

Client Update

The EU Solvency II Regime for Insurers: An Update on Implementation March 2015

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The Prudential Regulation Authority's Policy Statement 2/15: A New Regime for Insurers

On 20 March 2015 the Prudential Regulation Authority ("PRA") published Policy Statement 2/15 on Solvency II: A new regime for insurers ("PS2/15"),¹ which runs to 330 pages, sets out the rules and accompanying supervisory statements² required for the PRA's implementation of Solvency II. PS2/15 applies to all UK Solvency II firms and Lloyd's. PS2/15 includes seventeen Supervisory Statements including: (i) SS4/15 – The Solvency and minimum capital requirements; (ii) SS5/15 – The treatment of pension scheme risk; (iii) SS7/15 – Supervision of firms in difficulty or run-off; (iv) SS9/15 – Group supervision; and (v) SS10/15 – Third-country branches.

The Prudential Regulation Authority's Consultation Paper 11/15 – Solvency II – Supervisory Approval for the Volatility Adjustment

Also on 20 March 2015 the PRA published Consultation Paper 11/15 – Solvency II: Supervisory approval for the volatility adjustment.³ This Consultation Paper seeks feedback on a draft supervisory statement that describes the PRA's expectations of firms in relation to supervisory approval for the volatility

¹ Available at <http://www.bankofengland.co.uk/pr/Pages/publications/ps/2015/ps215.aspx>

² Which were proposed in the following Consultation Papers:
(i) CP16/14: Transposition of Solvency II: Part 3;
(ii) CP22/14: The PRA's approach to with profits insurance business;
(iii) CP23/14: Solvency II approvals;
(iv) CP23/14: Solvency II: Further measures for implementation; and
(v) CP3/15: Solvency II: Transitional measures and the treatment of participations.

³ Available at <http://www.bankofengland.co.uk/pr/Pages/solvency2/updates.aspx>

adjustment (“VA”), an alternative available for calculating the firm’s Solvency Capital Requirement for certain lines of business. In particular, the draft supervisory statement clarifies:

- the items that should be included in an application to use the VA;
- how the PRA will use the content of applications to assess whether the statutory conditions for approval to use the VA have been satisfied; and
- how the VA approval process will work, and its interaction with other Solvency II approval processes.

In addition to changes to the PRA rules, the transposition of Solvency II into national law will require amendments to existing financial services legislation and minor amendments to the FCA Handbook. The PRA is also making amendments to the accountability regime for senior managers of insurance firms which transpose certain of the Solvency II governance requirements.

The PRA’s Policy Statement 3/15 – Strengthening Individual Accountability in Banking and Insurance

The PRA’s Policy Statement 3/15: Strengthening individual accountability in banking and insurance-responses to CP14/4 and CP26/14 was published on 23 March 2015.⁴ It is expected that the PRA’s Senior Insurers Managers Regime (“SIMR”) for individuals, which will require insurers to allocate a range of responsibilities to individuals who are subject to regulatory approval and to regularly assess their fitness and propriety, will begin to apply to insurers in the UK (and could be extended to the UK branches of non-UK insurers) on 1 January 2016.

In addition, on 27 March 2015, the PRA, jointly with the Financial Conduct Authority (“FCA”), published a consultation paper on Changes to the Approved Persons Regime for Solvency II Firms: Forms, Consequential Changes and Transitional Arrangements – FCA CP13/15 and PRA CP13/15. Also on 27 March 2015, the PRA published a consultation paper on the Senior Insurance Managers Regime: A Streamlined Approach for Non-Solvency II firms – CP12/15.⁵ The consultation closes on 15 May 2015.

⁴ Available at <http://www.bankofengland.co.uk/pr/Pages/publications/ps/default.aspx>

⁵ Available at <http://www.bankofengland.co.uk/pr/Pages/publications/ps/default.aspx>

EU Commission's Solvency II Implementing Regulations 2015/460; 2015/461 and 2015/462 published in the Official Journal of the EU

On 20 March 2015, three Solvency II Implementing Regulations (2015/460; 2015/461; and 2015/462)⁶ were published in the Official Journal of the EU and are directly applicable in all EU Member States without the need for national implementing measures. These regulations set out:

- the supervisory process for approving full and partial internal models;
- the process which the relevant supervisory authorities will be required to follow when moving a joint decision about a group internal model application where the group has (re)insurers in more than one EU Member State; and
- the procedures for supervisory approval to establish a special purpose vehicle (“SPV”) for the cooperation and exchange of information between supervisory authorities about SPVs and the templates for supervisory reporting for SPVs.

Financial Services and Markets, The Solvency II Regulations 2015

Last but not least, the Financial Services and Markets The Solvency II Regulations 2015 (SI 2015/575) (the “Regulations”),⁷ were laid before Parliament on 9 March 2015.

Regulations 1, 2, 38-58 and paragraph 15 of Schedule 1 will come into force on 31 March 2015. The rest of the Regulations will come into force on 1 January 2016.

Among other things, the Regulations will enable firms to apply to the PRA from 31 March 2015 for:

- (i) verification that the Solvency II Directive does not apply to them;
- (ii) permission to apply a matching adjustment or volatility adjustment to a risk-free interest rate term structure, in order to calculate a best estimate of a portfolio of life (re)insurance obligations;
- (iii) approval of its assessment and classification of an own fund item;

⁶ Available at http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:JOL_2015_076_R_0004

⁷ Available at <http://www.legislation.gov.uk/uksi/2015/575/contents/made>

- (iv) approval to use undertaking specific parameters when calculating the life, non-life and health underwriting risk modules of the standard formula, basic Solvency capital ratio;
- (v) approval of a full or partial internal model; and
- (vi) permission to calculate the consolidated group solvency capital ratio for the firms in the group and/or the aggregated group solvency capital ratio.

The PRA has been giving public commentary of its expectations for what should be included in these applications in response to the preliminary submissions from insurers, reducing the likelihood of unexpected rejections as the formal applications get reviewed.

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In recent public announcements, PRA officials have stated their belief that the PRA – and the UK firms they supervise – will be ready for the implementation of Solvency II by 1 January 2016. These regulatory developments add a further degree of clarity as the final deadline approaches.

Please do not hesitate to contact us with any questions.