

Annex 2 - List of implementing measures in the Solvency II Framework Directive

The choice of "may" or "shall" in the Comitology Articles of the Directive reflects whether the Commission retains some discretion with respect to adopting such measures, or actually undertakes to do so.

"Shall" is used where it is intended to adopt the implementing measures before the new regime enters into force. "May" is used where it is not intended to necessarily adopt an implementing measure before the new regime enters into force, but the Commission wishes to retain the option to do so in the light of developments and/or practical implementation experience. In two cases in the table, the Commission has indicated that it would like to make use of "May" implementing measures before the new regime enters into force and therefore needs to receive advice from CEIOPS on these topics. The two "May" implementing measures relate to the assessment of third country equivalence

The table below provides an overview of the Implementing Measures Articles included in the Directive, identifying for each of them whether it is a "may" or a "shall" implementing measure.

In addition, for "shall" implementing measures, the table includes indicates when final advice is due from CEIOPS and identifies a number of areas where the Commission Services believe it would be strongly recommended for level 3 supervisory guidance to be developed in order to ensure supervisory convergence, as the regime is likely to allow for some flexibility. This should not be read however to infer that the Commission Services believe it would not be beneficial for level 3 supervisory guidance to be developed for other areas as well. Indeed, CEIOPS is encouraged to develop level 3 supervisory guidance, particularly on any topic that furthers convergence.

New measures that have been introduced during the negotiations in Parliament and Council are marked in red

Area	Article reference	Description of issues	May or Shall	Final advice due from CEIOPS by:	Level 3 guidance strongly recommended
Form of the insurance or reinsurance undertaking	Article 17	extension of the forms for insurance or reinsurance undertakings	May	-	-
Transparency and accountability of supervisory authorities	Article 30	aggregate statistical data on key aspects of prudential framework applied in Member States and the format, structure, contents list and publication date of the disclosures	Shall	October 2009	-
Supervisory reporting	Article 35 (including application of the proportionality principle)	information to be provided by insurance and reinsurance undertakings to supervisory authorities	Shall	October 2009	Yes
Capital add-ons	Article 37	circumstances under which a capital add-on may be imposed and the methodologies for the calculation thereof.	Shall	January 2010	Yes
System of governance	Article 49 with references to Articles 41, 42, 43, 45, 46, 47 (including application of the proportionality principle)	<ul style="list-style-type: none"> ▪ system of governance, risk management, internal control and internal audit, in particular ALM, investment policy and remuneration ▪ functions ▪ fit and proper requirements ▪ conditions for outsourcing 	Shall	October 2009	Yes
Own risk and solvency assessment	Article 49 with reference to Article 44 (1)(a)	further specifications for the own risk and solvency assessment	May	-	-
Public disclosure	Article 55	information to be disclosed in the Solvency and Financial Condition report	Shall	October 2009	-
Qualifying Holdings	Article 57 with reference to 58(1)	adjustments of the criteria for the assessment of qualifying holdings	Shall	-	-
Valuation of assets and liabilities	Article 74	methods and assumptions for the valuation of assets and liabilities following a fair value approach	Shall	October 2009	-
Valuation of Technical Provisions	Article 85 with references to Articles 75, 76 and 80 (including application of the proportionality principle)	<ul style="list-style-type: none"> ▪ methodologies for best estimate ▪ risk-free interest rate term structure ▪ hedgeable versus non-hedgeable risks ▪ risk margin ▪ segmentation ▪ data standards and approximations ▪ counterparty default 	Shall	October 2009	Yes
		<ul style="list-style-type: none"> ▪ simplifications for technical provisions, including for captives 	Shall	January 2010	Yes
Own funds	Article 92 with reference to Article 89	<ul style="list-style-type: none"> ▪ supervisory approval of ancillary own funds ▪ treatment of participations in financial and credit institutions 	Shall	October 2009	-
	Article 97 with reference to Articles 94 and 96	<ul style="list-style-type: none"> ▪ list of own fund items ▪ supervisory approval of own fund items 	Shall	October 2009	-
	Article 99 with reference to Article 98	<ul style="list-style-type: none"> ▪ quantitative limits ▪ adjustments for ring-fenced funds 	Shall	January 2010	-
SCR standard formula	Article 109 Paragraph 1 with references to Articles 101, 103-108 and 305b (including application of the proportionality principle)	<ul style="list-style-type: none"> ▪ standard formula ▪ sub-modules ▪ design of risk modules and sub-modules of BSCR ▪ parameters of risk modules and sub-modules of BSCR (except market and non-life underwriting risk) ▪ risk mitigation techniques ▪ qualitative assessment of risk transfer ▪ operational risk ▪ loss-absorbing capacity of technical provisions 	Shall	October 2009	-

SCR standard formula (continued)	Article 109 Paragraph 1 (continued)	<ul style="list-style-type: none"> • parameters of market and non-life underwriting risk modules and sub-modules of BSCR • correlations parameters, including procedures for updating them • the standard parameters that can be replaced with entity specific parameters • methods for calculation of the entity specific parameters • simplifications, including for captives • design of symmetric adjustment mechanism for the equity risk sub-module including specifying appropriate period of time • design, parameters and integration of duration based equity risk sub-module (Article 305b) • approach for participations • the methods and adjustments to be used to reflect the reduced scope for risk diversification of insurers related to ring fenced funds 	Shall	January 2010	
	Article 109 Paragraph 2	quantitative limits	May	-	-
SCR internal models	Article 112	approval of internal models	Shall	October 2009	Yes
	Article 112	<ul style="list-style-type: none"> • integration of partial internal models into standard formula • adaptations of standards for partial internal models 	Shall	January 2010	Yes
	Article 125 with reference to Articles 118-124	use test, statistical quality standards, calibration standards, profit and loss attribution, validation standards, documentation standards and external models	Shall	October 2009	Yes
MCR	Article 128 with reference to Articles 126 and 127	Calculation of the MCR	Shall	October 2009	-
Investments	Article 133	<ul style="list-style-type: none"> • qualitative control of risks of investments and derivatives 	May	-	-
	Article 133	<ul style="list-style-type: none"> • requirements (for issuer and investor) in respect of investments in packaged loans (credit securitisations) 	Shall	January 2010	-
Undertakings in difficulty or in an irregular situation	Article 141 with reference to Article 136	the factors to be taken into account when allowing an extension of the recovery period and the maximum appropriate period of time	Shall	January 2010	-
	Article 141 with reference to Articles 136, 137 and 139	specifications with respect to recovery plan and finance scheme	May	-	-
Equivalence	Article 170	criteria for assessment of third-country equivalence of reinsurance supervision	Shall	March 2010	-
Finite reinsurance	Article 208	qualitative control of risks arising from finite reinsurance activities	May	-	-
SPV authorisation	Article 209	scope of authorisation, mandatory conditions to be included in contracts, fit and proper requirements, accounting and prudential requirements, solvency requirements	Shall	October 2009	-
Groups	Article 214	national sub-group supervision	May	-	-
	Article 215	regional sub-group supervision	May	-	-
	Article 225	criteria to assess whether the solvency regime in a third-country is equivalent for the purposes of using the deduction/aggregation methods	May	March 2010	-
	Article 232 with reference to Articles 218-227 and 228-231	group solvency	Shall	October 2009	-
	Article 245 with reference to Articles 234, 235, 236, 238 and 242	<ul style="list-style-type: none"> • criteria for supervision of centrally-managed groups • criteria to be applied when assessing what should be considered emergency situations • exchange of information between supervisors 	Shall	January 2010	Yes
	Article 248	definition, identification and reporting of a significant risk concentration	May	-	-
	Article 249	definition, identification and reporting of a significant intra-group transaction	May	-	-
	Article 251	criteria concerning tasks of the group supervisor	Shall	-	-
	Article 252	coordination arrangements for group supervision	Shall	October 2009	Yes
	Article 253	<ul style="list-style-type: none"> • information to be gathered and disseminated systematically by the group supervisor to other supervisory authorities or to be transmitted to the group supervisor by other supervisory authorities; • specification of items essential or relevant for supervision at group level with a view to enhancing convergence of supervisory reporting 	Shall	October 2009	Yes
	Article 260	information which must be disclosed and the means by which this is to be achieved as regards the single solvency and financial condition report	Shall	January 2010	-
Parent undertakings outside the Community: verification of equivalence	Article 262	coordination of enforcement measures	May	-	-
	Article 263	criteria to assess whether the prudential regime in a third-country for the supervision of groups is equivalent	May	March 2010	-
Amendments to Directive 2003/41/EC	Article 305a	technical adjustment of the elements eligible for the available solvency margin	May	-	-