

IVASS REGULATION NO. 34 OF 07/02/2017

REGULATION LAYING DOWN PROVISIONS ON THE SYSTEM OF GOVERNANCE CONCERNING THE VALUATION OF ASSETS AND LIABILITIES OTHER THAN TECHNICAL PROVISIONS AND THE CRITERIA USED FOR THEIR VALUATION, AS SET FORTH IN TITLE III (PURSUIT OF INSURANCE BUSINESS), AND IN PARTICULAR IN CHAPTER I, SECTION II (CORPORATE GOVERNANCE SYSTEM), ARTICLES 30, 30-BIS AND 30-TER, AND IN CHAPTER I-BIS (GENERAL PRINCIPLES FOR THE VALUATION OF ASSETS AND LIABILITIES FOR SOLVENCY SUPERVISION), ARTICLE 35-QUATER, OF LEGISLATIVE DECREE NO. 209 OF 7 SEPTEMBER 2005 - CODE OF PRIVATE INSURANCE - AS AMENDED BY LEGISLATIVE DECREE NO. 74 OF 12 MAY 2015 - FOLLOWING THE NATIONAL IMPLEMENTATION OF THE EIOPA GUIDELINES ON THE SYSTEM OF GOVERNANCE, SECTION 10, AND ON THE RECOGNITION AND VALUATION OF ASSETS AND LIABILITIES OTHER THAN TECHNICAL PROVISIONS

THE INSURANCE SUPERVISORY AUTHORITY

HAVING REGARD to law no. 576 of 12 August 1982 as subsequently amended and supplemented, on the reform of insurance supervision and the setting up 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 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-bis, 30-ter, and 35-quater;

HAVING REGARD to the Commission delegated regulation (EU) 35/2015 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, articles from 7 to 16 and articles 258, 259, 263 and 267;

HAVING REGARD to the EIOPA Guidelines on the system of governance, in particular, the Guidelines on the valuation of assets and liabilities other than technical provisions;

HAVING REGARD to the EIOPA Guidelines on recognition and valuation of assets and liabilities other than technical provisions;

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

REGULATION

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Chapter I

General Provisions

Art. 1

(Legislative sources)

1. This Regulation has been adopted in compliance with Articles 30 (7), 35-quater (1) and 191 (1) of legislative decree no. 209 of 7 September 2005, as amended by legislative decree no. 74 of 12 May 2015 implementing Directive 2009/138/EC of the European Parliament and of the Council.

Art. 2

(Definitions)

2. For the purpose of this Regulation, the definitions stated in legislative decree no. 209 of 7 September 2005, as amended by legislative decree no. 74 of 12 May 2015, implementing Directive 2009/138/EC, and by the Commission Delegated Regulation 35/2015, shall apply. In addition, the following definitions have been developed:
 - a) “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;
 - b) “Code” shall mean: legislative decree no. 209 of 7 September 2005, as amended by legislative decree no. 74 of 12 May 2015;
 - c) “IFRS” shall mean: International Financial Reporting Standards, the international accounting standards adopted by the Commission in accordance with Regulation (EC) no. 1606/2002.

Art. 3

(Scope)

1. This Regulation shall apply to:
 - a) insurance and reinsurance undertakings having their head office in the territory of the Italian Republic;
 - b) branches of insurance and reinsurance undertakings whose head offices are in a third country;
 - c) the ultimate Italian parent undertakings referred to in article 210 (2) of the Code.

Chapter II

(System of governance principles for the valuation of assets and liabilities other than technical provisions)

Art. 4

(Policy for the valuation of assets and liabilities other than technical provisions)

1. The policy and the procedures for the valuation of assets and liabilities other than technical provisions that the undertaking establishes pursuant to article 267 of the Delegated acts shall cover at least the following:

- a) the methodology and criteria to be used for the identification of active and non-active markets;
- b) the requirements to ensure adequate documentation of the valuation process and of the accompanying controls, including those for data quality;
- c) the requirements on the documentation on the valuation approaches used regarding:
 - i) their designs and the way they are implemented;
 - ii) the adequacy of data, parameters and assumptions;
- d) the process for the independent review and verification of the valuation approaches;
- e) the minimum contents of the regular reporting to the administrative body, which shall cover at least the issues that are relevant for the exercise of the system of governance on the matters covered by this Regulation.

Art. 5

(Data quality control procedures)

1. In accordance with article 267 of the Delegated acts, the undertaking shall implement data quality control procedures for the data used in the valuation process, in order to measure, monitor, manage and document such data quality and identify deficiencies, in accordance with the policy for the valuation of assets and liabilities other than technical provisions approved by the administrative body.
2. The procedures referred to in paragraph 1 shall include:
 - a) controls on the completeness of data;
 - b) controls on the appropriateness of data, both from internal and external sources;
 - c) independent review and verification of data quality.
3. The policies and procedures implemented by the undertaking shall address the need to periodically review market data and inputs against data coming from alternative sources and experience.

Art. 6

(Documentation when using alternative valuation methods)

1. Where the undertaking uses alternative methods for valuation, it shall keep evidence of a description of:
 - a) the method, purpose, key assumptions, limitations and output;
 - b) the circumstances under which the method would not work effectively;
 - c) the valuation process and the controls linked with the method;
 - d) an analysis of valuation uncertainty linked with the method;
 - e) the back-testing procedures performed on the results;
 - f) where possible, a comparison against comparable models or other benchmarks, which should be carried out regularly and, in all cases, when the valuation method is first introduced;
 - g) the tools and IT programs used.

Art. 7

(Independent review and verification of valuation methods)

1. The undertaking shall ensure that an independent review of the valuation method takes place before the implementation of a new method or a major change, and on a regular basis thereafter.

2. The undertaking shall determine the frequency of the review in line with the significance of the method for the decision-making and risk management processes.
3. The undertaking shall apply the same principles for the independent review and verification of both internally developed valuation methods or models and for vendor provided valuation methods or models.
4. The undertaking shall have processes in place to report the results to the administrative body, senior management, control body, the subjects responsible for the key functions involved and the subject responsible for the implementation of the method concerned by the review and to verify the results of the independent review, as well as the suggestions to remove any deficiency and recommendations about the time-scales for removing them.
5. The reporting under paragraph 4 shall at least cover:
 - a) the quality of the valuation methods;
 - b) any known weakness connected to the characteristics of the valuation method used;
 - c) any worry on the accuracy and appropriateness of the inputs, including data, parameters and assumptions used;
 - d) any comparison with previous communications;
 - e) any suggestions to remove the deficiencies found;
 - f) recommendations about the time-scales for removing them.

Art. 8

(Tasks of the administrative body)

1. The administrative body shall approve the policy for the valuation of assets and liabilities other than technical provisions as set forth in article 267 of the Delegated acts.
2. The administrative body shall ensure an overall understanding of the valuation approaches and the uncertainties involved in the valuation process to allow a proper oversight of the risk management process concerning valuation.
3. The administrative body shall implement:
 - a) a regular monitoring of the effectiveness of the procedures approved, including those on the independent review and verification;
 - b) a review of the communications referred to in article 7, of the relevant documentation and internal control;
 - c) where necessary, interventions to ensure a correct risk management of the valuation activity.

Art. 9

(Request to the undertaking by IVASS for an external independent valuation or verification)

1. In the case of a request by IVASS for an external valuation or verification, pursuant to article 267 (3) of the Delegated acts, the undertaking shall make available to the independent experts any documents they may deem necessary for the fulfilment of their tasks, without prejudice to the responsibility of the undertaking's administrative body for a correct assessment.

Art. 10

(Independence of the external expert)

1. In the case of a request by IVASS for an external independent valuation, pursuant to article 267 (3) of the Delegated acts, the undertaking shall be able to demonstrate to IVASS that the external valuation or verification has been performed by independent experts with the relevant professional competence and experience.

Art. 11

(Information to be provided to IVASS on the external valuation or verification)

1. The undertaking shall provide IVASS with all relevant information requested on external valuation or verification. The undertaking shall include in this information, at least, the experts' written opinion on the valuation of the relevant assets and liabilities.

Chapter III

Recognition and valuation of assets and liabilities other than technical provisions

Art. 12

(Material information in the valuation of assets and liabilities)

1. When valuing assets and liabilities, the undertaking shall apply the materiality principle for information as set out in Recital 1 of Delegated Regulation (EU) 2015/35.
2. In the quarterly measurements, the application of the principle under paragraph 1 shall take account of the possible greater reliance on estimates than the undertaking's annual measurements.

Art. 13

(Consistency in applying valuation methods)

1. Undertakings shall apply valuation methods consistently.
2. Undertakings shall also consider if, as a result of a change in circumstances, including those listed in paragraph 3, a change in valuation methods and their application is required on the basis that such change would result in a more appropriate measurement in accordance with article 35-quater of the Code.
3. Such changes in circumstances referred to in paragraph 2 may include the following:
 - a) new market developments that change market conditions;
 - b) new information becomes available;
 - c) information previously used is no longer available;
 - d) valuation techniques improve.

Art. 14

(Investment property and other properties: alternative valuation methods)

1. For the purposes of article 10 of the Delegated acts, where the undertaking uses alternative methods for the valuation of investment property and other properties, it shall

select, among the methods envisaged in article 10 (7) of the Delegated acts, the one that provides the most representative estimate of the amount for which the assets could be exchanged between knowledgeable willing parties in an arm's length transaction.

2. In accordance with article 10 (6) of the Delegated acts, when using the methods under paragraph 1, the undertaking shall consider:
 - a) current prices in an active market for properties of a different nature, condition or location, or subject to different lease or other contractual terms, adjusted to reflect those differences;
 - b) recent prices of similar properties on less active markets, with adjustments to reflect changes in economic conditions since the date of the transactions that occurred at those prices;
 - c) discounted cash flow projections based on reliable estimates of future cash flows. These projections are supported by the terms of any existing lease and other contracts and, when possible, by market evidence such as current rents for similar properties in the same location and condition. The discount rates used reflect current market assessments of the uncertainty in the amount and timing of the cash flows.
3. In those cases where the inputs listed in paragraph 2 may suggest different valuations of the same property, the undertaking shall consider the reasons for those differences, in order to determine the most representative valuation estimate.
4. When determining the valuation of the property, the undertaking shall take into account a market participant's ability to generate economic benefits by using the property to its highest and best use, or by selling it to another market participant that would use the asset in its highest and best use.

Art. 15

(Investment property and other properties: evidence supporting the valuation)

1. If the solvency balance sheet valuation is based on an appraisal, or other information, prior to the balance sheet date, undertakings shall, at the request of IVASS, be able to demonstrate that all necessary adjustments have been made to reflect changes in the value between the date of the appraisal or other information and the balance sheet date.

Art. 16

(Financial liabilities and own credit standing)

1. When valuing financial liabilities, the undertaking shall use techniques to determine a value for which the liabilities could be transferred, or settled between knowledgeable willing parties in an arm's length transaction, excluding any adjustment to take account of changes in the undertaking's own credit standing after initial recognition. These valuation techniques can be based on either:
 - a) a bottom up approach;
 - b) a top down approach.
2. In a bottom up approach, the undertaking shall determine its own credit standing at recognition of the specific financial liability. The part of the spread of the discount curve that relates to own credit standing should be kept constant after its initial recognition. In subsequent valuations of the liability the undertaking shall determine

the changes in the value stemming from changes in market conditions that affect the value of the financial liability, except for the changes that affect own credit risk.

3. When undertakings assess changes in market conditions that give rise to market risk, they shall consider at least changes in the relevant risk free interest rate curve, in the price of commodity price, in the exchange rate or in an index of prices or rates.
4. In a top down approach, the undertaking shall determine the amount of change in the valuation of a financial liability that is attributable to changes in its own credit risk and exclude it from the valuation.

Art. 17

(Holdings in subsidiaries or related undertakings: IFRS equity method)

1. Undertakings that apply article 13 (5) of the Delegated acts to value the assets and liabilities of a subsidiary or related undertaking using the equity method, shall make adjustments where needed to recognise and value the assets and liabilities of its subsidiary or related undertaking in accordance with IFRS, if that subsidiary or related undertaking uses an accounting framework other than IFRS.
2. When applying Article 13 (5) of the Delegated acts, an undertaking shall, at the request of IVASS, be able to provide justification as to why it has not calculated the excess of assets over liabilities for subsidiary or related undertakings according to article 13 (4) of the Delegated acts.

Art. 18

(Holdings in subsidiaries or related undertakings: alternative valuation methods)

1. Where undertakings value holdings in subsidiary or related undertakings using alternative valuation methods in accordance with article 13 (1) c) of the Delegated acts, they shall be able to explain, at the request of IVASS, why it is not possible to revalue the subsidiary or related undertaking's assets and liabilities using the default valuation method referred to in article 10 (2) of the Delegated acts, or the adjusted equity method.

Art. 19

(Contingent liabilities arising from ancillary own fund item arrangements)

1. When entering into an arrangement that represents an ancillary own-fund item for the counterparty, the undertaking shall:
 - a) establish the arrangements through which it is informed of the authorization to classify the contract as an ancillary own-fund item for the counterparty;
 - b) carefully assess whether to recognise, in its solvency balance sheet, the corresponding contingent liability as a liability in compliance with article 11 of the Delegated acts.
2. Where required, the undertaking shall provide adequate justification to IVASS where it has not recognised in the solvency balance sheet a contingent liability relating to any of the contracts referred to in paragraph 1 entered into with another undertaking, including any other undertakings belonging to the group, by specifying the cases where that contract has received approval as an ancillary own fund item for the other undertaking.

Such justification shall also be included in the report referred to in article 30-ter (7) of the Code (ORSA).

Art. 20

(Deferred taxes: recognition and valuation)

1. Undertakings shall not discount deferred tax assets and liabilities.
2. An undertaking shall offset deferred tax assets and deferred tax liabilities only if:
 - a) it has a legally enforceable right to set off current tax assets against current tax liabilities and
 - b) the deferred tax assets and the deferred tax liabilities relate to taxes levied by the same tax authority on the same undertaking.
3. Where there are insufficient taxable temporary differences, which are expected to reverse in the same period as the expected reversal of the deductible temporary differences, the undertaking shall consider the likelihood that a sufficient taxable profits will arise in the future years in which a tax loss arising from the deferred tax asset can be carried forward.
4. When making projections of taxable profits and assessing the likelihood that sufficient taxable profits will arise in the future, the undertaking shall:
 - a) take into consideration that even a strong earnings history may not provide sufficient objective evidence of future profitability;
 - b) take into consideration that the degree of uncertainty relating to future taxable profits resulting from expected new business increases as the projection horizon becomes longer; and particularly when these projected profits are expected to arise in periods beyond the strategic planning of the undertaking's business;
 - c) consider that some tax rules can delay or restrict recovery of unused tax losses and unused tax credits;
 - d) avoid double counting: in particular taxable profits resulting from the reversal of taxable temporary differences shall be excluded from the estimated future taxable profits where they have been used to support the recognition of deferred tax assets;
 - e) ensure that when making projections of taxable profits, these projections are both credible and based on assumptions broadly consistent with those made for other projected cash flows. In particular, the assumptions underlying the projections shall be consistent with those underlying the valuations of technical provisions and assets on the solvency balance sheet made in compliance with current regulations.

Art. 21

(Deferred taxes: supporting documentation)

1. Upon IVASS' request, the undertaking shall, based on its records, provide, at a minimum, information:
 - a) on sources of temporary differences that may lead to the recognition of deferred taxes;
 - b) on recognition and valuation principles applied for deferred taxes;
 - c) in respect of each type of timing difference and in respect of each type of unused tax loss and unused tax credit, the calculation of the amount of the deferred tax assets or liabilities recognised, as well as underlying assumptions related to that amount;

- d) describing the recognition of deferred tax assets, including at least:
 - i) existence of any taxable temporary differences relating to the same tax authority, the same undertaking and the same type of tax which are expected to reverse in the same period as the expected reversal of the deductible temporary difference or, as the case may be, would result in taxable amounts against which the unused tax losses or unused tax credits can be utilised;
 - ii) when there are insufficient taxable temporary differences relating to the same tax authority, the same undertaking and the same type of tax, documentation demonstrating that it is probable that the entity will have sufficient taxable profit relating to the same tax authority and the same undertaking and the same type of tax in the same period as the reversal of the deductible temporary difference or in the periods into which a tax loss arising from the deferred tax asset can be carried forward;
- e) on the amount and expiry date, if any, of deductible temporary differences, unused tax losses and unused tax credits for which deferred tax assets are or are not recognised.

Art. 22

(Deferred tax treatment where undertakings are excluded from group supervision)

1. Undertakings shall apply the following principles for the recognition of deferred taxation where subsidiaries or related undertakings are excluded from the scope of group supervision under article 210-quater of the Code:
 - a) where holdings in subsidiaries or related undertakings are excluded from the scope of group supervision under article 210-quater (1) of the Code, the deferred tax related to that excluded undertaking shall not be recognised at either individual or group level;
 - b) where holdings in subsidiaries or related undertakings are excluded from the scope of group supervision under article 210-quater (2) of the Code, the deferred tax related to that related undertaking shall not be recognised at group level.

Chapter IV
(Provisions concerning groups)

Art. 23

(Role of the ultimate Italian parent undertaking)

1. The ultimate Italian parent undertaking, when defining its policy for the valuation of assets and liabilities other than technical provisions for the purpose of its application on a consolidated basis, shall take account of the aspects referred to in article 4.
2. The administrative body of the ultimate Italian parent undertaking shall approve the policy for the valuation of assets and liabilities other than technical provisions as set forth in paragraph 1.
3. The ultimate Italian parent undertaking shall draw up guidelines on the valuation of assets and liabilities other than technical provisions allocated to subsidiaries and shall ensure that they are implemented on a consistent and ongoing basis within the whole group, taking account of the specificities of each undertaking and of their interdependencies. The responsibility of the administrative body of each undertaking in the group for its policy for the valuation of assets and liabilities other than technical provisions shall not be affected.

Chapter V

Transitional and final provisions

Art. 24 **(Transitional provisions)**

1. In the initial period of application, undertakings shall approve the policy for the valuation of assets and liabilities other than technical provisions as set forth in article 4 by 31 May 2017.

Art. 25 **(Publication)**

1. This Regulation shall be published in the Official Journal of the Italian Republic and in IVASS' Bulletin and website.

Art. 26 **(Entry into force)**

1. This Regulation shall enter into force on the day after its publication in the Official Journal of the Italian Republic.
2. The provisions contained in this Regulation are applicable starting from the solvency balance sheet as at 31 December 2016.

On behalf of the Joint Directorate
The Governor of the Bank of Italy