FINANSTILSYNET

TEMPLATE D FOR DISCLOSURE OF QUALITATIVE AGGREGATE STATISTICAL DATA ABOUT THE DANISH FSA

B1a – The structure of the supervisory authority

The Danish FSA's organisational chart is available here.

B8a – The criteria used for the application of capital add-ons

The Solvency Capital Requirement will in most cases reflect the risks of a group 1 insurance undertaking. However, there may be situations in which the undertaking has taken on risk that is not adequately reflected in the Solvency Capital Requirement. In these cases, the Danish FSA may set a capital add-on when other supervisory measures are ineffective or inappropriate.

Article 37 of the Solvency II Directive (Directive 2009/138/EC) establishes the cases in which supervisory authorities can set a capital add-on. The provision was transposed into Danish law in section 350b of the Danish Financial Business Act, under which the Danish FSA may set a capital add-on in cases specified in subsection 1, nos. 1–3 of the provision.

No. 1 covers those cases in which the risk profile of the insurance undertaking deviates substantially from the assumptions for the calculation method used by the undertaking to calculate the Solvency Capital Requirement, i.e. the assumptions for the standard formula or an internal model.

For example, the Danish FSA will set a capital add-on when the assumptions on which the standard formula is based turn out not to reflect the undertaking's actual risk profile, and use of the standard formula thus does not provide an accurate picture of the Solvency Capital Requirement. The Danish FSA may require a capital add-on if, in the specific situation, the undertaking is unable to reduce the relevant risks, and the Danish FSA's requirement to use an internal model has turned out to be inappropriate or ineffective, or where a full or partial internal model to rectify the deviation is under development. It will be inappropriate to require an undertaking to use an internal model if the estimated resources required to develop the internal model are disproportionate to the deviation of the undertaking's risk profile from the assumptions on which the calculation of the Solvency Capital Requirement is based, cf. Article 280 of Commission Delegated Regulation (EU) 2015/35 of 10 October 2014 supplementing Directive 2009/138/EC of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II).

The Danish FSA will also set a capital add-on when the assumptions on which the full or partial internal model used by an undertaking deviates significantly from the undertaking's actual risk profile. In this situation, the undertaking must initially try to adapt the model so that it adequately captures the quantifiable risks. If it is not possible to adapt the model within an appropriate timeframe, the Danish FSA may require a capital add-on. When assessing what is an appropriate timeframe, the Danish FSA will take into account all relevant factors, including the likelihood and severity of any adverse impact on policyholders and beneficiaries. The timeframe must not exceed six months, cf. Article 281 of Commission Delegated Regulation (EU) 2015/35.

No. 2 covers situations in which the corporate management deviates significantly from section 71 of the Danish Financial Business Act. If the deviation prevents the undertaking from ensuring correct identification, measurement, monitoring, control and reporting of risks to which the undertaking is or will be exposed, and other measures have failed to adequately rectify the deficiencies within an appropriate timeframe, the Danish FSA may set a capital add-on.

No. 3 covers situations in which the insurance undertaking's risk profile deviates significantly from the assumptions on which a matching adjustment or a volatility adjustment to the risk-free interest rate is based under section 126e(2) and (3) of the Danish Financial Business Act. In this situation, it may be relevant for the Danish FSA to set a capital add-on to ensure that the Solvency Capital Requirement reflects the risks to which the undertaking is exposed.

In assessing whether the deviation is significant, the Danish FSA takes into account the factors set out in Articles 276-278 of Commission Delegated Regulation (EU) 2015/35. Where the modified Solvency Capital Requirement exceeds the Solvency Capital Requirement by 10 percent or more, the Danish FSA will conclude that the undertaking's risk profile deviates significantly from the assumptions underlying the prerequisites for the calculation methods used by the undertaking to calculate the Solvency Capital Requirement, unless the undertaking can prove that this is not the case, cf. Article 279(1) of Commission Delegated Regulation (EU) 2015/35. Where the modified Solvency Capital Requirement exceeds the Solvency Capital Requirement by 15 percent or more, the Danish FSA will always conclude that the undertaking's risk profile deviates significantly from the assumptions underlying the prerequisites for the calculation methods used by the undertaking to calculate the Solvency Capital Requirement, cf. Article 279(2) of Commission Delegated Regulation (EU) 2015/35.

B8b – The criteria used for the calculation of capital add-ons

The Danish FSA calculates a capital add-on in accordance with the methods set out in Articles 282–287 of Commission Delegated Regulation (EU) 2015/35.

Where the Danish FSA sets a capital add-on under section 350b(1), no. 1, of the Danish Financial Business Act, the capital add-on is calculated in accordance with Article 282 of Commission Delegated Regulation (EU) 2015/35 as the difference, at a given point in time, between:

a) the Solvency Capital Requirement of the group 1 insurance undertaking, excluding any previous or simultaneous capital add-ons that would be calculated if the standard formula or internal model, as appropriate, were modified so as to reflect the actual risk profile of the undertaking, and to ensure compliance with the assumptions underlying the Solvency Capital Requirement and the undertaking's risk profile, and
b) the Solvency Capital Requirement of the group 1 insurance undertaking, excluding any previous or simultaneous capital add-ons.

In calculating the amount referred to in (a), the Danish FSA will identify the assumptions in the standard formula or internal model from which the undertaking's risk profile deviates, and modify them to reflect the actual risk profile and ensure compliance between the assumptions underlying the Solvency Capital Requirement and the undertaking's risk profile, cf. Article 283(1)-(2) of Commission Delegated Regulation (EU) 2015/35. Where the modifications are insufficient or irrelevant, the Danish FSA will consider whether alternative methods which go beyond modifying assumptions can be used, cf. Article 283(3) of Commission Delegated Regulation (EU) 2015/35. Where the alternative methods are insufficient, the Danish FSA will make the calculation by comparing the Solvency Capital Requirement for group 1 insurance undertakings with similar risk profiles, cf. Article 283(5) of Commission Delegated Regulation (EU) 2015/35.

Where the Danish FSA sets a capital add-on under section 350b(1), no. 2, of the Danish Financial Business Act, the capital add-on is calculated in accordance with Article 286 of Commission Delegated Regulation (EU) 2015/35. This means that there is no established method for calculating a capital add-on in these cases. The Danish FSA will decide on the size of the capital add-on on a case-by-case basis, based on the severity of the potential adverse effects that follow from the deviation.

Where the Danish FSA sets a capital add-on under section 350b(1), no. 3, of the Danish Financial Business Act, the capital add-on is calculated in accordance with Article 284 of Commission Delegated Regulation (EU) 2015/35 as the sum, at a given point in time, of the following:

a) the negative of the amount of eligible own funds that would be calculated if the matching adjustment or volatility adjustment was modified in such a manner that the assumptions underlying the adjustment would fit the actual assets, liabilities and risk profile of the undertaking,
b) the Solvency Capital Requirement, excluding any previous or simultaneous capital add-ons, that would be calculated if the matching adjustment or volatility adjustment was modified in such a manner that the assumptions underlying the adjustment would fit the actual assets, liabilities and risk profile of the undertaking, and ensure compliance with the assumptions underlying the Solvency Capital Requirement and the undertaking's risk profile,
c) the amount of eligible own funds, and
d) the negative of the amount of the Solvency Capital Requirement, excluding any previous or simultaneous capital add-ons, of the undertaking.

In calculating the amounts referred to in (a) and (b), the Danish FSA will identify the features of the undertaking's assets, liabilities and risk profile which gave rise to the deviation from the assumptions underlying the matching adjustment or volatility adjustment, cf. Article 285(1) of Commission Delegated Regulation (EU) 2015/35. The Danish FSA will then modify the matching adjustment or volatility adjustment to reflect the undertaking's assets, liabilities and risk profile, and ensure compliance between the assumptions underlying the matching adjustment or the volatility adjustment and the undertaking's risk profile, cf. Article 285(2) of Commission Delegated Regulation (EU) 2015/35.

B8c – The criteria used for the removal of capital add-ons

Under section 350b(4) of the Danish Financial Business Act, the Danish FSA is required to review the requirement for a capital add-on at least once a year in order to clarify whether it should be maintained, modified or removed.

A capital add-on must be maintained while the conditions that applied when the requirement was introduced remain in force. For example, a group 1 insurance undertaking may have corrected the circumstances, which triggered the capital add-on, by having developed a partial internal model for the risks that were not adequately reflected in the calculation of the Solvency Capital Requirement using the standard formula.

B16b – The main features of the approved items of ancillary own funds

The Danish FSA did not approve ancillary own-fund items in 2016.

B17b – The main features of the approved items of own-fund items, which are not covered by the relevant lists of the Articles 69, 72, 74, 76 and 78 of Delegated Regulation (EU) 2015/35

Section 126b(4) of the Danish Financial Business Act states that group 1 insurance undertakings wishing to use other capital shall apply to the Danish FSA for prior authorisation. "Other capital" means capital items that are not covered by Articles 69, 72, 74, 76 and 78 of Commission Delegated Regulation (EU) 2015/35 of 10 October 2014 (hereinafter referred to as "the Regulation").

In accordance with section 126b(4) of the Danish Financial Business Act and Article 79 of the Regulation, the Danish FSA has approved "special bonus provisions (type A)" as a tier 2 own-fund item. See the decision and further justification regarding this here (only in Danish).

Special bonus provisions (type A) refers to capital that is build up as part of the realised result for the pension schemes. The own-fund item is subordinated to tier 1 own-fund items, and is thus classed as a tier 2 own-fund item. The item receives a market-based return that corresponds to the risk associated with a subordinated loan. The own-fund item is included in the policyholder's surrender value, and is thus closely linked to the insurance liabilities.

B17c – The method used to assess and classify the approved items of own-fund items, which are not covered by the relevant lists of the Articles 69, 72, 74, 76 and 78 of Delegated Regulation (EU) 2015/35

Applications for approval of an own-funds item which is not covered by the relevant lists in Articles 69, 72, 74, 76 and 78 of Commission Delegated Regulation (EU) 2015/35 (hereinafter referred to as "the Regulation") are received via the form entitled "Application for approval of the assessment and classification of own-fund items which are not included on the European Commission's list", prepared by the Danish FSA. The form is available here (in Danish only). The application must include a clear description of the own-fund item, which enables the Danish FSA to assess the loss-absorbency of the item. The applicant must also document that the own-fund item, at the time of application, fulfils the criteria in sections 4 and 5 of the Executive Order on the calculation of own funds for group 1 insurance undertakings, etc., and the factors in Articles 71, 73 or 77 of the Regulation. Finally, it must be documented that the application has been approved by the applicant's board of directors.

When the Danish FSA receives an application, it is assessed according to the principles in Articles 93 and 94 of Directive 2009/138/EC (Solvency II), as transposed in sections 4 and 5 of the Executive Order on the calculation of own funds for group 1 insurance undertakings, etc., and the more detailed rules in Articles 71, 73 and 77 of the Regulation. The Danish FSA also applies EIOPA's Guidelines for ancillary own funds (14/167) and classification of own funds (14/168).

B18b – The scope of peer review analyses organised and conducted by EIOPA in accordance with Article 30 of Regulation (EU) no. 1094/2010, in which the supervisory authority participated

The Danish FSA participates in peer reviews arranged and carried out by EIOPA where relevant.

For example, the Danish FSA previously participated in *Peer Review on Pre-application of Internal Models* (dated 18 July 2013) and *Follow-up to the Peer Review on Pre-application of Internal Models* (dated 17 December 2014).

The Danish FSA did not participate in any peer reviews in 2016. Three reports to which the Danish FSA contributed in 2015 were approved in 2016, however. These peer reviews are as follows:

1) *Peer Review on the NCAs' Governance of Colleges*

   Date: 8 January 2016

   Reference period: September 2012 to September 2013

   Link: https://eiopa.europa.eu/Publications/Reports/EIOPA-BoS-15-297-Peer%20Review_Colleges_Report_PUBLIC_20160108.pdf

2) *Peer Review on Freedom to Provide Services*

   Date: 29 April 2016

   Reference period: 1 January 2011 to 31 December 2013

   Link: https://eiopa.europa.eu/Publications/Reports/EIOPA_Peer_Review_FPS_Final_Report_Publication_Outcomes_20160429_cl.pdf

3) *Peer Review on the Statement of Investment Policy Principles for IORPs*

   Date: 30 September 2016

   Reference period: Quarter 2 of 2012 to Quarter 2 of 2015

   Link: https://eiopa.europa.eu/Publications/Reports/EIOPA-BoS-16-170_SIPP_Peer_Review_Publication_of_Outcomes.pdf

“Reference period” refers to the period in which the practice of the national supervisory authorities were assessed.

At the end of 2016, a *Peer Review on Supervisory Practices for the Application of the Principle of Proportionality in Governance Requirements regarding Key Functions* was launched. The Danish FSA is participating in this peer review.