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Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 19,509, 10 ta' Diċembru, 2015
Taqsima B

L.N. 404 of 2015

INSURANCE BUSINESS ACT (CAP. 403)

Insurance Business (Solvency II Transitional Provisions) Regulations, 2015

IN exercise of the powers conferred by article 64(7) of the Insurance Business Act, the Minister for Finance, after consultation with the Malta Financial Services Authority, has made the following regulations:-

Citation, scope and commencement.

1. (1) The title of these regulations is the Insurance Business (Solvency II Transitional Provisions) Regulations, 2015.

(2) The purpose of these regulations is to implement Articles 51(2) third sub-paragraph, 129(3) second sub-paragraph, 131, 256(1), 308b, 308c, 308d and 308e of the Solvency II Directive and they shall be interpreted and applied accordingly

(3) These regulations shall come into force on the 1st January 2016.

Interpretation.

2. In these regulations, unless the context otherwise requires -

Cap. 403.

"the Act" means the Insurance Business Act;

"authorised insurance undertaking" means an undertaking, which has received authorisation pursuant to article 7 of the Act to carry on direct general business and, or long term business, and includes an undertaking authorised to carry on direct and reinsurance business;

"authorised reinsurance undertaking" means an undertaking, which has received authorisation pursuant to article 7 of the Act to carry on business restricted to reinsurance;

Cap. 330.

"competent authority" means the Malta Financial Services Authority established by the Malta Financial Services Authority Act;

"insurance holding company" means a parent undertaking, which is not a mixed financial holding company, the main business of which is to acquire and hold participations in subsidiary undertakings, where those subsidiary undertakings are exclusively or mainly authorised insurance undertakings, authorised reinsurance undertakings, European insurance undertakings, European

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reinsurance undertaking, third country insurance undertakings or third country reinsurance undertakings, at least one of such subsidiary undertakings being an authorised insurance undertaking, an authorised reinsurance undertaking, a European insurance undertaking or a European reinsurance undertaking;

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"mixed financial holding company" has the same meaning as that assigned to the term in regulation 2 of the Financial Conglomerates Regulations;

"participating undertaking" means an undertaking which is either a parent undertaking or other undertaking which holds a participation or an undertaking linked with another undertaking by a relationship as set out in Article 22 of Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC;

"Solvency II Directive" means Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (recast), as amended from time to time, and includes Directive 2014/51/EU of the European Parliament and of the Council of 16 April 2014 amending Directives 2003/71/EC and 2009/138/EC and Regulations (EC) No 1060/2009, (EU) No 1094/2010 and (EU) No 1095/2010 in respect of the powers of the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority) ("Omnibus II"), any delegated acts and any technical standards that have been or may be issued thereunder,

and the words and expressions which are used in these regulations which are not defined herein shall have the same meaning as in the Act.

Transitional measures on the report on solvency and financial condition.

3. (1) An authorised insurance undertaking or an authorised reinsurance undertaking may, without prejudice to the information to be provided in the report on the undertaking's solvency and financial condition, as determined in the Insurance Rules issued under article 18F of the Act, when disclosing the amounts of the Solvency Capital Requirement, opt not to disclose separately:

(a) the capital add-on; or

(b) the impact of the specific parameters such

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undertaking is required to use in accordance with Article 110 of the Solvency II Directive,

for a transitional period ending no later than 31 December 2020.

(2) Where the competent authority is the group supervisor it may opt, following consultation with the members of the college of supervisors, to apply the transitional measure in sub-regulation (1) where participating insurance and reinsurance undertakings, insurance holding companies and mixed financial holding companies which are subject to group supervision are required to disclose publicly, on an annual basis, a report on the solvency and financial condition at the level of the group.

Transitional arrangements on the calculation of the Solvency Capital Requirement.

4. An authorised insurance undertaking or an authorised reinsurance undertaking shall apply a floor of 25% and a cap of 45% exclusively to the undertaking's Solvency Capital Requirement, calculated in accordance with the standard formula as set out in Insurance Rules issued under Article 15 of the Act for a transitional period ending no later than 31 December 2017.

Transitional arrangements regarding compliance with the Minimum Capital Requirement.

5. (1) By way of derogation from articles 18, 26(b), (d), (g), (i), 27(1) and (5) and 28(1)(c) of the Act, where on the 31 December 2015 an authorised insurance undertaking or an authorised reinsurance undertaking possesses the required solvency margin referred to in Article 28 of the Directive 2002/83/EC, Article 16a of Directive 73/239/EEC, or Article 37, 38 or 39 of Directive 2005/68/EC respectively, but does not hold sufficient eligible basic own funds to cover the Minimum Capital Requirement, such authorised insurance or reinsurance undertaking shall comply with article 17 of the Act by the 31 December 2016.

(2) Where an authorised insurance undertaking or an authorised reinsurance undertaking fails to comply with article 17 of the Act, within the period set out in sub-regulation (1), the competent authority shall revoke the authorisation of the undertaking concerned. In such a case, the provisions of articles 27 and 28 of the Act shall apply *mutatis mutandis*.

Transitional measures on authorised insurance or reinsurance undertakings which have ceased to operate.

6. (1) Where an authorised insurance undertaking or an authorised reinsurance undertaking has on 1 January 2016 ceased wholly to carry on business of insurance and is exclusively running off or servicing that business, Titles I, II and III of the Solvency II Directive shall not apply to it where the undertaking concerned:

(a) has satisfied the competent authority that it will complete the run off or servicing before 1 January 2019; or

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(b) is subject to reorganisation measures in accordance with article 41 of the Act, and the Insurance Business (Reorganisation and Winding Up of Insurance Undertakings) Regulations, and an administrator has been appointed.

(2) Where the competent authority is not satisfied with the progress that has been made:

(a) towards completing the run off or servicing of the business in the case referred to in sub-regulation (1)(a), the undertaking shall be subject to Titles I, II and III of the Solvency II Directive from 1 January 2019, or from an earlier date;

(b) in relation to the reorganisation measures in the case referred to in sub-regulation (1)(b), the undertaking shall be subject to Titles I, II and III of the Solvency II Directive from 1 January 2021, or from an earlier date.

(3) The transitional measures in sub-regulations (1) and (2) shall only apply to an authorised insurance undertaking or an authorised reinsurance undertaking if the following conditions are met:

(a) the authorised insurance or reinsurance undertaking is not part of a group, or if it is, all the undertakings that are part of the group cease to carry on business of insurance;

(b) the authorised insurance or reinsurance undertaking shall provide the competent authority with an annual report setting out what progress has been made in terminating its activity; and

(c) the authorised insurance or reinsurance undertaking has obtained the approval of the competent authority to apply the transitional measures.

(4) The competent authority shall communicate a list of the authorised insurance undertakings and authorised reinsurance undertakings referred to in this regulation to all the Member States and EEA States.

Transitional measures on submission of information.

7. (1) The information which an authorised insurance undertaking and an authorised reinsurance undertaking is required to submit annually, in accordance with Insurance Rules issued under article 32 of the Act, shall be submitted by no later than:

(a) 20 weeks after the authorised insurance or

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reinsurance undertaking's financial year end in relation to its financial year ending on or after 30 June 2016 but before 1 January 2017;

(b) 18 weeks after the authorised insurance or reinsurance undertaking's financial year end in relation to its financial year ending on or after 1 January 2017 but before 1 January 2018;

(c) 16 weeks after the authorised insurance or reinsurance undertaking's financial year end in relation to its financial year ending on or after 1 January 2018 but before 1 January 2019;

(d) 14 weeks after the authorised insurance or reinsurance undertaking's financial year end in relation to its financial year ending on or after 1 January 2019 but before 1 January 2020.

(2) An authorised insurance undertaking and an authorised reinsurance undertaking shall disclose the information referred to in Insurance Rules issued under article 18F of the Act by no later than:

(a) 20 weeks after the authorised insurance or reinsurance undertaking's financial year end in relation to its financial year ending on or after 30 June 2016 but before 1 January 2017;

(b) 18 weeks after the authorised insurance or reinsurance undertaking's financial year end in relation to its financial year ending on or after 1 January 2017 but before 1 January 2018;

(c) 16 weeks after the authorised insurance or reinsurance undertaking's financial year end in relation to its financial year ending on or after 1 January 2018 but before 1 January 2019;

(d) 14 weeks after the authorised insurance or reinsurance undertaking's financial year end in relation to its financial year ending on or after 1 January 2019 but before 1 January 2020.

(3) The information which an authorised insurance undertaking and an authorised reinsurance undertaking is required to submit on a quarterly basis in accordance with Insurance Rules issued under article 32 of the Act shall be submitted by no later than:

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(a) 8 weeks related to any quarter ending on or after 1 January 2016 but before 1 January 2017;

(b) 7 weeks related to any quarter ending on or after 1 January 2017 but before 1 January 2018;

(c) 6 weeks related to any quarter ending on or after 1 January 2018 but before 1 January 2019;

(d) 5 weeks related to any quarter ending on or after 1 January 2019 but before 1 January 2020.

Transitional measures on submission of information by undertakings subject to group supervision.

8. (1) Where group supervision applies in accordance with regulation 3 of the Insurance Business (Supervision of Insurance and Reinsurance Undertakings in a Group) Regulations, 2015, the submission of the annual quantitative templates pursuant to Article 254 of the Solvency II Directive shall be submitted by not later than:

(a) 26 weeks after the financial year end of the participating insurance or reinsurance undertaking, the ultimate insurance holding company or the ultimate mixed financial holding company in relation to its financial year ending on or after 30 January 2016 but before 1 January 2017;

(b) 24 weeks after the financial year end of the participating insurance or reinsurance undertaking, the ultimate insurance holding company or the ultimate mixed financial holding company in relation to its financial year ending on or after 1 January 2017 but before 1 January 2018;

(c) 22 weeks after the financial year end of the participating insurance or reinsurance undertaking, the ultimate insurance holding company or the ultimate mixed financial holding company in relation to its financial year ending on or after 1 January 2018 but before 1 January 2019;

(d) 20 weeks after the financial year end of the participating insurance or reinsurance undertaking, the ultimate insurance holding company or the ultimate mixed financial holding company in relation to its financial year ending on or after 1 January 2019 but before 1 January 2020.

(2) Where group supervision applies in accordance with regulation 3 of the Insurance Business (Supervision of Insurance and Reinsurance Undertakings in a Group) Regulations, 2015, the submission of the group solvency and financial condition report pursuant to Article 256 of the Solvency II Directive shall be submitted by no later than:

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(a) 26 weeks after the financial year end of the participating insurance or reinsurance undertaking, the ultimate insurance holding company or the ultimate mixed financial holding company in relation to its financial year ending on or after 30 January 2016 but before 1 January 2017;

(b) 24 weeks after the financial year end of the participating insurance or reinsurance undertaking, the ultimate insurance holding company or the ultimate mixed financial holding company in relation to its financial year ending on or after 1 January 2017 but before 1 January 2018;

(c) 22 weeks after the financial year end of the participating insurance or reinsurance undertaking, the ultimate insurance holding company or the ultimate mixed financial holding company in relation to its financial year ending on or after 1 January 2018 but before 1 January 2019;

(d) 20 weeks after the financial year end of the participating insurance or reinsurance undertaking, the ultimate insurance holding company or the ultimate mixed financial holding company in relation to its financial year ending on or after 1 January 2019 but before 1 January 2020.

(3) Where group supervision applies in accordance with regulation 3 of the Insurance Business (Supervision of Insurance and Reinsurance Undertakings in a Group) Regulations, 2015, the submission of the quarterly quantitative templates pursuant to Article 254 of the Solvency II Directive shall be submitted by not later than:

(a) 14 weeks related to any quarter ending on or after 1 January 2016 but before 1 January 2017;

(b) 13 weeks related to any quarter ending on or after 1 January 2017 but before 1 January 2018;

(c) 12 weeks related to any quarter ending on or after 1 January 2018 but before 1 January 2019;

(d) 11 weeks related to any quarter ending on or after 1 January 2019 but before 1 January 2020.

(4) Notwithstanding sub-regulations (2) and (3) of regulation 9 of the Insurance Business (Supervision of Insurance and Reinsurance Undertakings in a Group) Regulations, 2015, where an authorised insurance undertaking or an authorised reinsurance undertaking is subject to group supervision, the transitional measures

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referred to in sub-regulations (1), (2) and (3) shall apply *mutatis mutandis*.

Transitional measures on basic own fund items classified under Tier 1.

9. (1) Notwithstanding Article 94 of the Solvency II Directive, basic own fund items held by an authorised insurance undertaking or an authorised reinsurance undertaking shall be included in Tier 1 for up to 10 years after 1 January 2016, provided that those items:

(a) were issued prior to 1 January 2016 or prior to the entry into force of the delegated acts and regulatory technical standards referred to in Article 97 of the Solvency II Directive, whichever is the earlier;

(b) on the 31 December 2015 could be used to meet the available solvency margin up to 50% of the solvency margin according to Article 16(3) of Directive 73/239/EEC, Article 1 of Directive 2002/13/EC, Article 27(3) of Directive 2002/83/EC and Article 36(3) of Directive 2005/68/EC;

(c) would not otherwise be classified in Tier 1 or Tier 2 in accordance with Article 94 of the Solvency II Directive.

(2) Notwithstanding Article 94 of the Solvency II Directive, basic own fund items held by an authorised insurance undertaking or an authorised reinsurance undertaking shall be included in Tier 2 basic own funds for up to 10 years after 1 January 2016, provided that those items:

(a) were issued prior to 1 January 2016 or prior to the entry into force of the delegated acts and regulatory technical standards referred to in Article 97 of the Solvency II Directive, whichever is the earlier;

(b) on the 31 December 2015 could be used to meet the available solvency margin up to 25% of the solvency margin according to Article 16(3) of Directive 73/239/EEC, Article 1 of Directive 2002/13/EC, Article 27(3) of Directive 2002/83/EC and Article 36(3) of Directive 2005/68/EC.

(3) Notwithstanding sub-regulations (2) and (3) of regulation 9 of the Insurance Business (Supervision of Insurance and Reinsurance Undertakings in a Group) Regulations, 2015, where an authorised insurance undertaking or an authorised reinsurance undertaking is subject to group supervision, the transitional measures referred to in sub-regulations (1) and (2) shall apply *mutatis mutandis* at the level of the group.

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Transitional measures on repackaged loans.

10. (1) Where an authorised insurance undertaking or an authorised reinsurance undertaking invests in tradeable securities or other financial instruments based on repackaged loans that were issued before the 1 January 2011, the requirements referred to in Article 135(2) of the Solvency II Directive shall apply only in circumstances where new underlying exposures were added or substituted after the 31 December 2014.

(2) Notwithstanding sub-regulations (2) and (3) of regulation 9 of the Insurance Business (Supervision of Insurance and Reinsurance Undertakings in a Group) Regulations, 2015, where an authorised insurance undertaking or authorised reinsurance undertaking is subject to group supervision, the transitional measure referred to in sub-regulation (1) shall apply *mutatis mutandis* at the level of the group.

Transitional measures on concentration risk sub-module and the spread risk sub-module.

11. (1) Notwithstanding the Solvency Capital Requirement in accordance with Articles 100, 101(3) and 104 of the Solvency II Directive, the standard parameters to be used when calculating the concentration risk sub-module and the spread risk sub-module in accordance with the standard formula shall be adjusted as follows:

(a) until the 31 December 2017, the standard parameters shall be the same in relation to exposures to Member States' or EEA States' central governments or central banks denominated and funded in the domestic currency of any Member State or EEA State as the ones that would be applied to such exposures denominated and funded in their domestic currency;

(b) from 1 January 2018, the standard parameters shall be reduced by 80% in relation to exposures to Member States' or EEA States' central governments or central banks denominated and funded in the domestic currency of any other Member State or EEA State;

(c) from 1 January 2019, the standard parameters shall be reduced by 50% in relation to exposures to Member States' or EEA States' central governments or central banks denominated and funded in the domestic currency of any other Member State or EEA State;

(d) from 1 January 2020, the standard parameters shall not be reduced in relation to exposures to Member States' or EEA States' central governments or central banks denominated and funded in the domestic currency of any other Member State or EEA State.

(2) Notwithstanding sub-regulations (2) and (3) of regulation

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9 of the Insurance Business (Supervision of Insurance and Reinsurance Undertakings in a Group) Regulations, 2015, where an authorised insurance or reinsurance undertaking is subject to group supervision, the transitional measure referred to in sub-regulation (1) shall apply *mutatis mutandis* at the level of the group.

Transitional measures on equity risk sub-module.

12. (1) Notwithstanding the Solvency Capital Requirement in accordance with Articles 100, 101(3) and 104 of the Solvency II Directive, the standard parameters to be used for equities that an authorised insurance undertaking or an authorised reinsurance undertaking purchased on or before 1 January 2016, when calculating the equity risk sub-module in accordance with the standard formula shall be calculated as the weighted averages of:

(a) the standard parameter to be used when calculating the equity risk sub-module in accordance with sub-regulation (3);

(b) the standard parameter to be used when calculating the equity risk sub-module in accordance with the standard formula.

(2) The weight for the parameter expressed in sub-regulation (1)(b) shall increase at least linearly at the end of each year from 0% during 2016 up to 100% on 1 January 2023.

(3) The equity risk sub-module, for the purposes of sub-regulation (1)(a) shall be calibrated using a Value-at-Risk measure, over a time period, which is consistent with the typical holding period of equity investments for the undertaking concerned, with a confidence level providing the policyholders and beneficiaries with a level of protection equivalent to that set out in Article 101 of the Solvency II Directive.

Transitional measures on Solvency Capital Requirement.

13. (1) Notwithstanding Article 138(3) of the Solvency II Directive and without prejudice to Article 138(4) of the said Directive, an authorised insurance undertaking or an authorised reinsurance undertaking which complies with the Required Solvency Margin in accordance with Article 16a of Directive 73/239/EEC, Article 28 of Directive 2002/83/EC or Article 37, 38 or 39 of Directive 2005/68/EC on the 31 December 2015, but does not comply with the Solvency Capital Requirement in the first year of application of the Solvency II Directive, the competent authority shall require the undertaking concerned to:

(a) take the necessary measures to achieve the establishment of the level of eligible own funds covering the Solvency Capital Requirement or the reduction of its risk profile

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to ensure compliance with the Solvency Capital Requirement by the 31 December 2017;

(b) submit a progress report, every three months setting out the measures taken and the progress made to establish 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.

(2) Where the progress report referred to in sub-regulation (1) 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, the extension referred to in sub-regulation (1)(a) shall be withdrawn.

(3) Notwithstanding sub-regulations (1) to (4) and (5)(d) of regulation 9 and regulation 11(b) of the Insurance Business (Supervision of Insurance and Reinsurance Undertakings in a Group) Regulations, 2015, the transitional measure referred to in sub-regulation (1) shall apply *mutatis mutandis* at the level of the group, and where the participating insurance or reinsurance undertakings or the authorised insurance undertaking and authorised reinsurance undertakings in a group comply with the Adjusted Solvency referred to in Article 9 of Directive 98/78/EC, but do not comply with the group Solvency Capital Requirement.

Approval of an internal group model.

14. Where an authorised insurance undertaking or an authorised reinsurance undertaking and the ultimate parent insurance or reinsurance undertaking are both established in Malta, the ultimate parent undertaking may, during a period until the 31 March 2022, apply to the competent authority for the approval of an internal group model applicable to this part of the group, if this forms a distinct part having a significantly different risk profile from the rest of the group.

Transitional measures on the transitional adjustment to the relevant risk-free interest rate term structure.

15. (1) An authorised insurance undertaking or an authorised reinsurance undertaking may, subject to the prior approval of the competent authority, apply a transitional adjustment to the relevant risk-free interest rate term structure with respect to admissible insurance and reinsurance obligations.

(2) Where the authorised insurance undertaking or authorised reinsurance undertaking has received an approval pursuant to sub-regulation (1), such undertaking shall calculate the adjustment for each currency as a portion of the difference between:

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(a) the interest rate as determined by the authorised insurance or reinsurance undertaking in accordance with Article 20 of Directive 2002/83/EC as at 31 December 2015; and

(b) the annual effective rate, calculated as the single discount rate that, where applied to the cash flows of the portfolio of admissible insurance and reinsurance obligations, results in a value that is equal to the value of the best estimate of the portfolio of admissible insurance and reinsurance obligations where the time value of money is taken into account using the relevant risk-free interest rate term structure referred to in Article 77(2) of the Solvency II Directive.

(3) Where the authorised insurance undertaking or authorised reinsurance undertaking has received an approval pursuant to sub-regulation (1), the interest rate structure referred to in sub-regulation (2)(a) shall be determined using the methods used by the authorised insurance or reinsurance undertaking as at 31 December 2015. This portion shall decrease linearly at the end of each year from 100% during the year starting from 1 January 2016 to 0% on 1 January 2032.

(4) Where an authorised insurance undertaking and authorised reinsurance undertaking applies the volatility adjustment pursuant to Article 77d of the Solvency II Directive, the relevant risk-free interest rate term structure referred to in sub-regulation (2)(b) shall be the adjusted relevant risk-free interest rate term structure set out in Article 77d of the Solvency II Directive.

(5) An authorised insurance undertaking or an authorised reinsurance undertaking which applies the risk-free interest rate term structure pursuant to sub-regulation (1) shall comprise only of those insurance or reinsurance obligations that meet the following requirements:

(a) the contracts that give rise to the insurance and reinsurance obligations were concluded before the 31 December 2015, excluding contract renewals on or after that date;

(b) until the 31 December 2015, technical provisions for insurance and reinsurance obligations were determined in accordance with Article 20 of Directive 2002/83/EC as at the last date of application of the said Directive;

(c) Article 77b of the Solvency II Directive is not applied to insurance and reinsurance obligations.

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(6) An authorised insurance undertaking or an authorised reinsurance undertaking which applies the risk-free interest rate pursuant to sub-regulation (1) shall:

(a) not include the admissible insurance and reinsurance obligations in the calculation of the volatility adjustment pursuant to Article 77d of the Solvency II Directive;

(b) not apply regulation 16;

(c) as part of their report on their solvency and financial condition referred to in Insurance Rules issued pursuant to article 18F of the Act, publicly disclose that they apply the transitional risk-free interest rate term structure, and the quantification of the impact of not applying this transitional measure on their financial position.

Transitional measures on the technical provisions.

16. (1) An authorised insurance undertaking or an authorised reinsurance undertaking may subject to the prior approval of the competent authority:

(a) apply a transitional deduction to its technical provisions or to such of its technical provisions as are contained within homogeneous risk groups as referred to in Article 80 of the Solvency II Directive;

(b) or on the request of the competent authority, recalculate the amount of technical provisions, including where applicable the amount of volatility adjustment, used to calculate the transitional deduction pursuant to sub-regulation (3) every 24 months, or more frequently where the risk profile of the undertaking has materially changed.

(2) The transitional deduction shall correspond to a portion of the difference between the following two amounts:

(a) the technical provisions after deduction of the amounts recoverable from reinsurance contracts and reinsurance special purpose vehicles, calculated in accordance with Article 76 of the Solvency II Directive as at 1 January 2016;

(b) the technical provisions after deduction of the amounts recoverable from reinsurance contracts calculated in accordance with Article 15 of Directive 73/239/EC, Article 20 of Directive 2002/83/EC and Article 32 of Directive 2005/68/EC as at 31 December 2015.

(3) The competent authority may limit the deduction referred

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to in sub-regulation (2) if its application could result in a reduction of the financial resources requirements that apply to the insurance or reinsurance undertaking when compared with those calculated in accordance with Directive 73/239/EEC, Directive 2002/83/EC and Directive 2005/68/EC on 31 December 2015.

(4) The maximum portion deductible shall decrease linearly at the end of each year from 100% during the year starting from 1 January 2016 to 0% on 1 January 2032.

(5) Where an authorised insurance undertaking or an authorised reinsurance undertaking applies on 1 January 2016 the volatility adjustment referred to in Article 77d of the Solvency II Directive, the amount referred to in sub-regulation (2)(a) shall be calculated with the volatility adjustment at that date.

(6) An authorised insurance or reinsurance undertaking applying the transitional deduction referred to in sub-regulation (1)(a) shall:

(a) not apply regulation 15;

(b) when such undertaking does not comply with the Solvency Capital Requirement without the application of the transitional deduction, submit annually a report to the competent authority setting out measures taken and the progress made to re-establish at the end of the transitional period set out in sub-regulation (2) a level of eligible own funds covering the Solvency Capital Requirement or to reduce its risk profile to restore compliance with the Solvency Capital Requirement;

(c) as part of its report on its solvency and financial condition referred to in Insurance Rules issued pursuant to article 18F of the Act, publicly disclose that it applies the transitional deduction to the technical provisions, and the quantification of the impact of not applying that transitional deduction on its financial position.

Phasing-in plan on transitional measures on risk free interest rates and technical provisions.

17. (1) An authorised insurance undertaking and an authorised reinsurance undertaking which has obtained the approval of the competent authority to apply the transitional measures in regulation 15 or 16 shall:

(a) immediately inform the competent authority as soon as such undertaking observes that it would not comply with the Solvency Capital Requirement without the application of these transitional measures;

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(b) take the measures necessary to ensure compliance with the Solvency Capital Requirement by 1 January 2032; and

(c) within two months from the observation of non-compliance with the Solvency Capital Requirement without the application of these transitional measures, submit a phasing-in plan to the competent authority.

(2) The phasing-in plan which an authorised insurance undertaking and an authorised reinsurance undertaking is required to submit for the purposes of sub-regulation (1)(c) shall set out the planned measures to establish the level of eligible own funds covering the Solvency Capital Requirement or to reduce its risk profile to ensure compliance with the Solvency Capital Requirement by 1 January 2032.

(3) Where an authorised insurance undertaking and an authorised reinsurance undertaking updates its phasing-in plan during the transitional period, it shall submit the updated phasing-in plan to the competent authority.

(4) An authorised insurance undertaking and an authorised reinsurance undertaking which has obtained the approval of the competent authority to apply the transitional measures in regulation 15 or 16 and has informed the competent authority that it would not comply with the Solvency Capital Requirement without the application of these transitional measures, shall submit annually a report to the competent authority setting out the measures taken and the progress made to ensure compliance with the Solvency Capital Requirement by 1 January 2032.

(5) The competent authority shall revoke the approval for the application of the transitional measure obtained pursuant to regulations 15 or 16 where the progress report shows that the compliance with the Solvency Capital Requirement by 1 January 2032 is unrealistic.

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