

REGULATION NO. 32 OF 9 NOVEMBER 2016

REGULATION CONCERNING THE OWN RISK AND SOLVENCY ASSESSMENT REFERRED TO IN TITLE III (PURSUIT OF INSURANCE BUSINESS), CHAPTER I (GENERAL PROVISIONS), SECTION II (CORPORATE GOVERNANCE SYSTEM), ARTICLE 30-TER, AND IN TITLE XV (GROUP SUPERVISION), CHAPTER III (TOOLS FOR GROUP SUPERVISION), ARTICLE 215-TER OF THE CODE OF PRIVATE INSURANCE – AS AMENDED BY LEGISLATIVE DECREE NO. 74 OF 12 MAY 2015 - FOLLOWING THE NATIONAL IMPLEMENTATION OF THE EIOPA GUIDELINES ON OWN RISK AND SOLVENCY ASSESSMENT.

THE INSURANCE SUPERVISORY AUTHORITY

HAVING REGARD to law n. 576 of 12 August 1982 as subsequently amended and supplemented, on the reform of insurance supervision;

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 IVASS;

HAVING REGARD to legislative decree no. 209 of 7 September 2005, introducing the Code of Private Insurance, as amended by legislative decree no. 74 of 12 May 2015 implementing directive 2009/138/EC on the taking-up and pursuit of the business of insurance and reinsurance and, in particular, articles 30, 30-ter, 215-bis and 215-ter of the Code;

HAVING REGARD to the Commission delegated regulation (EU) 2015/35 of 10 October 2014 supplementing directive 2009/138/EC on the taking-up and pursuit of the business of insurance and reinsurance and, in particular, Title I, Chapter IX, Section 1, article 262, Chapter XIII, Section 1 articles 304, 306, 308 and Section 2, article 312 and Title II, Chapter IV, articles 372 and 373;

HAVING REGARD to the EIOPA Guidelines on own risk and solvency assessment;

HAVING REGARD to IVASS Regulation no. 3 of 5 November 2013 implementing article 23 of law no. 262 of 28 December 2005 on the procedures for the adoption of IVASS' regulatory and general acts;

has adopted the following

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TITLE I - GENERAL PROVISIONS

Art. 1

(Legislative sources)

1. This Regulation has been adopted in compliance with Articles 30 (7), 191 and 215-bis 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 purpose of this Regulation the definitions laid down in legislative decree no. 209 of 7 September 2005 and in the Commission Delegated Regulation no. 35 of 2015, shall apply. In addition, the following definitions have been developed:
 - a) “Code” shall mean legislative decree no. 209 of 7 September 2005, as amended by legislative decree no. 74 of 12 May 2015;
 - b) “Delegated acts” shall mean the Commission Delegated Regulation 2015/35 of 10 October 2014 supplementing Directive 2009/138/EC on the taking-up and pursuit of the business of insurance and reinsurance;
 - c) “undertaking” shall mean the insurance undertaking authorised in Italy or the Italian insurance and reinsurance undertaking; to be interpreted as the undertaking with head office in Italy and the Italian branch of an insurance undertaking with head office in a third country;
 - d) “Ultimate Italian parent undertaking” shall mean the ultimate Italian parent undertaking as per article 210 (2) of the Code;
 - e) “administrative body” shall mean the board of directors, or the management board in undertakings which have adopted the system pursuant to article 2409 octies of the Italian Civil Code, or the general representative for branch offices;
 - f) “Senior management” shall mean the managing director, the director general as well as the senior management which carries out management supervision duties;
 - g) “Own risk and solvency assessment (ORSA)” shall mean the own risk and solvency assessment performed on a current and on a forward-looking basis;
 - h) “ORSA supervisory report” shall mean the supervisory report on the own risk and solvency assessment referred to in article 306 of the Delegated acts;
 - i) “Own risk and solvency assessment at group level (group ORSA)” shall mean the current and forward-looking assessment of risks undertaken at group level;
 - l) “single document for the own risk and solvency assessment (single ORSA document)” shall mean a supervisory report on the current and forward-looking risk and solvency assessment, contained in a single document, concerning the own risk and solvency assessment undertaken at the level of the group and at the level of some subsidiaries in the group on the same reference date and period, as referred to in article 215-ter of the Code.

Art. 3

(Scope)

1. The provisions of this Regulation shall apply:
 - a) to the insurance and reinsurance undertakings whose head offices are located in Italy;
 - b) to the branches in Italy of insurance undertakings whose head offices are in a third country;
 - c) to the ultimate Italian parent companies.

TITLE II – PRINCIPLES AND ELEMENTS OF THE UNDERTAKING'S OWN RISK AND SOLVENCY ASSESSMENT

Chapter I

Principles and role of the own risk and solvency assessment

Art. 4

(Own risk and solvency assessment - ORSA)

1. In accordance with the provisions of article 30-ter of the Code, the undertaking shall conduct its ORSA both on a current and on a forward-looking basis:
 - a. at least annually (regular ORSA) taking as a reference date the year-end date (31 December);
 - b. and, in any case, any time (non-regular ORSA) circumstances arise that could significantly alter its risk profile.
2. For the purpose of the assessment as per paragraph 1, it shall develop its own processes and procedures with appropriate and adequate techniques, tailored to fit into its organisational structure and risk-management system and taking into consideration the nature, scale and complexity of the risks inherent to the business.
3. In its ORSA the undertaking shall take account of all the risks inherent in its business, identifying those that are material, where material risks are defined as those whose consequences could compromise the undertaking's solvency or create a serious obstacle to the achievement of corporate objectives, and shall determine the corresponding capital needs. Where appropriate, the undertaking shall consider the inter-relations between risks, assessing them singularly and on an aggregate basis.
4. The processes for evaluating risks referred to in paragraph 2 shall be revised on a continual basis so as to take into account the changes in the nature, scope and complexity of the undertaking's activity and the market context and also the appearance of new risks or changes in those that exist already. Particular attention shall be given to evaluating risks that may arise from offering new products or from entering into new markets.
5. The procedure relating to risk census, the methods of evaluation and measuring risks and the related results shall be adequately tracked and documented.
6. The ORSA documentation shall include at least:
 - a) the policy as defined in article 5;

- b) a record allowing the reconstruction of the process followed for each assessment, ensuring the traceability of the opinions and of the information on which they are based. The minimum content of said record is summarised in Annex 2 to this Regulation;
 - c) an internal disclosure, with a level of detail defined by the undertaking;
 - d) an ORSA supervisory report as defined in article 306 of the Delegated acts.
7. In accordance with the integration of the own risk and solvency assessment into the business strategy of the undertaking, as per article 30-ter (1) of the Code, the undertaking shall assess its strategies in the light of the results of the forward looking assessment of risks and solvency and of the insights gained during the process of this assessment in at least:
- a) its capital management;
 - b) its business planning;
 - c) its product development and design.
8. If the undertaking decides to consider a reference date for the ORSA different from the one referred to in paragraph 1, a), it shall so notify IVASS at least 60 days before the aforementioned reference date, justifying this decision and demonstrating that it does not lead to a significant change to the risk profile of the undertaking. IVASS shall notify the undertaking of the existence of any reasons preventing the change of date no later than 30 days from receipt of the communication.
9. The reference date identified with the procedures set out in paragraph 8 shall be assumed to be valid until the undertaking notifies otherwise, without prejudice to the need for an annual assessment concerning the persistence of the reasons underlying the choice made and subject to different determinations by IVASS.

Art. 5

(Role played by the administrative body)

1. The administrative body shall take an active part in the own risk and solvency assessment. It shall approve the policy for the own risk and solvency assessment, the criteria and methodologies used for the risk and solvency assessments, in particular with regard to the most significant risks.
2. This policy for the own risk and solvency assessment, referred to in paragraph 1, shall include at least the information envisaged in Annex 1 to this Regulation.
3. The results of the assessment, along with the evidence of the methods used, shall be submitted to the administrative body which, after discussing and approving them, shall disclose them to the senior management and to the structures concerned along with its conclusions, with an adequate level of detail.
4. The administrative body shall also approve the ORSA supervisory report.

Art. 6

Assessment of the overall solvency needs

1. Within the ORSA, the undertaking shall assess the overall solvency needs as per article 30-ter of the Code and in accordance with the provisions of article 262 of the Delegated

- acts, also in a medium term or long term perspective, and shall provide a quantification of the capital needs and a description of the further measures for risk management, other than capital safeguards, including the application of risk mitigation techniques, needed to address all material risks, irrespective of whether the risks are quantifiable or not.
2. Where appropriate, the undertaking shall subject the identified material risks to a sufficiently wide range of stress tests or scenario analyses in order to provide an adequate basis for the assessment of the overall solvency needs.
 3. In the description referred to in paragraph 1, where some risks are managed using mitigation techniques, the undertaking must indicate which risks are managed through those techniques, specifying the reasons underlying that choice.
 4. The assessment of the overall solvency needs shall include considerations on the adequacy of its own financial resources, which should take account of:
 - a) the quality and volatility of own funds, with special regard to their loss-absorbing capacity under different scenarios;
 - b) the practical feasibility of the capital management and acquisition plan, where necessary.

Art. 7

(Use of other criteria and assumptions for the recognition and assessment of the overall solvency needs)

1. If for the assessment of its overall solvency needs, the undertaking uses valuation and recognition principles other than those defined in article 35-quater of the Code and article 9 of the Delegated acts, in the ORSA supervisory report it shall:
 - a) illustrate, in addition to the elements referred to in article 263 of the Delegated acts, the reasons why the use of such different principles may ensure better consideration of the specific risk profile, approved risk tolerance limits and strategy of the undertaking, while complying with the requirement for a sound and prudent management of the business;
 - b) quantitatively estimate the impact on the overall solvency needs assessment resulting from the use of these principles.

Art. 8

(Assessment of continuous compliance with the regulatory capital requirements and with the requirements regarding technical provisions)

1. The own-risk and solvency assessment shall include the analysis of compliance, on a continuous basis, with the regulatory capital requirements referred to in article 30-ter (2, b) of the Code. As part of this assessment, the undertaking shall consider:
 - a) the potential future material changes in its risk profile and the consequent potential effects on the calculation of the future solvency capital requirement (SCR) and the minimum capital requirement (MCR);
 - b) the quantity and quality of its own funds over the whole of its planning period;

- c) the composition of own funds across tiers and how this composition may change as a result of redemption, repayment and maturity dates during its business planning period.
2. The ORSA shall also include the assessment of the compliance, on a continuous basis, with the requirements regarding technical provisions envisaged in Title III, Chapter II of the Code.
For this purpose the actuarial function shall:
 - a) verify whether the undertaking complies on a continuous basis with the requirements regarding the calculation of technical provisions envisaged in Title III, Chapter II of the Code;
 - b) identify potential risks arising from the uncertainties connected to this calculation.

Art. 9

(Assessment of the deviations from assumptions underlying the SCR calculation)

1. In compliance with the provisions of article 30-ter (2, c) of the Code the undertaking shall assess whether its risk profile deviates from the assumptions underlying the SCR calculation and whether these deviations are significant. The undertaking may, as a first step, perform a qualitative analysis and, if the deviation is significant, integrate this analysis with adequate quantitative insights.
2. If, on conclusion of the analyses referred to in paragraph 1, the existence of significant deviations between the undertaking's risk profile and the assumptions underlying the SCR calculation is confirmed, the undertaking shall assess the means to face these deviations, which include:
 - a) bringing them in line with the assumptions underlying the SCR calculation;
 - b) where possible, requesting the use of USP;
 - c) develop a partial or full internal model for the SCR calculation;
 - d) reduce the undertaking's risk exposure.

Art. 10

(Specific assessment of the assets of the branches in the risk and solvency assessment)

1. The branches defined in article 3, b) shall, as part of their ORSA, assess the permanent availability of the branch assets. In this regard, the analysis shall extend to the risks relating to the effectiveness of the contractual agreements that reserve the branch assets for the satisfaction of insurance creditors and of any other preferential creditors, according to their order of priority.

Chapter III – Reporting obligations to IVASS

Art. 11

(Submission to IVASS of the report on the undertaking's risk and solvency assessment)

1. In line with the provisions of article 312 (1, b) of the Delegated acts, the undertaking shall, each year, submit IVASS the ORSA supervisory report, within two weeks after the approval of the ORSA results by the administrative body.
2. The submission referred to in paragraph 1 shall take place by the deadlines as per article 312 (1, c), of the Delegated Acts for the submission of the annual quantitative templates. If the undertaking intends to submit it at a different date, it shall so notify IVASS at least 60 days prior to the deadlines for the submission of the annual quantitative templates, justifying this decision. IVASS shall notify the undertaking of the existence of any reasons preventing the change of date no later than 30 days from receipt of the communication.
3. The undertaking, taking into account the matters regulated in article 306 of the Delegated Acts, shall prepare the ORSA Supervisory report, in accordance with the principles of article 30-ter (7) of the Code, following the structure as per Annex 3.
4. The submission date identified with the procedures set out in paragraph 2 shall be assumed to be valid until the undertaking notifies otherwise, without prejudice to the need for an annual assessment concerning the persistence of the reasons underlying the choice made and subject to different determinations by IVASS.

TITLE III

Own risk and solvency assessment at group level

Chapter I

Principles and role of the assessment

Art. 12

(Own risk and solvency assessment at group level - group ORSA)

1. In line with the provisions of article 215-ter of the Code and taking account of article 372 of the Delegated acts, the ultimate Italian parent undertaking shall perform the group ORSA, at least annually and taking as a reference date the year-end date (31 December), taking account of the principles envisaged in Title II of this Regulation, of the group structure and its risk profile.
2. The group ORSA shall cover the material risks arising from all the entities that are part of the group.
3. For the purpose of the group ORSA, the ultimate Italian parent undertaking shall define a process for the assessment of risks at group level, comprising those deriving from undertakings with head office in third States, from undertakings not subject to sectoral regulations and from other undertakings subject to specific sectoral regulations. Such evaluation shall take account of the interdependencies between risks.
4. For the purposes of exercising the option referred to in paragraph 3 of article 215-ter, the ultimate Italian parent undertaking shall notify IVASS, at least 60 days before the reference date as per paragraph 1, of the intention to submit a single document of own

risk and solvency assessment, justifying this decision, which shall in any case also include the information required for subsidiaries.

5. IVASS, in accordance with the provisions of article 215-ter of the Code shall carry out its own assessments about the intention to exercise the option as per paragraph 3 of the aforementioned article, also taking into account the opinion of the members of the college of supervisors, if any, established to supervise over the group. Within 60 days from receipt of the communication, IVASS shall notify the ultimate Italian parent undertaking of the existence of any reasons preventing the exercise of the option envisaged in paragraph 3 of article 215-ter.
6. The exercise of the option as per paragraph 4, once communicated, shall also be considered extended to the following years until otherwise communicated by the ultimate Italian parent undertaking, without prejudice to the need for an annual assessment concerning the persistence of the reasons underlying the choice made and subject to different determinations by IVASS. A new communication shall in any case be necessary in case of changes to the information submitted to IVASS in accordance with article 14.
7. If the ultimate Italian parent undertaking decides to consider a reference date for the ORSA different from the one referred to in paragraph 1, it shall so notify IVASS at least 60 days before the aforementioned reference date, justifying this decision and demonstrating that it does not lead to a significant change to the risk profile of the group. IVASS shall notify the ultimate Italian parent undertaking of the existence of any reasons preventing the change of date no later than 30 days from receipt of the communication.
8. The reference date identified with the procedures set out in paragraph 7 shall be assumed to be valid until the ultimate Italian parent undertaking notifies otherwise, without prejudice to the need for an annual assessment concerning the persistence of the reasons underlying the choice made and subject to different determinations by IVASS.

Chapter II

Elements of the group assessment

Art. 13

(Assessment of the overall solvency needs and the regulatory capital requirements of the group)

1. The ultimate Italian parent undertaking shall adequately assess the impact of all group specific risks and interdependencies within the group as well as the impact of these risks and interdependencies on the overall solvency needs; in so doing, it shall take into consideration the specificities of the group and the fact that some risks may be scaled up at the level of the group.
2. In accordance with the principles under article 4 of this Regulation, the ultimate Italian parent undertaking shall include in the record of the group ORSA a description on how the following factors were taken into consideration for the assessment of overall solvency needs and of compliance, on a continuous basis, with the regulatory capital requirements, including:

- a) the identification of the possible sources of capital within the group and identification of potential needs for additional capital;
 - b) the assessment of availability, transferability or fungibility of the capital or own funds;
 - c) references to any transfer of capital or own funds within the group, which may have a material impact on an entity of the group, and an assessment of the consequences of these transfers;
 - d) alignment of individual strategies with the ones established at the level of the group;
 - e) specific risks the group could be exposed to, including where envisaged and if material:
 - 1. the risk of contagion within the group of crisis situations emerged in a specific entity;
 - 2. risks deriving from intra-group transactions, with special regard to participations, reinsurance, loans, outsourcing;
 - 3. operational risks linked to the complexity of the structure of the group;
 - 4. risks arising from the complexity of the structure of the group.
 - f) the reasonableness of the effects of diversification between various risks applied at the level of the group and their impact on the overall solvency needs.
3. In the assessment of the group overall solvency needs, the ultimate Italian parent undertaking shall include the risks of the business in third countries in a consistent manner as it does for European Economic Area business with special attention to the assessment of transferability and fungibility of capital.

Art. 14

(Specific requirements for the single document for the own risk and solvency assessment)

- 1. Where the ultimate Italian parent undertaking has applied to make use of the option envisaged in article 215-ter (3), together with the application the ultimate Italian parent undertaking shall submit to IVASS:
 - a) a list of the subsidiaries for which the individual assessments required by article 30 ter of the Code are covered in the single ORSA document including the reason of the choice made;
 - b) apart from the reasons for the application, the description of how the governance requirements are met at the level of these undertakings and in particular how the administrative bodies of the subsidiaries are involved in the assessment process and approval of the outcome;
 - c) a description of how the single ORSA document is organised in order to allow IVASS to separate individual assessments for the other supervisors in the college;
 - d) where necessary, a specific indication on required translations, with specific attention to timing and content.

Chapter III

Information obligations to IVASS

Art. 15

(Submission to IVASS of the report on the group own risk and solvency assessment)

- 1. In line with the provisions of article 373 of the Delegated acts, the ultimate Italian parent undertaking shall submit IVASS the group ORSA supervisory report, within two weeks after the approval of the group ORSA results by the administrative body. Said report sent

to IVASS as the group supervisor shall have the contents set out in Annex 3 and shall be prepared in the same language as the group regular report as per article 372 of the Delegated Acts.

2. The submission referred to in paragraph 1 shall take place by the deadlines as per article 373 of the Delegated Acts for the submission of the annual quantitative templates. If the ultimate Italian parent undertaking intends to submit it at a different date, it shall so notify IVASS at least 60 days prior to the afore-mentioned deadlines, justifying this decision. IVASS shall notify the undertaking of the existence of any reasons preventing the change of date no later than 30 days from receipt of the communication.
3. The submission date identified with the procedures set out in paragraph 2 shall be assumed to be valid until the undertaking notifies otherwise, without prejudice to the need for an annual assessment concerning the persistence of the reasons underlying the choice made and subject to different determinations by IVASS.
4. If a single ORSA document is prepared, the ultimate Italian parent undertaking shall ensure, when requested by a member (or a new member) of the college of supervisors, that the requesting member is provided with a timely translation in the official language of that member State, of the information about the ORSA concerning the **subsidiary**.

TITLE IV TRANSITIONAL AND FINAL PROVISIONS

Art. 16 (Transitional provisions)

1. Upon first application, with regard to the ORSA relating to the 2016 data, the deadlines referred to in the following articles shall be extended as follows:
 - a. The deadline for the communication as per article 4 (8), is set to 31 January 2016. This is without prejudice to the need to justify this decision and provide evidence that it does not entail a significant change in the undertaking's risk profile. There shall be no change to the deadlines by which IVASS shall notify the undertaking of the existence of any preventing reasons (30 days from receipt of the communication).
 - b. The deadline for the communication as per article 12 (4) relating to the exercise of the option referred to in article 215-ter (3) of the Code, is set to 31 January 2016. There shall be no change to the remaining provisions of the article and to the deadlines by which IVASS shall notify the undertaking of the existence of any preventing reasons (60 days from receipt of the communication);
 - c. The deadline for the communication as per article 12 (7) is set to 31 January 2016. This is without prejudice to the need to justify this decision and provide evidence that it does not entail a significant change in the undertaking's risk profile. There shall be no change to the deadlines by which IVASS shall notify the undertaking of the existence of any preventing reasons (30 days from receipt of the communication).
 - d. Submission to IVASS of the report on the risk and solvency assessment as per articles 11 (2) and 15 (2) shall take place respectively no later than 5 June 2017, for the

undertaking, and no later than 17 July 2017 for the group. The obligation under articles 11 (1) and 15 (1) shall remain unchanged.

Art. 17
(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 the day after its publication in the Italian Official Journal.

On behalf of the Joint Directorate
the President