



INSURANCE ACT 2008

INSURANCE (SOLVENCY) (AMENDMENT) REGULATIONS 2011

Laid before Tynwald

[date] 2011

Coming into operation

31 December 2011

After conducting the consultation required by section 50(3) of the Insurance Act 2008¹, the Insurance and Pensions Authority makes these Regulations under section 50(1) of that Act.

1 Title

These Regulations are the Insurance (Solvency) (Amendment) Regulations 2011.

2 Commencement

These Regulations come into operation on 31 December 2011.

3 Amendment to the Insurance Regulations 1986²

(1) Part II of Schedule 7 to the Insurance Regulations 1986 (admissibility of assets and secondary capital) is amended as follows.

(2) In paragraph 1(1)—

(a) after the definition of “associate” insert—

““debt” (without limiting any other meaning of the term debt), in relation to an insurer, includes assets representing amounts that may become due to the insurer on a contingent basis;” and

¹ 2008 c.16

² GC 319/86 (as amended)

Price £2.30

(b) after the definition of “loan amounts” insert—

““premium” that is a debt of an insurer, as referred to in entry G or H of the table in paragraph 5, also includes debts relating to return reinsurance premium receivable by the insurer;”

(3) In the table in paragraph 5 for entry F substitute—

“F. Debts (other than those falling within entry A, G, H or paragraph 6), which have been outstanding, whether due or not, for more than 12 months at the balance sheet date: not admissible.”

(4) In the table in paragraph 5 after entry F insert—

“G. Subject to heads (i) and (ii) and entries I and J, the period referred to in entry F shall instead be 3 months commencing from the date when a debt falling under one or more of heads (a) to (f) is no longer offset by a liability provision (and is therefore no longer admissible) in accordance with that entry. [this column is left blank intentionally]

(a) Premium receivable or potentially receivable by an insurer (debt), in the amount by which that debt is offset by a provision of the insurer for any unearned portion of that debt (liability provision), is admissible for the purposes of calculating the solvency margin of the insurer.

(b) Commission receivable or potentially receivable by an insurer (debt), in the amount by which that debt is offset by a provision of the insurer for any unearned portion of that debt (liability provision), is admissible for the purposes of calculating the solvency margin of the insurer.

(c) Claims or expenses recoverable or potentially recoverable by an insurer under an outward reinsurance contract of the insurer (debt), in the amount by which that debt is offset

by a provision of the insurer for actual or potential claims or expenses reinsured under that contract (liability provision), are admissible for the purposes of calculating the solvency margin of the insurer.

- (d) Additional premium receivable or potentially receivable by an insurer under a contract of the insurer, to which it is entitled as a result of the occurrence or potential occurrence of claims or expenses payable by the insurer under that contract (debt), in the amount by which that debt is offset by a provision of the insurer for those claims or expenses (liability provision), is admissible for the purposes of calculating the solvency margin of the insurer.
- (e) A debt of an insurer that the insurer has the right to net off under a contract of the insurer against a liability or potential liability of the insurer, in the amount by which that debt is offset by a provision of the insurer for that liability (liability provision), is admissible for the purposes of calculating the solvency margin of the insurer.
- (f) A debt of an insurer, in the amount by which that debt is offset by a corresponding provision of the insurer for bad and doubtful debts (liability provision), is admissible for the purposes of calculating the solvency margin of the insurer.

In this entry –

- (i) a debt is no longer offset by a liability provision from the date (and to the degree) the liability provision would no longer appear with the debt on the

same balance sheet of the insurer in question if the insurer were to prepare a balance sheet on, and made up to, that date; and

- (ii) the 3 month period shall apply only to that part of a debt which is no longer offset under one or more of heads (a) to (f).

H. Subject to entries I and J –

- (a) for a debt representing additional premium receivable or potentially receivable by an insurer to which it is entitled as a result of a declaration or potential declaration to the insurer of asset values or exposure values insured by the insurer under a declaration policy it has written, the period referred to in entry F shall instead be 3 months commencing from the date the declaration is made to the insurer.

In this entry a “declaration policy” is an insurance contract under the terms of which the insured is obliged to declare periodically to the insurer the asset values or exposure values insured under the policy as these may fluctuate in the period of insurance and result in later premium adjustments under the policy; and

- (b) a debt representing after the event legal expenses insurance premium receivable or potentially receivable by an insurer, where such receipt is conditional upon the conclusion of due process in relation to court proceedings, is admissible for the purposes of calculating the solvency margin of the insurer until the insurer has been notified formally

that the process has been completed.

In this entry “after the event legal expenses insurance” means a contract of insurance relating to legal proceedings (taken out after the event that triggered the legal proceedings) which indemnifies the insured against certain costs if the legal action is discontinued or lost.

- I. A debt shall be admissible for the longer period that would result under entry F, G or H (as applicable) in relation to that debt.
- J. For the avoidance of doubt, in relation to a debt, any relief from inadmissibility available under one or more of the categories in entries G or H shall not individually or collectively exceed the amount of that debt.”

4 Amendment to the Insurance (Protected Cell Companies) Regulations 2004³

- (1) Part II of Schedule 6 to the Insurance (Protected Cell Companies) Regulations 2004 (admissibility of assets) is amended as follows.
- (2) In paragraph 1(1)—
 - (a) after the definition of “associate” insert—

““debt” (without limiting any other meaning of the term debt), in relation to an insurer, includes assets representing amounts that may become due to the insurer on a contingent basis;”
 - (b) after the definition of “investments” insert—

““premium” that is a debt of an insurer, as referred to in entry G or H of the table in paragraph 6, also includes debts relating to return reinsurance premium receivable by the insurer;”
- (3) In the table in paragraph 6 for entry F substitute—

“F. Debts (other than those falling within entry A, G, H or paragraph 7), which have been outstanding, whether due or not, for more than 12 months at the balance sheet date: not admissible.”

³ SD 149/04 (as amended)

(4) In the table in paragraph 6 after entry F insert—

“G. Subject to heads (i) and (ii) and entries I and J, the period referred to in entry F shall instead be 3 months commencing from the date when a debt falling under one or more of heads (a) to (f) is no longer offset by a liability provision (and is therefore no longer admissible) in accordance with that entry.

[this column is left blank intentionally]

- (a) Premium receivable or potentially receivable by an insurer (debt), in the amount by which that debt is offset by a provision of the insurer for any unearned portion of that debt (liability provision), is admissible for the purposes of calculating the solvency margin of the insurer.
- (b) Commission receivable or potentially receivable by an insurer (debt), in the amount by which that debt is offset by a provision of the insurer for any unearned portion of that debt (liability provision), is admissible for the purposes of calculating the solvency margin of the insurer.
- (c) Claims or expenses recoverable or potentially recoverable by an insurer under an outward reinsurance contract of the insurer (debt), in the amount by which that debt is offset by a provision of the insurer for actual or potential claims or expenses reinsured under that contract (liability provision), are admissible for the purposes of calculating the solvency margin of the insurer.
- (d) Additional premium receivable or potentially receivable by an insurer under a contract of the insurer, to which it is entitled as a result of the occurrence or potential occurrence of

claims or expenses payable by the insurer under that contract (debt), in the amount by which that debt is offset by a provision of the insurer for those claims or expenses (liability provision), is admissible for the purposes of calculating the solvency margin of the insurer.

- (e) A debt of an insurer that the insurer has the right to net off under a contract of the insurer against a liability or potential liability of the insurer, in the amount by which that debt is offset by a provision of the insurer for that liability (liability provision), is admissible for the purposes of calculating the solvency margin of the insurer.
- (f) A debt of an insurer, in the amount by which that debt is offset by a corresponding provision of the insurer for bad and doubtful debts (liability provision), is admissible for the purposes of calculating the solvency margin of the insurer.

In this entry –

- (i) a debt is no longer offset by a liability provision from the date (and to the degree) the liability provision would no longer appear with the debt on the same balance sheet of the insurer in question if the insurer were to prepare a balance sheet on, and made up to, that date; and
- (ii) the 3 month period shall apply only to that part of a debt which is no longer offset under one or more of heads (a) to (f).

H. Subject to entries I and J –

- (a) for a debt representing additional

premium receivable or potentially receivable by an insurer to which it is entitled as a result of a declaration or potential declaration to the insurer of asset values or exposure values insured by the insurer under a declaration policy it has written, the period referred to in entry F shall instead be 3 months commencing from the date the declaration is made to the insurer.

In this entry a “declaration policy” is an insurance contract under the terms of which the insured is obliged to declare periodically to the insurer the asset values or exposure values insured under the policy as these may fluctuate in the period of insurance and result in later premium adjustments under the policy; and

- (b) a debt representing after the event legal expenses insurance premium receivable or potentially receivable by an insurer, where such receipt is conditional upon the conclusion of due process in relation to court proceedings, is admissible for the purposes of calculating the solvency margin of the insurer until the insurer has been notified formally that the process has been completed.

In this entry “after the event legal expenses insurance” means a contract of insurance relating to legal proceedings (taken out after the event that triggered the legal proceedings) which indemnifies the insured against certain costs if the legal action is discontinued or lost.

- I. A debt shall be admissible for the longer

period that would result under entry F, G or H (as applicable) in relation to that debt.

- J. For the avoidance of doubt, in relation to a debt, any relief from inadmissibility available under one or more of the categories in entries G or H shall not individually or collectively exceed the amount of that debt.”

5 Amendment to the Insurance (Limited Partnerships) Regulations 2004⁴

- (1) Paragraph 11 of Schedule 2 to the Insurance (Limited Partnerships) Regulations 2004 (modification of Schedule 7 to the Insurance Regulations 1986 in respect of an Isle of Man Limited Partnership) is amended in accordance with the following paragraphs of this regulation, and in those paragraphs a reference to a numbered item (without more) is a reference to the paragraph of Schedule 7 to the Insurance Regulations 1986 as modified by paragraph 11 of Schedule 2 to the Insurance (Limited Partnerships) Regulations 2004.
- (2) In paragraph 1 of Part II—
- (a) after the definition of “associate” insert—
- ““debt” (without limiting any other meaning of the term debt), in relation to an insurer, includes assets representing amounts that may become due to the insurer on a contingent basis;” and
- (b) after the definition of “loan amounts” insert—
- ““premium” that is a debt of an insurer, as referred to in entry G or H of the table in paragraph 6, also includes debts relating to return reinsurance premium receivable by the insurer;”
- (3) In the table in paragraph 6 of Part II for entry F substitute—
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|---|------------------|
| “F. Debts (other than those falling within entry A, G, H or paragraph 7), which have been outstanding, whether due or not, for more than 12 months at the balance sheet date: | not admissible.” |
|---|------------------|
- (4) In the table in paragraph 6 of Part II after entry F insert—
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|--|---|
| “G. Subject to heads (i) and (ii) and entries I and J, the period referred to in entry F shall instead be 3 months commencing from the date when a debt falling under one or | [this column is left blank intentionally] |
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⁴ SD 552/04 (as amended)

more of heads (a) to (f) is no longer offset by a liability provision (and is therefore no longer admissible) in accordance with that entry.

- (a) Premium receivable or potentially receivable by an insurer (debt), in the amount by which that debt is offset by a provision of the insurer for any unearned portion of that debt (liability provision), is admissible for the purposes of calculating the solvency margin of the insurer.
- (b) Commission receivable or potentially receivable by an insurer (debt), in the amount by which that debt is offset by a provision of the insurer for any unearned portion of that debt (liability provision), is admissible for the purposes of calculating the solvency margin of the insurer.
- (c) Claims or expenses recoverable or potentially recoverable by an insurer under an outward reinsurance contract of the insurer (debt), in the amount by which that debt is offset by a provision of the insurer for actual or potential claims or expenses reinsured under that contract (liability provision), are admissible for the purposes of calculating the solvency margin of the insurer.
- (d) Additional premium receivable or potentially receivable by an insurer under a contract of the insurer, to which it is entitled as a result of the occurrence or potential occurrence of claims or expenses payable by the insurer under that contract (debt), in the amount by which that debt is offset by a provision of the insurer for those claims or expenses (liability

provision), is admissible for the purposes of calculating the solvency margin of the insurer.

- (e) A debt of an insurer that the insurer has the right to net off under a contract of the insurer against a liability or potential liability of the insurer, in the amount by which that debt is offset by a provision of the insurer for that liability (liability provision), is admissible for the purposes of calculating the solvency margin of the insurer.
- (f) A debt of an insurer, in the amount by which that debt is offset by a corresponding provision of the insurer for bad and doubtful debts (liability provision), is admissible for the purposes of calculating the solvency margin of the insurer.

In this entry –

- (i) a debt is no longer offset by a liability provision from the date (and to the degree) the liability provision would no longer appear with the debt on the same balance sheet of the insurer in question if the insurer were to prepare a balance sheet on, and made up to, that date; and
- (ii) the 3 month period shall apply only to that part of a debt which is no longer offset under one or more of heads (a) to (f).

H. Subject to entries I and J –

- (a) for a debt representing additional premium receivable or potentially receivable by an insurer to which it is entitled as a result of a declaration or potential declaration to the insurer of asset values or exposure values

insured by the insurer under a declaration policy it has written, the period referred to in entry F shall instead be 3 months commencing from the date the declaration is made to the insurer.

In this entry a “declaration policy” is an insurance contract under the terms of which the insured is obliged to declare periodically to the insurer the asset values or exposure values insured under the policy as these may fluctuate in the period of insurance and result in later premium adjustments under the policy; and

- (b) a debt representing after the event legal expenses insurance premium receivable or potentially receivable by an insurer, where such receipt is conditional upon the conclusion of due process in relation to court proceedings, is admissible for the purposes of calculating the solvency margin of the insurer until the insurer has been notified formally that the process has been completed.

In this entry “after the event legal expenses insurance” means a contract of insurance relating to legal proceedings (taken out after the event that triggered the legal proceedings) which indemnifies the insured against certain costs if the legal action is discontinued or lost.

- I. A debt shall be admissible for the longer period that would result under entry F, G or H (as applicable) in relation to that debt.
- J. For the avoidance of doubt, in relation to a debt, any relief from inadmissibility available under one or more of the

categories in entries G or H shall not individually or collectively exceed the amount of that debt.”

Made 18 November 2011

Mr D J Gelling

Chairman, Insurance and Pensions Authority

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the—

- Insurance Regulations 1986;
- Insurance (Protected Cell Companies) Regulations 2004; and
- Insurance (Limited Partnerships) Regulations 2004,
(as amended).

These Regulations provide for how contingent debt assets are treated for the purposes of calculating the minimum margin of solvency of an insurer.

In addition, they extend the period of admissibility of certain debt assets for the purposes of calculating the minimum margin of solvency of an insurer.