified this law to the Commission and EIOPA”;
 - (c) in points (r) and (s), for “in countries that are not members of the Union” substitute “in countries other than the United Kingdom”;
 - (d) in point (t), in each place where it occurs, for “Union” substitute “United Kingdom”;
 - (e) in paragraph 4, for “the entry into force of this Regulation” substitute “18 January 2015”;
 - (f) in paragraph 5, in points (a) and (c), for “the date of entry into force of this Regulation” substitute “18 January 2015”.
- (27) In Article 180—
- (a) in paragraph 2—
 - (i) omit point (a);
 - (ii) for point (b) substitute—
“(a) United Kingdom central government and Bank of England denominated and funded in pound sterling;”
 - (b) in paragraph 3, for “point (b)” substitute “point (a)”;
 - (c) in paragraph 7—
 - (i) omit “to that laid down in Directive 2009/138/EC”;
 - (ii) for “Article 277 of Directive 2009/138/EC” substitute “Article 379A of this Regulation”;
 - (d) omit paragraph 10.
- (28) In Article 184, in paragraph 2—
- (a) in paragraph (b)(iv), for “Union” substitute “United Kingdom”;
 - (b) in paragraph (c), for “Article 92(2) of Directive 2009/138/EC” substitute “Article 68(6) of this Regulation”.
- (29) In Article 186, in paragraph (4), for “Article 277 of Directive 2009/138/EC” substitute “Article 379A of this Regulation”.
- (30) In Article 187—
- (a) in paragraph 3—
 - (i) omit point (a);
 - (ii) for point (b) substitute—
“(a) United Kingdom central government and Bank of England denominated and funded in pound sterling”;
 - (b) in paragraph 4, for “(b)” substitute “(a)”;
 - (c) in paragraph 5, point (a), for “Union” substitute “United Kingdom”.
- (31) In Article 188—
- (a) in paragraph 5, for “the implementing act adopted pursuant to point (d) of Article 109a(2) of Directive 2009/138/EC” substitute “Commission Implementing Regulation (EU) 2015/2017” ;
 - (b) in paragraph 6, for “Article 92(2) of Directive 2009/138/EC” substitute “Article 68(6) of this Regulation”.
- (32) In Article 191 omit paragraph 14.

(33) In Article 193, in paragraph 1(g), in each place where it occurs, for “Article 172 of Directive 2009/138/EC” substitute “Article 379A of this Regulation”.

(34) In Article 199—

- (a) in paragraph 5, omit “referred to in Article 51 of Directive 2009/138/EC”;
- (b) in paragraph 6—
 - (i) omit, “to that laid down in Directive 2009/138/EC”;
 - (ii) for “Article 227 of Directive 2009/138/EC”, substitute “Article 379A of this Regulation”;
- (c) in paragraph 11, for “the implementing act adopted pursuant to point (a) of Article 109a (2) of Directive 2009/138/EC” substitute “Commission Implementing Regulation (EU) 2015/2011”.

(35) In Article 211—

- (a) in paragraph 2(b) and (c)—
 - (i) omit “to that laid down in Directive 2009/138/EC”;
 - (ii) for “Article 172 of that Directive” substitute “Article 378A of this Regulation”;
- (b) in paragraph 3, for “Article 138 of Directive 2009/138/EC” substitute “rule 4.4 of the PRA Rulebook on Group Supervision and the PRA Rulebook on Undertakings in Difficulties: Non-compliance with the SCR”;
- (c) in paragraph 4 and 6, for “Article 211(2) of Directive 2009/138/EC” substitute “Articles 318 to 327 of this Regulation”;
- (d) in paragraph 4, omit “or by an equivalent amount where Article 211(3) of Directive 2009/138/EC is applicable”;

(36) Omit paragraph 5.

(37) In Article 216, in paragraph 2, for “the provisions set out in Article 304 of Directive 2009/138/EC” substitute “a duration-based equity risk sub-module”.

(38) In Article 221—

- (a) for paragraph 1, substitute
“(1) The PRA shall collect the quantitative undertaking-specific data necessary for determining dependencies between risks referred to in Article 309(8).”;
- (b) omit paragraph 2.

(39) In Article 238—

- (a) at the beginning, insert—
“A1. Where insurance and reinsurance undertakings cannot derive the Solvency Capital Requirement directly from the probability distribution forecast generated by the internal model, the PRA may allow approximations to be used in the process to calculate the Solvency Capital Requirement, as long as those undertakings can demonstrate to the supervisory authorities that policy holders are provided with a level of protection equivalent to that provided for in rules 3.2 to 3.5 of the Solvency Capital Requirement – General Provisions part of the PRA Rulebook.”;
- (b) in paragraphs 2, 3 and 4, in each place it occurs, for “Article 122(3) of Directive 2009/138/EC” substitute “paragraph A1”;
- (c) in paragraph 2, for “Article 101(1) of that Directive” substitute “the Solvency Capital Requirement –of the PRA Rulebook on General Provisions”.

(40) In Article 252—

- (a) in paragraphs 3 and 8, omit “in accordance with Article 37 of Directive 2009/138/EC”;
- (b) in paragraphs 6 and 11, omit “in accordance with Article 37 of that Directive”;

(41) In Article 254, in paragraph 1, for “Article 135(2)(a) of Directive 2009/138/EC” substitute “rule 6.1 of the Investments part of the PRA Rulebook”.

(42) In Article 271, in paragraph 2, omit “laid down in paragraphs 3 and 4 of Article 29 of Directive 2009/138/EC”.

(43) In Article 276, omit “For the purposes of Article 37(1)(a) and (b) of Directive 2009/138/EC,”.

(44) In Article 277, omit “For the purposes of Article 37(1)(c) of Directive 2009/138/EC,”.

(45) In Article 278—

(a) in paragraph 1, omit “For the purposes of Article 37(1)(d) of Directive 2009/138/EC”;

(b) in paragraph 2—

(i) before “volatility adjustment” omit “with respect to”;

(ii) omit “where Member States require prior approval for this adjustment,”;

(iii) omit “pursuant to Article 37 paragraph (1)(d) of Directive 2009/138/EC”.

(46) In Article 279, omit, in each place it occurs, “within the meaning of Article 37(1)(a) and (b), of Directive 2009/138/EC”.

(47) In Article 280, omit, in each place it occurs, “For the purposes of Article 37(1)(a)(i) of Directive 2009/138/EC”.

(48) In Article 281, omit “For the purposes of Article 37(1)(b) and (c) of Directive 2009/138/EC respectively”.

(49) In Article 282, for “pursuant to Article 37(1)(a) or (b) of Directive 2009/138/EC” substitute “in relation to deviations from SCR assumptions”.

(50) In Article 283, in paragraph 6—

(a) omit “in accordance with Article 37(1) of Directive 2009/138/EC”;

(b) for “Article 64 of that Directive” substitute “section 348 of the Financial Services and Markets Act 2000”.

(51) In Article 284, for “pursuant to Articles 37(1)(d) of Directive 2009/138/EC” substitute “in relation to assumptions underlying the relevant risk-free rate or transitional measures”.

(52) In Article 286—

(i) in the first paragraph, for “as referred to in Articles 37(1)(c) of Directive 2009/138/EC” substitute “in relation to deviations from governance standards”;

(ii) in point (b)—

(aa) omit, “in accordance with Article 37(1) of Directive 2009/138/EC”;

(bb) for “Article 64 of that Directive” substitute “section 348 of the Financial Services and Markets Act 2000”.

(53) In Article 287, for “to which Article 73(2) or (5) of Directive 2009/138/EC applies” substitute “that simultaneously pursues life and non-life insurance activities”.

(54) In Article 288—

(a) for “Article 138(4) of Directive 2009/138/EC” substitute “rule 3.2 of the Undertakings in Difficulties part, and rule 4.4 of the Group Supervision part, of the PRA Rulebook”;

(b) for “EIOPA” substitute “the Prudential Regulation Committee of the Bank of England”.

(55) In Article 297, in paragraph 2—

(a) omit point (e);

(b) in point (f), omit “unless the undertaking’s Member State had made use of the option provided for in the third subparagraph of Article 51(2) of Directive 2009/138/EC”.

(56) In Article 298, omit “in accordance with Article 54(2) of Directive 2009/138/EC”.

(57) In Article 299, for “Article 53(1) and (2) of Directive 2009/138/EC” substitute “part 4.1 of the PRA Rulebook on Reporting”.

(58) In Article 304, paragraph 1—

(a) omit “in accordance with Article 35(2)(a)(i) of Directive 2009/138/EC”;

- (b) in point (b), omit “in accordance with Article 53(1) of Directive 2009/138/EC”;
- (c) in point (d), for “Article 35(6) and (7) of Directive 2009/138/EC”, “Article 35(6) of Directive 2009/138/EC” and “Article 35(7) of Directive 2009/138/EC” substitute “a direction by the PRA under section 138A of the Financial Services and Markets Act 2000”.

(59) Omit Articles 314 to 317.

(60) In Article 318, omit “of the Member State in whose territory the special purpose vehicle is establishing its head office”.

(61) In Article 325, in paragraphs 1, 2 and 5, omit “in the Member State in which the special purpose vehicle is established”.

(62) In Article 328, in paragraph 1—

- (a) for “laid down in Articles 230 to 233 of Directive 2009/138/EC” substitute “in accordance with rules 11.1 to 13.2 of the PRA Rulebook on Group Supervision”;
- (b) omit “the other supervisory authorities concerned and”;
- (c) in point (b), for “Article 231 of Directive 2009/138/EC” substitute “Regulations 48 and 49 of the Solvency 2 Regulations 2015”;
- (d) in point (f)—
 - (i) omit “delegated acts have been adopted pursuant to paragraphs 4 or 5 of Article 227 of Directive 2009/138/EC, determining that”;
 - (ii) after “third countries”, for “are” substitute “have been determined to be”.

(63) In Article 329—

- (a) in paragraph 1, for “Article 229 of Directive 2009/138/EC” substitute “rule 10.6 of the PRA Rulebook on Group Supervision”;
- (b) in paragraph 2—
 - (i) for “Article 235 of Directive 2009/138/EC” substitute “rule 14.1 of the PRA Rulebook on Group Supervision”;
 - (ii) for “Article 98 of that Directive” substitute “rules 4.1 and 4.2 of the PRA Rulebook on Own Funds”;
 - (iii) for “Article 226(2) of that Directive” substitute “rule 10.3 of the PRA Rulebook on Group Supervision”;
- (c) in paragraph 3—
 - (i) for “Article 13(26) of Directive 2009/138/EC” substitute “the Glossary of the PRA Rulebook”;
 - (ii) in point (a)—
 - (aa) for “Article 211 of Directive 2009/138/EC” substitute “Articles 318 to 327”;
 - (bb) omit “, or where applicable with the Member State law in accordance with Article 211(3) of that Directive”;
 - (iii) in point (b)—
 - (aa) for “Article 211(2) of Directive 2009/138/EC” substitute “Articles 318 to 327 of this Regulation”;
 - (bb) in the closing paragraph for, “Article 211 of Directive 2009/138/EC” substitute “Articles 318 to 327 of this Regulation”.

(64) In Article 330—

- (a) for “supervisory authorities” and “supervisory authority”, in each place they occur, substitute “PRA”;
- (b) in paragraph 3(c)—
 - (i) for “one Member State” substitute “the United Kingdom”;

- (ii) for “that Member State” substitute “the United Kingdom”;
 - (iii) before “a third country permits such offsetting” insert “that”;
 - (c) in paragraph 4(c), omit “point (b) of Article 99 of Directive 2009/138/EC and in”.
- (65) In Article 331—
- (a) in paragraph 1(b), for “Article 94 of Directive 2009/138/EC” substitute “rules 3.1 – 3.3 of the PRA Rulebook on Own Funds”;
 - (b) in paragraph 2(b)(i), for “Article 230(2) of Directive 2009/138/EC” substitute “rule 11.3 of the PRA Rulebook on Group Supervision”.
- (66) In Article 332—
- (a) in paragraph 1(b), for “Article 94 of Directive 2009/138/EC” substitute “rules 3.1 – 3.3 of the PRA Rulebook on the Own Funds”;
 - (b) in paragraph 2(b)(i), for “Article 230(2) of Directive 2009/138/EC” substitute “rule 11.3 of the PRA Rulebook Group Supervision”.
- (67) In Article 333, in paragraph 1(b), for “Article 94 of Directive 2009/138/EC” substitute “rules 3.1 – 3.3 of the PRA Rulebook on Own Funds”.
- (68) In Article 335—
- (a) for paragraph 1(e) and substitute—
 - “(e) the proportional share of the own funds of related undertakings, calculated as follows:
 - (i) in relation to credit institutions, investment firms and financial institutions, according to the United Kingdom rules and enactments implementing Directive 2013/36/EU;
 - (ii) in relation to alternative investment fund managers, according to the United Kingdom rules and enactments implementing Article 4(1)(ad) of Directive 2011/61/EU;
 - (iii) in relation to UCITS management companies, according to the United Kingdom rules and enactments implementing point 1 of Article 2(1) of Directive 2009/65/EC;
 - (iv) in relation to institutions for occupational retirement provision, according to the United Kingdom rules and enactments implementing Articles 17 to 17c of Directive 2003/41/EC; and
 - (v) according to the own fund items of non-regulated undertakings carrying out financial activities.
 - (b) in paragraph 2, for “related undertakings linked by a relationship referred to in Article 22(7) of Directive 2013/34/EU” substitute “related undertakings linked by a common management relationship as defined in regulation 2 of the Solvency 2 Regulations 2015”.
- (69) In Article 336—
- (a) in point (a), before “Title I” insert “the United Kingdom enactments and rules which implemented”;
 - (b) in point (b), for “Union” substitute “United Kingdom”;
 - (c) in point (c), for the words after “capital requirements” and substitute—
 - “of related undertakings, calculated as follows:
 - (i) in relation to credit institutions, investment firms and financial institutions, according to the United Kingdom rules and enactments implementing Directive 2013/36/EU;
 - (ii) in relation to alternative investment fund managers, according to the United Kingdom rules and enactments implementing Article 9 of Directive 2011/61/EU;

- (iii) in relation to UCITS management companies, according to the United Kingdom rules and enactments implementing Article 7(1)(a) of Directive 2009/65/EC;
- (iv) in relation to institutions for occupational retirement provision, according to the United Kingdom rules and enactments implementing Articles 17 to 17(c) of Directive 2003/41/EC; and
- (v) in relation to non-regulated undertakings carrying out financial activities, according to the notional capital requirement which 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.”

(70) In Article 338, for “Article 104(7) of Directive 2009/138/EC” substitute “Regulation 47 of the Solvency 2 Regulations 2015”.

(71) In Article 339—

- (a) in paragraph 1(a), for “Articles 75 to 86 of Directive 2009/138/EC” substitute “the PRA Rulebook on Valuation and Technical Provisions”;
- (b) in paragraph 1(b)—
 - (i) for “Article 221(1)(a) of Directive 2009/138/EC” substitute “rule 8.2(1) of the PRA Rulebook on Group Supervision”;
 - (ii) for “Articles 75 to 86 of that Directive” substitute “the PRA Rulebook on Valuation and Technical Provisions”.

(72) In Article 340, for “Article 221(1)(a) of Directive 2009/138/EC” substitute “rule 8.2(1) of the PRA Rulebook on Group Supervision”.

(73) In Article 341—

- (a) for “Article 220(2) of Directive 2009/138/EC” substitute “Regulation 16 of the Solvency 2 Regulations 2015”;
- (b) for “Article 230(2) of that Directive” substitute “rule 11.3 of the Group Supervision part of the PRA Rulebook”.

(74) In Article 342—

- (a) in paragraph 2(a), for “Articles 75 to 86 of Directive 2009/138/EC” substitute “the PRA Rulebook Valuation and Technical Provisions”;
- (b) in paragraph 2(b)—
 - (i) for “Article 221(1)(b) of Directive 2009/138/EC” substitute “rule 8.2(2) of the PRA Rulebook Group Supervision”;
 - (ii) for “Articles 75 to 86 of that Directive” substitute “the PRA Rulebook on Valuation and Technical Provisions”.

(75) In Article 343—

- (a) in paragraph 1—
 - (i) for “Article 230(2) of Directive 2009/138/EC” substitute “rule 11.2 of the PRA Rulebook on Group Supervision”;
 - (ii) omit “in an official language of the group supervisor’s Member State, or in a language for which the group supervisor has given prior approval”;
- (b) omit paragraph 2;
- (c) omit paragraph 3;
- (d) omit paragraph 4;
- (e) in paragraph 5—
 - (i) in the first paragraph, for “Articles 112 and 113 of Directive 2009/138/EC” substitute “rule 3 and 4 of the Solvency Capital Requirement – Internal Models part of the PRA Rulebook”;

- (ii) in point (a)—
 - (aa) in subparagraph (i), for “Article 221 of Directive 2009/138/EC” substitute “rules 8.2(1) of the PRA Rulebook on Group Supervision”;
 - (bb) in subparagraph (ii), omit “within the meaning of Article 256a of Directive 2009/138/EC”;
 - (cc) in subparagraph (iv), for “in accordance with the procedure laid down in Article 231 of Directive 2009/138/EC” substitute “under Regulation 49 of the Solvency 2 Regulations 2015”.
- (76) In Article 344—
 - (a) omit paragraphs 1 and 2;
 - (b) in paragraph 4, for “Article 231 of Directive 2009/138/EC” substitute “under Regulations 48 and 49 of the Solvency 2 Regulations 2015”.
- (77) In Article 345—
 - (a) in paragraph 1, omit all words apart from “The group supervisor shall provide its decision to the participating undertaking”;
 - (b) omit paragraph 2;
 - (c) in paragraph 3, omit “After consulting the other supervisory authorities as set out in Article 344(1) and (2),”;
 - (d) in paragraph 4—
 - (i) for “Article 230 of Directive 2009/138/EC” substitute “Regulation 48 of the Solvency 2 Regulations 2015”;
 - (ii) for “follow the procedure laid down in Article 231 of Directive 2009/138/EC” substitute “be made under Regulation 49 of the Solvency 2 Regulations 2015”.
- (78) In Article 346, for “Article 230(2) of Directive 2009/138/EC” substitute “rule 11.2 of the PRA Rulebook on Group Supervision”.
- (79) In Article 347—
 - (a) in paragraph 2, omit “in an official language of the group supervisor’s Member State, or in a language for which the group supervisor has given prior approval”;
 - (b) omit paragraphs 3 to 5.
- (80) In Article 348(2) and (3), for “Article 231 of Directive 2009/138/EC” substitute “Regulation 48 of the Solvency 2 Regulations 2005”.
- (81) In Article 349—
 - (a) in the title, for “Joint decision” substitute “Decision”;
 - (b) omit paragraph 1;
 - (c) for paragraph 2 substitute—

“2. The PRA shall provide the applicant, and each related insurance or reinsurance undertaking applying for the use of the group internal model to calculate their Solvency Capital Requirement, with the decision.”
 - (d) in paragraph 3—
 - (i) omit “joint”;
 - (ii) for “supervisory authorities concerned” substitute “PRA”.
- (82) Omit Chapter III.
- (83) In Chapter IV, in Section 1, for the heading substitute “Group specific parameters”.
- (84) In Article 354—
 - (a) for the heading substitute “Definition of significant branches”;
 - (b) in paragraph 1—

- (i) omit “For the purposes of Article 248(3) of Directive 2009/138/EC”;
 - (ii) omit “at least one of the following conditions is met”;
 - (iii) omit paragraph 1(b);
 - (iv) omit from “Upon its own initiative” to the end;
- (c) omit paragraph 2.
- (85) Omit Article 355.
- (86) In Article 356—
- (a) in paragraph 1, omit the words from “in one of” to the end;
 - (b) omit paragraph 2;
 - (c) omit paragraph 3.
- (87) Omit Article 357.
- (88) Omit Article 358.
- (89) In Article 359—
- (a) in point (a)(i), omit “within the meaning of Article 256a of Directive 2009/138/EC”;
 - (b) in point (e)(i), omit “, as referred to in Articles 230 and 233 of Directive 2009/138/EC”;
 - (c) in point (e)(v), for “points (a) and (b) of the second subparagraph of Article 230(2) of Directive 2009/138/EC” substitute “rule 11.3(1)(a) and (b) of the Group Supervision part of the PRA Rulebook”.
- (90) In Article 360, omit paragraph 2 and 3.
- (91) In Article 366, omit paragraph 2 and 3.
- (92) In Article 372—
- (a) in paragraph 1—
 - (i) omit “in accordance with Article 35(6) of Directive 2009/138/EC”;
 - (ii) omit “according to Article 35(7) of that Directive”;
 - (b) in paragraph 2—
 - (i) in point (a)(ii), omit “within the meaning of Article 256a of Directive 2009/138/EC”;
 - (ii) in point (c)—
 - (aa) in point (v), for “Article 233 of Directive 2009/138/EC” substitute “regulation 2 of the Solvency 2 Regulations 2015”;
 - (bb) in point (v), for “Article 227 of the Directive” substitute “Article 379A of this Regulation”;
 - (cc) in point (vii), for “Article 211 of Directive 2009/138/EC” substitute “Article 318 to 327 of this Regulation”;
 - (dd) in point (viii), in each place it occurs, for “Articles 211(2) of Directive 2009/138/EC” substitute “Articles 318 to 327 of this Regulation”.
- (93) Omit Article 374.
- (94) Omit Article 375.
- (95) In Article 378, in the first paragraph, before “Title I of Directive 2009/138/EC” insert “the United Kingdom enactments and rules which implemented”.
- (96) After Article 378 insert—

“Article 378A

1. If the criteria set out in Article 378 have been fulfilled by a third country, the Treasury, assisted by the PRA, may by regulations determine that the solvency regime of that third country that applies to reinsurance activities of undertakings with the head office in that third country is equivalent to that laid down in the United Kingdom enactments and rules which implemented the Solvency II Directive.

2. The Treasury regulations made under paragraph 1 shall be regularly reviewed, to take into account any significant changes to the supervisory regime in the third country.

3. The PRA must publish and keep up to date on its website a list of third countries referred to in paragraph 1.

4. Where, in accordance with paragraph 1, the solvency regime of a third country has been deemed to be equivalent to that laid down in the United Kingdom enactments and rules which implemented the Solvency II Directive, reinsurance contracts concluded with undertakings that have their head office in that third country shall be treated in the same manner as reinsurance contracts concluded with undertakings authorised in the United Kingdom.

5. By way of derogation from paragraph 1, and even if the criteria specified in Article 378 have not been fulfilled, the Treasury, assisted by the PRA, may by regulations determine that, for a limited period, the solvency regime of a third country applied to reinsurance activities of undertakings with the head office in that third country is temporarily equivalent to that laid down in the United Kingdom enactments and rules which implemented the Solvency II Directive, if that third country has complied with at least the following criteria:

- (a) it has given a commitment to the United Kingdom to adopt and apply, before the end of that limited period a solvency regime that is capable of being assessed equivalent in accordance with Article 378, and to engage in the equivalence assessment process;
- (b) it has established a work programme to fulfil the commitment referred to in point (a);
- (c) it has allocated sufficient resources to fulfil the commitment referred to in point (a);
- (d) it has a solvency regime that is risk based and establishes quantitative and qualitative solvency requirements and requirements relating to supervisory reporting and transparency;
- (e) it has entered into written arrangements to cooperate and exchange confidential supervisory information with the PRA;
- (f) it has an independent system of supervision; and
- (g) it has established obligations on professional secrecy for all persons acting on behalf of its supervisory authorities, in particular on the exchange of information with the PRA.

6. The PRA must publish and keep up to date on its website a list of all third countries referred to in paragraph 5.

7. The limited period referred to paragraph 5 shall end on 31 December 2020 or on the date on which, in accordance with paragraph 1, the supervisory regime of that third country has been deemed to be equivalent to that laid down in the enactments and rules which implemented the Solvency II Directive, whichever is the earlier.

8. That period may by regulations be extended by up to one year where necessary for the Treasury, assisted by the PRA, to carry out the assessment of equivalence for the purposes of paragraph 1.

9. Reinsurance contracts concluded with undertakings having their head office in a third country, the supervisory regime of which has been deemed to be temporarily equivalent in accordance with paragraph 4, shall be accorded the same treatment as that set out in paragraph 4.”

“Article 378B

1. The UK shall not retain or introduce for the establishment of technical provisions a system with gross reserving which requires pledging of assets to cover unearned premiums and outstanding claims provisions where the reinsurer is a third-country insurance or reinsurance undertaking, situated in a country whose solvency regime is deemed to be

equivalent to that laid down in the United Kingdom enactments and rules which implemented the Solvency II Directive in accordance with Article 378A.”

(97) In Article 379, in paragraph 1, before “Title I, Chapter VI of Directive 2009/138/ EC” insert “the United Kingdom enactments and rules which implemented”.

(98) After Article 379, insert—

“Article 379A

1. If the criteria set out in Article 379 above have been fulfilled by a third country, the Treasury, assisted by the PRA, may by regulations determine that the supervisory regime of that third country is equivalent to that laid down in the United Kingdom enactments and rules which implemented the Solvency II Directive.

2. Those regulations must be regularly reviewed, to take into account any significant changes to the supervisory regime laid down in the United Kingdom enactments and rules which implemented the Solvency II Directive, and to the supervisory regime in the third country.

3. The PRA must publish and keep up to date on its website a list of all third countries referred to in paragraph 1.

4. By way of derogation from paragraph 1, and even where the criteria specified in Article 379 have not been fulfilled, the Treasury, assisted by the PRA, may by regulations determine that for the period referred to in paragraph 6, of the solvency regime of a third country that applies to undertakings with the head office in that third country is provisionally equivalent to that laid down in the United K enactments and rules which implemented the Solvency II Directive, where:

- (a) it can be shown that a solvency regime capable of being assessed equivalent in accordance with Article 379 is currently in place or may be adopted and applied by the third country;
- (b) the third country has a solvency regime that is risk based and establishes quantitative and qualitative solvency requirements and requirements relating to supervisory reporting and transparency;
- (c) the third country’s law, in principle, allows cooperation, and exchange of confidential supervisory information, with the PRA;
- (d) the third country has an independent system of supervision; and
- (e) the third country has established obligations on professional secrecy for all persons acting on behalf of its supervisory authorities.

5. The PRA must publish and keep up to date on its website a list of all third countries referred to in paragraph 4.

6. The initial period of provisional equivalence referred to in paragraph 4 shall be 10 years, unless before the expiry of that period:

- (a) the regulations made by the Treasury have been revoked; or
- (b) the Treasury has made regulations in accordance with paragraph 1 to the effect that the supervisory regime of that third country has been deemed to be equivalent to that laid down in the United Kingdom enactments and rules which implemented the Solvency II Directive.

8. Provisional equivalence shall be subject to renewals for further periods of 10 years where the criteria referred to in paragraph 4 continue to be met. The Treasury, assisted by the PRA, may by regulations renew the period of provisional equivalence in accordance with this paragraph.

9. Where, in accordance with paragraph 4, the Treasury has made regulations determining that the supervisory regime of a third country is provisionally equivalent, that

third country shall be deemed to be equivalent for the purposes of Regulation 19 of the Solvency 2 Regulations 2015.

(99) In the first paragraph of Article 380—

- (a) before “Title III of Directive 2009/138/EC” insert “the United Kingdom enactments and rules which implemented”.
- (b) in point (r), for “one of the calculation methods set out in Articles 230 and 233 of Directive 2009/138/EC”, substitute “method 1 or method 2”.

(100) After Article 380, insert—

“Article 380A

1. If the criteria set out in Article 380 have been fulfilled by a third country, the Treasury, assisted by the PRA, may by regulations determine that the prudential regime of that third country is equivalent to that laid down in the United Kingdom enactments and rules which implemented the Solvency II Directive.

2. The Treasury regulations referred to in paragraph 1 shall be regularly reviewed to take into account any changes to the prudential regime for the supervision of groups laid down in the United Kingdom enactments and rules which implemented the Solvency II Directive, and to the prudential regime in the third country for the supervision of groups, and to any other change in regulation that may affect the decision on equivalence.

3. The PRA must publish and keep up to date on its website a list of all third countries referred to in paragraph 1.

4. By way of derogation from paragraph 1, and even if the criteria specified in Article 380 have not been fulfilled, the Treasury, assisted by the PRA, may by regulations, determine that for a limited period, the prudential regime of a third country that applies to undertakings the parent undertaking of which has its head office outside the United Kingdom is temporarily equivalent to that laid down in the United Kingdom enactments and rules which implemented the Solvency II Directive, if that third country has complied with at least the following criteria:

- (a) it has given a commitment to the United Kingdom to adopt and apply a prudential regime that is capable of being assessed equivalent in accordance with Article 380, before the end of that limited period and to engage in the equivalence assessment process;
- (b) it has established a work programme to fulfil the commitment under point (a);
- (c) it has allocated sufficient resources to fulfil the commitment under point (a);
- (d) it has a prudential regime that is risk based and establishes quantitative and qualitative solvency requirements and requirements relating to supervisory reporting and transparency and to the supervision of groups;
- (e) it has entered into written arrangements to cooperate and exchange confidential supervisory information with the PRA;
- (f) it has an independent system of supervision;
- (g) it has established obligations on professional secrecy for all persons acting on behalf of its supervisory authorities, in particular on the exchange of information with the PRA.

5. The PRA must publish and keep up to date on its website a list of all third countries referred to in paragraph 4.

6. The limited period referred to in paragraph 4 shall end on 31 December 2020 or on the date on which, in accordance with paragraph 1, the prudential regime of that third country has been deemed to be equivalent to that laid down in the United Kingdom enactments and rules which implemented the Solvency II Directive, whichever is the earlier.

7. The Treasury may by regulations extended by a maximum of one more year, the period referred to it paragraph 6 where such time is necessary for the Treasury, assisted by the PRA, to carry out the assessment of equivalence for the purposes of paragraph 1.

The Annexes to the Delegated Regulation

(101) In Annex XIII, in the list of regions for which natural catastrophe risk is not calculated based on premiums insert “the United Kingdom” at the end.

(102) Omit Annex XXI.

PART 5

Transfers of Functions to the PRA

9.—(1) The PRA may make technical standards as follows.

(2) On regular supervisory reporting **(a)**.

(3) On the procedures for decisions to set, calculate and remove capital add-ons **(b)**.

(4) On the procedures for assessing external credit assessments **(c)**.

(5) To specify the requirements set out in paragraph (6) below, and other key functions.

(6) The requirements referred to in paragraph (5) are that all persons who effectively run an insurance or reinsurance undertaking or have other key functions at all times fulfil the following requirements—

(a) their professional qualifications, knowledge and experience are adequate to enable sound and prudent management; and

(b) they are of good repute and integrity **(d)**.

(7) To further specify the conditions for outsourcing, in particular to service providers located in third countries.

(8) To further specify the elements of the own risk and solvency assessment **(e)**.

(9) On the procedures, formats and templates of the annual report of solvency and financial conditions **(f)**.

(10) To establish an exhaustive list of information to be included by proposed acquirers in their notification **(g)**.

(11) To specify the adjustments of the criteria for suitability of the proposed acquirer and the financial soundness of the proposed acquisition set out in paragraph (12).

(12) The criteria referred to in paragraph (11) are—

(a) the reputation of the proposed acquirer;

(b) the reputation and experience of any person who will direct the business of the insurance or reinsurance undertaking as a result of the proposed acquisition;

(c) the financial soundness of the proposed acquirer, in particular in relation to the type of business pursued and envisaged in the insurance or reinsurance undertaking in which the acquisition is proposed;

(d) whether the insurance or reinsurance undertaking will be able to comply and continue to comply with prudential requirements, in particular, whether the group of which it will become part has a structure that makes it possible to exercise effective supervision,

(a) Article 35 of the Solvency 2 Directive.

(b) Article 37 of the Solvency 2 Directive.

(c) Article 44 of the Solvency 2 Directive.

(d) Article 50 of the Solvency 2 Directive.

(e) Article 50 of the Solvency 2 Directive.

(f) Article 56 of the Solvency 2 Directive.

(g) Article 58 of the Solvency 2 Directive.

effectively exchange information among the supervisory authorities and determine the allocation of responsibilities among the supervisory authorities;

- (e) whether there are reasonable grounds to suspect that, in connection with the proposed acquisition, money laundering or terrorist financing is being or has been committed or attempted, or that the proposed acquisition could increase the risk thereof **(a)**.

(13) To specify—

- (a) to the extent that United Kingdom legislation or regulatory rules require the use of international accounting standards as adopted by the United Kingdom Government, the consistency of those accounting standards with the valuation approach of assets and liabilities;
- (b) the methods and assumptions to be used where quoted market prices are either not available or where international accounting standards as adopted by the United Kingdom Government are either temporarily or permanently inconsistent with the valuation approach of assets and liabilities;
- (c) the methods and assumptions to be used in the valuation of assets and liabilities, where the United Kingdom enactments or rules which implemented Solvency 2 allow for the use of alternative valuation methods**(b)**.

(14) To specify—

- (a) the methodologies to be used when calculating the counterparty default adjustment to the calculation of amounts recoverable from reinsurance contracts and special purpose vehicles, designed to capture expected losses due to default of the counterparty;
- (b) where necessary, simplified methods and techniques to calculate technical provisions, to ensure the actuarial and statistical methods are proportionate to the nature, scale and complexity of the risks supported by insurance and reinsurance undertakings, including captive insurance and reinsurance undertakings**(c)**.

(15) On the procedures for the approval of the application of a matching adjustment**(d)**.

(16) To specify the criteria and procedures for granting supervisory approval for the use of ancillary own funds**(e)**.

(17) To specify the methods to be used when approving the assessment and classification of own-fund items which are not covered by the lists specified in Articles 69, 72, 74, 76 and 78 of Regulation (EU) 2015/35**(f)**.

(18) To specify quantitative limits and asset eligibility criteria where the risks of particular asset classes or financial instruments are not adequately covered by a standard formula sub-module. Those technical standards shall apply to assets covering technical provisions, excluding assets held in respect of life insurance contracts where the investment risk is borne by the policy holders**(g)**.

(19) On the procedures for supervisory approval of undertaking-specific parameters**(h)**.

(20) On the procedures for—

- (a) the approval of an internal model; and
- (b) the approval of major changes to an internal model and changes to the policy for changing an internal model **(i)**.

(21) To specify the methodologies for the calculation of a proportionate additional capital charge where the requirements set out in Article 256(2) or (3) of Regulation (EU) 2015/35 have been breached **(a)**.

(a) Article 58 of the Solvency 2 Directive.
(b) Article 75 of the Solvency 2 Directive.
(c) Article 86 of the Solvency 2 Directive.
(d) Article 86 of the Solvency 2 Directive.
(e) Article 92 of the Solvency 2 Directive.
(f) Article 97 of the Solvency 2 Directive.
(g) Article 111 of the Solvency 2 Directive.
(h) Article 111 of the Solvency 2 Directive.
(i) Article 114 of the Solvency 2 Directive.

(22) To specify the recovery plan and the finance scheme required where there is non-compliance, or a risk of non-compliance, with the Solvency Capital Requirement, and with respect to the PRA's powers arising from the Financial Services and Markets Act 2000 to take all measures necessary to safeguard the interests of policy holders in the case of insurance contracts, or the obligations arising out of reinsurance contracts, taking due care to avoid pro-cyclical effects**(b)**.

(23) On the procedures for granting supervisory approval to establish special purpose vehicles and on the formats and templates to be used for accounting, prudential and statistical information requirements**(c)**.

(24) To specify the identification of a significant risk concentration and the determination of appropriate thresholds for the purposes of identifying the types of risks insurance and reinsurance undertakings in a particular group shall report**(d)**.

(25) On the forms and templates for reporting on significant risk concentrations**(e)**.

(26) To specify the identification of a significant intra- group transaction for the purposes of identifying the type of intra-group transaction insurance and reinsurance undertakings in a particular group shall report**(f)**.

(27) On the procedures, forms and templates for the reporting on significant intra-group transactions by insurance and reinsurance undertakings in a group, including those performed with a natural person with close links to an undertaking in the group**(g)**.

(28) On the procedures and templates for, and the means of, disclosure of the single and group solvency and financial condition report**(h)**.

Provisions deemed as PRA rules

10. The provisions of Delegated Regulation (EU) 2015/35 specified in the Schedule are deemed to be rules made by the PRA under section 137G of the Financial Services and Markets Act 2000 that come into force on exit day.

PART 6

Transitional provisions

Transitional provisions in relation to approval of temporary models

11. The modifications in regulation 12 apply to a person that meets the following conditions—

- (a) the person is authorised in accordance with 31(1)(a) of the 2000 Act,
- (b) the person is subject to supervision at the level of the group in accordance with the provisions of national laws implementing Article 213(2)(a) and (b) of the Solvency 2 Directive; and
- (c) on the day before the day on which exit day occurs, the PRA recognised a supervisory authority other than the PRA as the group supervisor of a group in accordance with regulations 26 and 27 of the Solvency 2 Regulations 2015.

12.—(1) Part 4 (approvals) of the Solvency 2 Regulations 2015 is modified as follows:

-
- (a) Article 135 of the Solvency 2 Directive.
 - (b) Article 143 of the Solvency 2 Directive.
 - (c) Article 211 of the Solvency 2 Directive.
 - (d) Article 244 of the Solvency 2 Directive.
 - (e) Article 244 of the Solvency 2 Directive.
 - (f) Article 245 of the Solvency 2 Directive.
 - (g) Article 245 of the Solvency 2 Directive.
 - (h) Article 256 of the Solvency 2 Directive.

(2) In respect of an application for an approval for which a person has a deemed approval under regulation 57B, Regulation 48 (models) has effect as if, in paragraph (4), for the words “6 months” to the end there were substituted “3 years beginning with the day on which exit day occurs.”

(3) Regulation 55 (decisions: written notices) has effect as if, after paragraph (2), there were inserted—

“(2A). If the PRA decides to revoke an approval, the written notice must, where applicable, state the day on which regulation 57B ceases to apply.

(2B). For the purposes of paragraph (2A), the day stated must be a day that falls before the end of the period of three years beginning with the day on which exit day occurs.”

(4) Part 4 has effect as if, after Chapter 3, there were inserted—

“CHAPTER 3A

Deemed Internal Model Approval

57B.—(1) A person with a Solvency II internal model approval granted by a supervisory authority of an EEA state before exit day in the table in paragraph (2) shall be treated as if the person has the corresponding approval granted by the PRA as set out in columns 1- 3 of the table in paragraph (2).

(2) For the purposes of paragraph (1), the Solvency II internal model approvals are:

<i>Solvency II approval</i>	<i>Approval granted by supervisory authority of an EEA State</i>	<i>Deemed approval granted by the PRA</i>
Group internal model to calculate the group solvency capital requirement at the level of an insurance holding company or mixed financial holding company in the EEA.	Article 230 or 231 of the Solvency 2 Directive.	Regulation 49.
Policy for changing a full and partial internal model in respect of a model at row 1.	Article 115 of the Solvency 2 Directive.	Regulation 48(1)(c).”

Date Name
Name
Two of the Lords Commissioners of Her Majesty’s Treasury

SCHEDULE

Regulation 10

1. The correlation coefficients for non-life underwriting risk contained in the correlation matrix in Article 114(3).

2. The correlation coefficients for life underwriting risk contained in the correlation matrix set out in Article 136(3).

3. The correlation coefficients for health underwriting risk contained in the correlation matrix set out in Article 144(3).

4. The correlation coefficients for SLT health underwriting risk sub-module contained in the correlation matrix set out in Article 151(3).

5. The correlation coefficients for market risk contained in the correlation matrix in Article 164(3).
6. Annex II - Segmentation Of Non-Life Insurance And Reinsurance Obligations And Standard Deviations For The Non-Life Premium And Reserve Risk Sub-Module.
7. Annex III - Factor For Geographical Diversification Of Premium And Reserve Risk.
8. Annex IV - Correlation Matrix For Non-Life Premium And Reserve Risk.
9. Annex V - Parameters For The Windstorm Risk Sub-Module.
10. Annex VI - Parameters For The Earthquake Risk Sub-Module.
11. Annex VII - Parameters For The Flood Risk Sub-Module.
12. Annex VIII - Parameters For The Hail Risk Sub-Module.
13. Annex IX - The Geographical Division Of Regions Set Out In Annex V Into Risk Zones.
14. Annex X - Risk Weights For Catastrophe Risk Zones.
15. Annex XI - Liability Risk Groups, Risk Factors And Correlation Coefficients For The Liability Risk Sub-Module.
16. Annex XII - Groups Of Obligations And Risk Factors For The Sub-Module For Other Non-Life Catastrophe Risk.
17. Annex XIII - List Of Regions For Which Natural Catastrophe Risk Is Not Calculated Based On Premiums.
18. Annex XIV - Segmentation Of NSLT Health Insurance And Reinsurance Obligations And Standard Deviations For The NSLT Health Premium And Reserve Risk Sub-Module.
19. Annex XV - Correlation Matrix For NSLT Health Premium And Reserve Risk.
20. Annex XVI - Health Catastrophe Risk Sub-Module Of The Solvency Capital Requirement Standard Formula.
21. Annex XIX - MCR Risk Factors For Non-Life And Health Insurance Or Reinsurance Obligations.
22. Annex XXII - Correlation Coefficients For Windstorm Risk.
23. Annex XXIII - Correlation Coefficients For Earthquake Risk.
24. Annex XXIV - Correlation Coefficients For Flood Risk.
25. Annex XXV - Correlation Coefficients For Hail Risk.
26. Annex XXVI - Correlation Coefficients For Subsidence Risk.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Solvency 2 Regulations 2015 to make it work in a United Kingdom context in a no-deal scenario. The Solvency 2 Regulations is a harmonised prudential framework for insurance and reinsurance firms in the EU. Prudential regulation is aimed at ensuring financial services firms are well-managed and able to withstand financial shocks so that the services they provide to businesses and consumers are safe and reliable. Solvency 2 is designed to provide a high level of policy-holder protection by requiring firms to provide a market-consistent valuation of their assets and liabilities, understand the risks they are exposed to, and to hold capital that is

sufficient to absorb shocks. Solvency 2 is a risk-sensitive regime in that the capital a firm must hold is dependent on the nature and level of risk a firm is exposed to.

These Regulations make amendments to retained EU law related to the Solvency 2 framework to ensure that it continues to operate effectively in the United Kingdom once the United Kingdom has left the EU.

Accordingly, these arrangements represent a deficiency in retained EU law (see section 8(2)(b) of the European Union (Withdrawal) Act 2018 (c. 16)).

In these Regulations:

- Part 1 makes general provision as to citation, commencement and interpretation;
- Part 2 amends the Financial Services and Markets Act 2000;
- Part 3 makes amendments to the Solvency 2 Regulations 2015/575;
- Part 4 makes amendments to Commission Delegated Regulation (EU) No 2015/35;
- Part 5 provides a power for the transfer of functions to the PRA to make technical standards.

An impact assessment of the effect that this instrument, and certain other instruments made by HM Treasury under the European Union (Withdrawal) Act 2018, will have on the costs of business, the voluntary sector and the public sector is available from HM Treasury, 1 Horse Guards Road, London SW1A 2HQ and is published alongside this instrument at www.legislation.gov.uk.