

(only the Italian version is authentic)

IVASS REGULATION NO. 16 OF 22 DECEMBER 2015

REGULATION ON THE IMPLEMENTATION OF MARKET RISK AND COUNTERPARTY DEFAULT MODULES FOR THE DETERMINATION OF THE SOLVENCY CAPITAL REQUIREMENT CALCULATED USING THE STANDARD FORMULA IN TITLE III (PURSUIT OF INSURANCE BUSINESS), CHAPTER IV-BIS (SOLVENCY CAPITAL REQUIREMENTS), SECTION II (STANDARD FORMULA), ARTICLE 45-SEPTIES, PARAGRAPHS 8, 9, 10 AND 11, AND 45-NOVIES 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 1 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 on the taking-up and pursuit of the business of insurance and reinsurance and, in particular, articles 45-bis, 45-ter, 45-quater, 45-quinquies, 45-sexies, 45-septies, 45-octies, 45-novies, 66-quater, 216-ter, 216-quinquies and 216-sexies;

HAVING REGARD to Delegated Regulation (EU) 2015/35 of the Commission of 10 October 2014 supplementing Directive No. 2009/138/EC on the taking-up and pursuit of the business of insurance and reinsurance, and in particular articles from 165 to 202, from 208 to 215 and Title II, Chapter I, Section 1;

HAVING REGARD to the Guidelines issued by EIOPA on the treatment of market and counterparty risk exposures 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, 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 provided by Legislative Code 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) "Short equity position", a short position relating to shares resulting from a short sale pursuant to article 2, paragraph 1, letter b) of Regulation (EU) 2012/236;
- d) "Credit event", the condition in which the counterparty to a legally binding agreement can demand from the insurance undertaking the coverage of losses suffered by the asset underlying the agreement;
- e) "Term structure of basis risk-free interest rates", the structure of risk-free interest rates referred to in article 36-octies, paragraph 1, letter a) of the Code, which does not include the volatility adjustment nor the adequacy adjustment, nor transitional measures;
- f) "*Mark-to-model*", a technique for the assessment of assets and liabilities alternative to the mark-to-market one, which consists in the use of quoted market prices of similar assets and liabilities and in the application of adjustments to reflect the differences;
- g) " SCR_{market} " the capital requirement for the market risk module;
- h) " $SCR_{counterparty}$ " the capital requirement for the counterparty default risk module;
- i) " $SCR_{interest\ rate}$ " the capital requirement for the interest rate risk sub-module;
- g) " SCR_{equity} " the capital requirement for the equity risk sub-module;
- k) "Ultimate Italian parent undertaking", the ultimate Italian parent undertaking referred to in article 210, paragraph 2, of the Code.

Art. 3
(Scope)

1. This Regulation shall apply to the insurance and reinsurance undertakings with head office in the territory of the Italian Republic, 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
MARKET RISK AND COUNTERPARTY DEFAULT RISK

Art. 4
(Obligations arising from employee benefits)

1. In application of article 45-septies, paragraphs 8, 9, 10 and 11 of the Code, in the calculation of the SCR_{market} and of the $SCR_{counterparty}$ the undertaking shall also take account of the obligations arising from employee benefits, where represented by liabilities recorded in accordance with the provisions referred to in Title I, Chapter II, of the Delegated Acts.
2. For the purposes of paragraph 1, the undertaking shall take into account the nature of the benefits and, where relevant, the nature of the contractual arrangements with an institution for occupational retirement provision, as defined by Directive 2003/41/EC or with another insurance or reinsurance undertaking for the provision of the aforesaid benefits.

3. Even if the management of the assets that represent the liabilities linked to employee benefits has been outsourced, in the calculation of the SCR_{market} and the $SCR_{counterparty}$ the insurance undertaking shall take account of the obligations charged to it in the case of the loss of value of these assets.

Art. 5

(Impact of call options on duration)

1. In determining the duration of the bonds and loans with *call options*, the undertaking shall take account of situations that negatively affect the probability of making the call by the issuer, including cases of deterioration of its creditworthiness, of widening of the credit *spreads* or of an increase in interest rates.

Art. 6

(Average duration for the duration-based equity risk sub-module)

1. The average duration referred to in article 45-novies, paragraph 2, point 3), of the Code shall be equivalent to the duration of the aggregated cash flows of the liabilities.

Art. 7

(Interest rate risk sub-module)

1. In the calculation of the $SCR_{interest\ rate}$ the undertaking shall include all interest rate sensitive assets and liabilities, consistent with what is regulated by Title I, Chapter V, Section 5, Paragraph 2 of the Delegated Acts and by articles 8 and 9 of this Regulation.

Art. 8

(Recalculation of technical provisions for the purposes of calculating the $SCR_{interest\ rate}$)

1. In the scenarios of increase and decrease of the interest rate structure for calculating the $SCR_{interest\ rate}$, the undertaking shall recalculate the technical provisions by using the term structure of interest rates determined by stressing, as provided for respectively in articles 166, paragraph 1, and 167, paragraph 1, of the Delegated Acts, the relevant base risk-free interest rate term structure and subsequently adding back the matching or volatility adjustment or transitional measure referred to in article 344-novies of the Code, if used for the purposes of the calculation of the technical provisions of the undertaking.

Art. 9

(Recalculation of the value of assets for the calculation of the $SCR_{interest\ rate}$)

1. In the scenarios of increase and decrease of the structure of interest rates for calculating the $SCR_{interest\ rate}$, the undertaking shall recalculate the value of assets by stressing, as provided respectively in articles 166, paragraph 1, and 167, paragraph 1, of the Delegated Acts, the basis risk-free interest rate structure and maintaining unchanged the possible spreads derived from the market value of assets, assessed with respect to the basis risk-free interest rate structure.
2. Where for the purposes of the calculation referred to in paragraph 1, the undertaking uses a mark-to-model assessment to determine the value of the assets under stress,

the undertaking shall verify that the value of the assets obtained using the mark-to-model assessment without the application of the stress referred to in paragraph 1 to the structure of rates is consistent with the market price of the relevant assets exchanged in active markets.

Art.10

(Assets with characteristics of both bonds and equity securities)

1. In the case of assets that have characteristics of both bonds and equity securities, the undertaking shall take into account both characteristics in determining which standard formula risk sub-modules apply for the purposes of calculating the capital requirement.
2. For the purposes of paragraph 1, the undertaking shall consider the economic substance of the asset.
3. In the case that the asset can be considered as the composite of discrete components, the undertaking shall apply the relevant stresses to each of the components separately.
4. In the case it is not possible draw the distinction referred to in paragraph 3, the undertaking shall determine which of the standard formula risk sub-modules apply to the assets in question on the basis of prevailing economic characteristics.

Art. 11

(Short equity positions)

1. The undertaking shall use any short equity positions only to offset long equity positions in the calculation of the SCR_{equity} and on the condition that they meet the requirements on the risk-mitigation techniques referred to in articles from 208 to 215 of the Delegated Acts and article 45-quinquies, paragraph 2 of the Code and its implementing provisions on the subject of basis risk.
2. In the calculation of the SCR_{equity} , the undertaking shall ignore any residual short positions from the compensation referred to in paragraph 1. In particular, the undertaking shall not consider increases in value on said residual short positions, deriving from the application of the stresses.

Art. 12

(Market risk concentration)

1. The assignment of a risk factor equal to 0% for the concentration of market risk to investments in entities that are owned by the subjects included in the list referred to in article 187, paragraph 3, of the Delegated Acts cannot be based only on ownership, but must take into account the possible existence of the guarantee referred to in article 187, paragraph 3, second sub-paragraph of the Delegated Acts.

Art. 13

(Exchange of securities operations)

1. In determining the capital requirements for securities lending transactions or transfer and repurchase of securities transactions or for repurchase agreements, including liquidity swaps, the undertaking shall follow the recognition of the elements negotiated

- in the solvency balance sheet. The undertaking shall also take account of the contractual terms and risks deriving from the transaction or the agreement.
2. If the lent asset is recognized in the solvency balance sheet but the asset received as consideration is not recognized, the undertaking:
 - a) shall apply the relevant market risk sub-modules to the lent asset;
 - b) shall include the lent asset in the calculation of the $SCR_{counterparty}$ among type 1 exposures referred to in article 189, paragraph 2, of the Delegated Acts, taking into account the effect of risk-mitigation provided by the asset received as consideration, if the latter is recognised as a collateral arrangement pursuant to article 214 of the Delegated Acts.
 3. If the asset received as consideration is recognised in the solvency balance sheet but the lent asset is not recognized, the undertaking:
 - a) shall apply the relevant market risk sub-modules to the asset received as consideration;
 - b) shall take into account the lent assets in the calculation of the $SCR_{counterparty}$ among the type 1 exposures referred to in article 189, paragraph 2, of the Delegated Acts, considering the relative value recognized in the solvency balance sheet at the time of the exchange, in cases where the contractual or legal terms give rise to the risk that, in the event of the insolvency of the borrower, the asset granted in loan is not returned even if the received asset has been handed back.
 4. If both the lent asset and the received asset are recognised in the solvency balance sheet, the undertaking:
 - a) shall apply the relevant sub-modules of the market risk both to the lent asset and to the asset received as consideration;
 - b) shall include the lent asset in the calculation of the $SCR_{counterparty}$ among the type 1 exposures referred to in article 189, paragraph 2, of the Delegated Acts, taking into account the risk-mitigation effect provided by the asset received as consideration, if the latter is recognised as collateral arrangement pursuant to article 214 of the Delegated Acts;
 - c) shall consider in the calculation of the $SCR_{interest\ rate}$ the liabilities deriving from the agreement that generates the loan, which are recognized in the solvency balance sheet.

Art. 14

(Commitments which may give rise to payment obligations)

1. When the nominal value of the legally binding commitments referred to in article 189, paragraph 2, letter e), of the Delegated Acts is not explicitly mentioned in the relevant contractual arrangements, the undertaking shall determine, for the purposes of the calculation of the $SCR_{counterparty}$, the loss-given-default referred to in article 192, paragraph 5, of the Delegated Acts on the basis of an estimate of the aforesaid nominal value.
2. The estimated nominal value, referred to in paragraph 1, is equal to the maximum amount that the undertaking will have to pay in the case of a credit event of the counterparty.

**TITLE III
FINAL PROVISIONS**

Art. 15
(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 1st January 2016.

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