

*(only the Italian version is authentic)*

## **IVASS REGULATION NO. 14 OF 22 DECEMBER 2015**

**REGULATION ON THE BASIS RISK FOR THE DETERMINATION OF THE SOLVENCY CAPITAL REQUIREMENT, AS CALCULATED USING THE STANDARD FORMULA REFERRED TO IN TITLE III (PURSUIT OF INSURANCE BUSINESS), CHAPTER IV-BIS (SOLVENCY CAPITAL REQUIREMENTS) SECTION II (STANDARD FORMULA) OF LEGISLATIVE DECREE NO. 209 OF 7 SEPTEMBER 2005 - CODE OF PRIVATE INSURANCE, CONSEQUENT TO THE NATIONAL IMPLEMENTATION OF THE EIOPA GUIDELINES ON FINANCIAL REQUIREMENTS OF THE SOLVENCY II REGIME (PILLAR I REQUIREMENTS).**

### **INSTITUTE FOR THE SUPERVISION OF INSURANCE**

HAVING REGARD to Law No. 576 of 12 August 1982, on the reform of insurance supervision and the establishment of ISVAP;

HAVING REGARD to article 13 of Decree Law No. 95 of 6 July 2012, converted into Law No. 135 of 7 August 2012, concerning urgent measures for the review of public spending with unchanged services for citizens and establishing the institution of IVASS;

HAVING REGARD to Legislative Decree No. 209 of 7 September 2005, containing the Code of Private Insurance, as amended by Legislative Decree No. 74 of 12 May 2015, implementing Directive No. 2009/138/EC in respect of access to and pursuit of the business of insurance and reinsurance and, in particular, articles 45-bis, 45-ter, 66-quater, 216-ter, 216-quinquies and 216-sexies;

HAVING REGARD to the Delegated Regulation (EU) 2015/35 of the Commission of 10 October 2014 supplementing Directive No. 2009/138/EC regarding access to and pursuit of the business of insurance and reinsurance, and in particular articles 86, 179, paragraph 3, from 208 to 215 and Title II, Chapter I, Section 1;

HAVING REGARD to the Guidelines issued by EIOPA concerning the basis risk in the standard formula;

HAVING REGARD to IVASS Regulation No. 3 of 5 November 2013 on the implementation of the provisions referred to in article 23 of Law No. 262 of 28 December 2005, in relation to proceedings for the adoption of regulations and general acts of IVASS;

adopts the following

### **REGULATION**

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### **TITLE I GENERAL RULES**

#### **Art. 1 (Legislative sources)**

1. This Regulation is adopted pursuant to articles 45-quinquies, paragraph 2 and 191, paragraph 1, letter b), number 2 and 216-ter, paragraph 1 of Legislative Decree No. 209 of 7 September 2005 as amended by Legislative Decree No. 74 of 12 May 2015.

#### **Art. 2 (Definitions)**

1. For the purposes of this Regulation the definitions established by Legislative Decree No. 209 of 7 September 2005 as amended by Legislative Decree No. 74 of 12 May 2015, and by Delegated Regulation (EU) 2015/35 of the Commission shall apply. In addition, the following definitions shall apply:
  - a) "Delegated Acts", Delegated Regulation (EU) 2015/35 of the Commission;
  - b) "Code", Legislative Decree No. 209 of 7 September 2005 as amended by Legislative Decree No. 74 of 12 May 2015;
  - c) "Pay-out" the economic payment referring to the application of a financial simulation;
  - d) "SCR", the Solvency Capital Requirement;
  - (e) "Ultimate Italian parent undertaking", the ultimate Italian parent undertaking referred to in article 210, paragraph 2, of the Code.

Art. 3  
(Scope)

1. These Regulations shall apply to the insurance and reinsurance undertakings with head office in the territory of the Italian Republic and to the branches of insurance and reinsurance undertakings having their head office in a third State, and to the ultimate Italian parent undertakings.

**TITLE II**  
**BASIS RISK**

Art. 4  
(Significance of the basis risk)

1. In application of article 45-ter, paragraph 6 of the Code and article 210, paragraph 2, of the Delegated Acts, in the calculation of the SCR the undertaking can take account of the effect of the risk-mitigation techniques, provided they do not entail a significant level of basis risk or the creation of other risks, unless such an eventuality is taken into consideration in the calculation of the SCR.
2. The cases of significance of the basis risk taken into consideration in the standard formula are identified in article 86 of the Delegated Acts.
3. The condition that the risk-mitigation technique would not determine a significant basis risk is considered to have been met when:
  - a) the exposure actually covered by the risk-mitigation technique is sufficiently similar to the exposure to the risk of the undertaking that the risk-mitigation technique is meant to cover;
  - b) the changes in the value of the exposure actually covered by the mitigation technique closely reflect the changes in the value of the exposure to the risk of the undertaking that the mitigation technique is meant to cover in a sufficiently wide and comprehensive series of risk scenarios, which also include scenarios consistent with the confidence level referred to in article 45-ter, paragraph 3 of the Code.
4. In order to assess the significance of the basis risk, the undertaking may subdivide into homogeneous groups the elements that generate exposure to risks on which it is willing to adopt risk-mitigation techniques and carries out the assessments referred to in this article in relation to each group.

Art. 5  
(Use of financial risk-mitigation techniques)

1. The undertaking that calculates the Solvency Capital Requirement through the standard formula and using the risk-mitigation techniques referred to in article 212 of the Delegated Acts, in assessing the significance of the basis risk:
  - a) does not take account of the effects of other elements present in its budget and that would impact on said basis risk, unless there is a continuous and consistent connection between these elements and the risk exposure subject of the mitigation;

- b) carries out the assessment referred to in article 4, paragraph 3, letter a), of this Regulation, bearing in mind the typology and the contractual conditions of the risk-mitigation instrument and the rules that govern the markets in which the instrument is quoted or from which the data that allow the assessment are derived;
  - c) carries out the assessment referred to in article 4, paragraph 3, letter b), of this Regulation, including all scenarios considered in the relevant standard formula modules or sub-modules, taking into account at least:
    - 1) the degree of symmetry between the exposure actually covered by the risk-mitigation technique and exposure to the risk of the undertaking that the mitigation technique is meant to cover;
    - 2) any non-linear dependencies between the two exposures referred to in point 1);
    - 3) any relevant asymmetries in the trends of the exposures referred to in point 1) in correspondence of the risk sub-modules that involve application of both upward and downward stresses;
    - 4) the levels of diversification of each respective exposure referred to in point 1);
    - 5) the possible presence of relevant risks not taken into account explicitly in the standard formula;
    - 6) the complete series of the estimation of the Pay-outs that are obtained by applying the risk-mitigation technique in the different scenarios.
2. The financial risk-mitigation technique generates a significant base risk when the assessment referred to in paragraph 1 does not provide the undertaking with sufficient evidence to demonstrate that the variations in the exposure value actually covered by the risk-mitigation technique reflect all the significant variations in the risk exposure value of the undertaking that the mitigation technique is meant to cover.
3. In cases where the terms and conditions of a financial risk-mitigation technique specify a limit to the maximum protection in the event of a loss defined in proportion to the actual initial risk exposure, the undertaking carries out the assessment of significance referred to in paragraph 1 only for the exposure part actually covered with the financial risk-mitigation technique.

#### Art. 6

(Use of risk-mitigation techniques that use reinsurance contracts or special purpose vehicles)

- 1. The undertaking that calculates the capital requirement through the standard formula and uses the risk-mitigation techniques referred to in article 211 of the Delegated Acts, in assessing the significance of the basis risk identifies, for a sufficiently broad and comprehensive series of risk scenarios, any differences in the trends of coverage of reinsurance treaties or of the agreements for the transfer of risks to special purpose vehicles with respect to the insurance contracts to which they refer, deriving from differences in terms and conditions.
- 2. The undertaking considers as significant the basis risk deriving from a mismatch of currency that is generated when the exposure actually covered by the risk-mitigation technique referred to in article 211 of the Delegated Acts is denominated in a currency other than that of the risk exposure of the undertaking that the mitigation technique is meant to cover.

3. Notwithstanding the provisions of paragraph 2, the mismatch between the two currencies is not considered to be significant in cases where:
  - a) the currencies are pegged to each other in the context of an exchange rate regime which provides for a sufficiently narrow corridor; or
  - b) the exchange between the two currencies is fixed and specified in the agreement of reinsurance or of transfer of risks to special purpose vehicles.
4. In the cases referred to in paragraph 2, the undertaking uses the risk-mitigation technique in question in the calculation of the SCR using the standard formula only if the conditions laid down in article 86 of the Delegated Acts are met.
5. In cases where the terms and conditions of a risk-mitigation technique that uses reinsurance contracts or special purpose vehicles specify a limit to the maximum protection in the event of a loss defined in proportion to the actual exposure to the initial risk, the undertaking carries out the assessment of significance referred to in paragraph 1 only for the part of exposure actually covered with the risk-mitigation technique in question.

### **TITLE III FINAL PROVISIONS**

#### **Art. 7 (Publication and entry into force)**

1. This Regulation shall be published in the Official Journal of the Italian Republic and in IVASS Bulletin and website.
2. This Regulation shall enter into force on 1<sup>st</sup> January 2016.

On behalf of the Joint Directorate  
The Director  
(as per art. 9, paragraph 2 of the IVASS Statute)