



INSURANCE (CLASS 12 AND 13 VALUATION AND SOLVENCY) REGULATIONS 2026

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DRAFT

Statutory Document No. 20XX/XXXX



Insurance Act 2008

INSURANCE (CLASS 12 AND 13 VALUATION AND SOLVENCY) REGULATIONS 2026

Laid before Tynwald:

Coming into Operation: 31 December 2026

The Isle of Man Financial Services Authority makes the following Regulations under section 12, 14, 50(1) of, and Schedule 7 to, the Insurance Act 2008, after carrying out the consultation required by section 50(3) of that Act.

PART 1: INTRODUCTORY AND GENERAL REQUIREMENTS

1 Title

These Regulations are the [Insurance \(Class 12 and 13 Valuation and Solvency\) Regulations 2026](#).

2 Commencement

These Regulations come into operation on [31 December 2026](#)¹.

3 Interpretation

In these Regulations —

“**the Act**” means the Insurance Act 2008;

“**approved supervisor**” has the meaning [given](#) in the Insurance Regulations 2025² with the addition of the Isle of Man Financial Services Authority;

“**balance sheet**” also includes a statement of financial position;

“**basic own-fund**” means an [own-fund](#) item satisfying the requirements of regulation [45](#);

¹ Under section 50(4) of the Insurance Act 2008, regulations shall be laid before Tynwald as soon as practicable after they are made, and if Tynwald at the sitting at which the regulations are laid, or at the next following sitting, resolves that they shall be annulled, the regulations shall cease to have effect from that time.

² SD 2025/0138 [as amended by SD 2026/0021](#)

- “BSCR” means basic solvency capital requirement, as determined —
- (a) for a class 12 insurer, under regulation 13; or
 - (b) for a class 13 insurer, under regulation 37;
- “cell”, in relation to a PCC, has the meaning given in the Insurance Regulations 2025;
- “CGC” means the Corporate Governance Code of Practice for Insurers 2021³;
- “class 12 insurer”, unless the context requires otherwise, means an insurer authorised in respect of class 12 and no other class;
- “class 13 insurer”, unless the context requires otherwise, means an insurer authorised in respect of class 13 and any other class or classes;
- “class”, in relation to an insurer, is to be construed by a reference to the table in regulation 3 of the Insurance Regulations 2025;
- “core”, in relation to a PCC, has the meaning given in the Insurance Regulations 2025;
- “credit quality step” means a credit quality step set out in a table of credit quality steps, numbered 0 to 6, published by the Authority under paragraph (1) of Schedule 6 for the purpose of these Regulations;
- “credit rating”, of an entity, is an indicator of the entity’s ability to pay back a debt and an implicit forecast of the likelihood of the entity defaulting;
- “ECAI” means an External Credit Assessment Institution that evaluates the credit risk of debtors and assigns a credit rating; “EEA” means the European Economic Area;
- “EEA” means the European Economic Area;
- “eligible own-fund” means an own-fund item which is eligible under regulation 43;
- “full funding requirement” has the meaning given in regulation 34;
- “IC” has the meaning given in the Insurance Regulations 2025;
- “ICC” has the meaning given in the Insurance Regulations 2025;
- “insurer”, unless the context requires otherwise, means an insurer to whom these Regulations apply and in relation to —
- (a) a PCC it may mean the PCC, the core of the PCC, or a specific cell of the PCC;
 - (b) an ICC it may mean the ICC, or an IC;
- “material” in relation to an impact, risk, assumption, asset, liability or own-fund item means it is sufficiently important to influence the decision-making or judgment of the intended user of the information;

³ SD 2021/0276 as amended by SD 2025/0141

“**MCR**” is an abbreviation of “minimum capital requirement”, referred to in section 12(1)(a) of the Act, and is determined, —

- (a) for a class 12 insurer, in accordance with Regulation 11; and
- (b) for a class 13 insurer, in accordance with Regulation 35;

“**non-cellular**”, in relation to a PCC, has the meaning given in the Insurance Regulations 2025;

“**OECD**” means the Organisation for Economic Co-operation and Development;

“**offset**”, in relation to an insurer, means a written, legal right of the insurer to reduce a liability of the insurer to a counterparty against a liability of the same counterparty to the insurer (or another counterparty within the same group as that counterparty, and for this purpose, unless the Authority agrees in writing or specifies otherwise, a group includes only holding companies and subsidiaries of that group in accordance with section 220 of the Companies Act 2006);

“**own-fund item**” has the meaning given in regulation 42;

“**PCC**” has the meaning given in the Insurance Regulations 2025;

“**protected cell company**” has the meaning given in the Insurance Regulations 2025;

“**regulatory balance sheet**”, in relation to an insurer, means its balance sheet adjusted in accordance with these Regulations for regulatory reporting and compliance purposes;

“**reporting currency**”, in relation to an insurer, means the currency used for the preparation of the insurer’s audited financial statements;

“**ring-fenced funds**” are arrangements where an identified set of assets and liabilities are legally segregated from an insurer’s total assets and liabilities and as such are managed as though they were a separate undertaking;

“**risk mitigation requirements**” has the meaning given in regulation 27 and, as applicable, regulations 28 to 31;

“**risk mitigation technique**” is a technique used by an insurer to transfer risk and includes —

- (a) techniques such as reinsurance contracts, special purpose vehicles and finite reinsurance arrangements; and
- (b) other techniques such as financial instruments, collateral security, letters of credit, guarantees and contractual rights of offset;

“**risk profile**”, in relation to an insurer, refers to the nature, scale and complexity of the total risks to which the insurer is or may be exposed;

“**SCR**” is an abbreviation of “solvency capital requirement”, referred to in section 12(1)(b) of the Act, and is determined, —

- (a) for a class 12 insurer, in accordance with Regulation 12; and

(b) for a class 13 insurer, in accordance with Regulation 36;

“**securitisation**” is a pool of various types of contractual debt, such as mortgages and loans, where the related cash flows are sold to third party investors as a tradable financial asset and an exposure to a securitisation is therefore a ‘**securitisation position**’;

“**special purpose vehicle**” in relation to the risk transfer activities of an insurer, means a financial legal entity, or cell of a PCC in accordance with the Protected Cell Companies Act 2004 (or equivalent), which acts as a reinsurer (or similar) to the insurer;

“**standby authorised insurer**” has the meaning given in the Insurance Regulations 2025;

“**technical provisions**” has the meaning given in regulation 9;

“**tier**”, in relation to an own-fund item, has the meaning given in Part 5;

“**valuation date**”, in relation to an insurer, means —

- (a) the point in time at which the insurer assesses the value of its assets and liabilities; and
- (b) the date as at which the insurer prepares its regulatory balance sheet,

for the purposes determining its compliance with its MCR or SCR (as applicable); and

“**written**”, in relation to a contract of insurance or the insurance business of an authorised insurer, has the meaning given in the Insurance Regulations 2025.

4 Application

These Regulations apply to the carrying on of insurance business of —

- (a) class 12 in respect of contracts within classes 3 to 9 and 11; and
- (b) class 13 (and any other class or classes),

and therefore apply to an insurer authorised in respect of any such class, or combination of such classes, as applicable.

5 Capital requirements

An insurer must determine its MCR and SCR in accordance with these Regulations, as applicable to its class of authorisation.

6 Recognition of ring-fenced funds

- (1) An insurer must identify whether it has assets and liabilities that are ring-fenced funds.

- (2) Schedule 5 has effect and an insurer must comply with its requirements accordingly.

PART 2: VALUATION OF ASSETS AND LIABILITIES FOR REGULATORY BALANCE SHEET

7 Regulatory balance sheet

For the purposes preparing its regulatory balance sheet, an insurer must determine the value of its assets and liabilities on the basis of its adopted accounting standards in accordance with regulation 7 of the Insurance Regulations 2025 and, for a class 12 insurer, adjusted where necessary in accordance with regulation 8.

8 Adjustments to accounting values of assets and liabilities

A class 12 insurer must apply the adjustments referred to in regulation 7, where relevant to the insurer, which are as follows.

- (a) The insurer must recognise any material contingent liabilities within its liabilities.
- (b) The insurer must calculate the value of a material contingent liability as the expected present value of future cash flows required to settle the contingent liability over the lifetime of that contingent liability, using the basic risk-free interest rate term structure published under regulation 20 of the Insurance (Non Long-Term Business Valuation and Solvency) Regulations 2021⁴.
- (c) The insurer must value its liabilities such that they are not adjusted in value to take account of its own credit standing.
- (d) An insurer must value the following assets, or parts of assets, (as applicable) at zero —
 - (i) intangible assets; and
 - (ii) deferred acquisition costs.
- (e) An insurer must recognise deferred tax assets and liabilities in relation to all assets and liabilities that are recognised for solvency and tax purposes within its asset and liabilities.
- (f) An insurer must calculate the value of deferred taxes as —
 - (i) the values ascribed to assets and liabilities using the method in regulation 7 as adjusted under regulation 8; less
 - (ii) the values ascribed to assets and liabilities as recognised and valued for tax purposes; plus

⁴ SD 2021/0274

- (iii) the value of deferred tax assets arising from the carry forward of unused tax credits and unused tax losses.
- (g) The value specified in subparagraph (f)(iii) must only be positive if it is probable that future taxable profit will be available against which the deferred tax asset can be utilised, taking into account any legal or regulatory requirements on the time limits relating to the carry forward of unused tax losses or the carry forward of unused tax credits.

9 Technical provisions

- (1) An insurer must establish and maintain technical provisions which, at a minimum, correspond to the economic value of the insurer fulfilling its insurance obligations under the insurance contracts it has written, over the lifetime of those contracts.
- (2) An insurer's technical provisions must separately identify liabilities and amounts recoverable from reinsurance contracts and special purpose vehicles.
- (3) An insurer's liabilities must separately identify premium provisions and claims provisions.
- (4) An insurer must calculate its —
 - (a) liabilities; and
 - (b) amounts recoverable from reinsurance contracts and special purpose vehicles,in accordance with regulation 7.

10 Modifications

The Authority, if the Authority considers it proportionate to do so, may modify the requirements of regulation 8 and 9, as specified by the Authority.

PART 3: MCR AND SCR – CLASS 12

11 Minimum capital requirement

- (1) A class 12 insurer must, at all times, hold eligible own-funds of an amount that is equal to or greater than the MCR, determined under this regulation.
- (2) The MCR of a class 12 insurer —
 - (a) is £100,000;
 - (b) where the insurer is the cell of a PCC, is £0; or
 - (c) where the insurer is a standby authorised insurer, is £0.

- (3) In relation to the own-funds of a class 12 insurer, an MCR of £0 means that the insurer's assets must be equal to or exceed its liabilities in accordance with regulation 42.

12 Solvency capital requirement

- (1) A class 12 insurer must, at all times, hold eligible own-funds of an amount that is equal to or greater than the SCR, determined under this regulation.
- (2) A class 12 insurer must determine its SCR on the presumption that the insurer will pursue its business as a going concern –
- (a) using the standard formula approach in paragraph (3); or
 - (b) in accordance with paragraph (4), as applicable.
- (3) The standard formula approach used to determine a class 12 insurer's SCR is the sum of –
- (a) a BSCR determined in accordance with regulation 13;
 - (b) any capital add-on imposed on the insurer by the Authority in accordance with regulation 23; and
 - (c) an adjustment for the loss-absorbing capacity of deferred taxes as determined in regulation 25.
- (4) The SCR for a class 12 standby authorised insurer is £0.

13 Basic solvency capital requirement

- (1) The BSCR referred to in regulation 12(3)(a) is the sum of the capital requirements in respect of –
- (a) market risk, which is the sum of the capital requirements in respect of –
 - (i) interest rate risk determined under regulation 14;
 - (ii) equity risk determined under regulation 15;
 - (iii) property risk determined under regulation 16;
 - (iv) currency risk determined under regulation 17;
 - (v) spread risk determined under regulation 18;
 - (vi) other market risk determined under regulation 19; and
 - (vii) a diversification adjustment determined under paragraphs 1 and 2 of Schedule 1, which has effect;
 - (b) counterparty default risk determined under regulation 20;
 - (c) underwriting risk determined under regulation 21; and
 - (d) a diversification adjustment determined in accordance with paragraphs 1 and 3 of Schedule 1.
- (2) The –

- (a) capital requirements determined under paragraphs (1)(a)(i) to (vi), 1(b) and (c) must be positive; and
 - (b) diversification adjustment under paragraphs (1)(a)(vii) and (1)(d) must be negative.
- (3) If a class 12 insurer transfers its risks using a risk mitigation technique that meets the risk mitigation requirements, and if the arrangement provides the insurer with protection against the risks specified in paragraphs (1)(a)(i) to (vi), 1(b) or 1(c) the insurer may allow for the risk-mitigating effect of the technique when determining its capital requirements, in a manner that, without double-counting, captures the economic effect of the protections provided.
- (4) The Authority may specify which of the risks referred to in paragraph (1) are applicable to such categories of assets as the Authority may also specify.

14 Interest rate risk capital requirement (part of market risk)

- (1) Interest rate risk means the risk of a reduction in value of a class 12 insurer's own-funds resulting from movements in interest rates.
- (2) The capital requirement in respect of interest rate risk under regulation 13(1)(a)(i) is the sum of the total value of the insurer's –
 - (a) interest risk sensitive assets; less
 - (b) interest risk sensitive liabilities,in each duration category determined under paragraph 1 of Schedule 2, which has effect, multiplied by the relevant interest rate risk capital factor also determined under that paragraph.

15 Equity risk capital requirement (part of market risk)

- (1) Equity risk means the risk of a reduction in value of a class 12 insurer's own-funds resulting from movements in market values of equities.
- (2) In this regulation –

“type 1 equities” comprise equities listed in stock exchanges in the countries which are members of the EEA or the OECD;

“type 2 equities” comprise equities other than Type 1 equities,

and reference to an “equity type” is construed accordingly, as applicable.
- (3) The capital requirement for equity risk under regulation 13(1)(a)(ii) is the sum of the insurer's exposure in each equity type multiplied by the relevant equity risk capital factor determined under paragraph 2 of Schedule 2.

16 Property risk capital requirement (part of market risk)

- (1) Property risk means the risk of a reduction in value of a class 12 insurer's own-funds resulting from movements in market values of immovable property.
- (2) The capital requirement in respect of property risk under regulation 13(1)(a)(iii) is the sum of the insurer's total exposure to immovable property multiplied by the property risk capital factor determined under paragraph 3 of Schedule 2.

17 Currency risk capital requirement (part of market risk)

- (1) Currency risk means the risk of a reduction in value of a class 12 insurer's own-funds resulting from movements in currency exchange rates.
- (2) The capital requirement in respect of currency risk under regulation 13(1)(a)(iv) is the sum over all currencies of the total value of the insurer's —
 - (a) assets; less
 - (b) liabilities,that are denominated in currencies other than the insurer's reporting currency multiplied by the currency risk capital factor determined under paragraph 4 of Schedule 2.
- (3) In order to determine the currency exposure in paragraph (2), where a class 12 insurer holds —
 - (a) equities listed on stock exchanges in different currencies the currency of these equities must be assumed to be that of the main listing;
 - (b) assumed other assets in accordance with regulation 26(4) (i.e. not looked-through assets that are target allocations or have been allocated to assets subject to other market risks) the currency of these assets must be assumed to be the insurer's reporting currency.

18 Spread risk capital requirement (part of market risk)

- (1) Spread risk means the risk of a reduction in value of a class 12 insurer's own-funds resulting from movements in credit spreads (the difference in yield between risky assets and risk-free assets such as bonds, loans, deposits, securitisation positions and credit derivatives).
- (2) The capital requirement in respect of spread risk under regulation 13(1)(a)(v) is the sum of the total value of the insurer's spread risk sensitive assets multiplied by the average time until the maturity of those assets, multiplied by the spread risk capital factor determined under paragraph 5 of Schedule 2.

- (3) This regulation does not apply to bonds and loans where the exposure is in respect of approved entities in the list in Schedule 3, which has effect.

19 Other market risk capital requirement

- (1) Other market risk, in relation to a class 12 insurer, means any market risks to which it is exposed that are not otherwise specified in regulation 13(1)(a)(i) to (vi).
- (2) The capital requirement in respect of other market risk under regulation 13(1)(a)(vi) is the sum of the insurer's total exposure to other market risks multiplied by the other market risk capital factor determined under paragraph 6 of Schedule 2.

20 Counterparty default risk capital requirement

- (1) Counterparty default risk means the risk of a reduction in value of a class 12 insurer's own-funds resulting from the default or deterioration in credit standing of its counterparties.
- (2) The capital requirement for counterparty default risk under regulation 13(1)(b) is the sum of —
 - (a) the capital requirement for the insurer's type 1 exposures; and
 - (b) the capital requirement for the insurer's type 2 exposures.
- (3) The capital requirement for counterparty default risk is calculated based on the insurer's exposure to single counterparties and in this regulation the following exposures are classed as an exposure to a single counterparty —
 - (a) exposures to counterparties belonging to the same corporate group as each other; and
 - (b) exposures to immovable property located in the same building as each other.
- (4) An insurer's type 1 exposures to single counterparties cover default risk other than on receivables and the following types of exposures are classed as type 1 exposures —
 - (a) risk mitigation arrangements such as reinsurance arrangements (including stop loss arrangements), special purpose vehicles and insurance securitisations;
 - (b) derivatives, other than credit derivatives captured in the spread risk capital requirement under regulation 18;
 - (c) loans made by the insurer, including loans to group entities;
 - (d) cash at bank;
 - (e) commitments received by the insurer that have been called up but are unpaid including —

- (i) called up but unpaid ordinary share capital and preference shares;
 - (ii) called up but unpaid legally binding commitments to subscribe and pay for subordinated liabilities;
 - (iii) called up but unpaid initial funds, members' contributions or the equivalent basic own-fund item for mutual and mutual-type insurers;
 - (iv) called up but unpaid guarantees;
 - (v) called up but unpaid letters of credit; and
 - (vi) called up but unpaid claims that mutual or mutual-type associations may have against their members by way of a call for supplementary contributions;
- (f) legally binding commitments that the insurer has provided or arranged and that may create payment obligations depending on the credit standing or default on a counterparty including guarantees, letters of credit, letters of comfort that the insurer has provided;
- (g) exposures to entities that are members of the same corporate group as the insurer, other than those included in subparagraph (c);
- (h) mortgage loans; and
- (i) deposits with ceding insurers.
- (5) An insurer's type 2 exposures to single counterparties cover default risk on receivables and the following types of exposures are classed as type 2 exposures —
- (a) receivables and recoverables (other than those in relation to reinsurance arrangements under paragraph (4)(a) or group entities under paragraph (4)(g));
 - (b) policyholder debtors;
 - (c) prepayments and deferred expenses; and
 - (d) exposures that are neither captured in the spread risk capital requirement under regulation 18 or as a type 1 exposure in paragraph (4).
- (6) The capital requirement for counterparty default risk on [an insurer's](#) type 1 exposures [under regulation 13\(1\)\(b\)](#) is the sum of the total loss-given default in each category determined under —
- (a) [paragraph 7\(1\) of Schedule 2 multiplied by \(1 minus the counterparty recovery rate\) also determined under that paragraph; and](#)
 - (b) [paragraph 7\(2\) of Schedule 2 multiplied by the counterparty default risk capital factor also determined under that paragraph.](#)

- (7) The capital requirement for counterparty default risk on an insurer's type 2 exposures under regulation 13(1)(b) is the sum of the total loss-given default in each category determined under paragraph 7(3) of Schedule 2 multiplied by the counterparty default risk capital factor also determined under that paragraph.
- (8) The loss-given default of an exposure to a single counterparty is the loss of eligible own-funds which an insurer would incur if the single counterparty defaulted, and is determined for each type of exposure as follows –
- (a) for the following exposures, the loss-given default is equal to the value of that exposure as determined under Regulation 7 –
 - (i) loans including mortgage loans;
 - (ii) cash at bank;
 - (iii) a deposit with a ceding insurer;
 - (iv) commitments received by the insurer that have been called up but are unpaid;
 - (v) receivables from an intermediary, reinsurer (other than reinsurance recoverables) or policyholder debtor;
 - (vi) exposures to entities that are within the same corporate group of the insurer other than those included in paragraph (4)(c); and
 - (vii) other type 2 exposures not included above;
 - (b) for legally binding commitments the loss-given default is the commitment's nominal value less the commitment's value in the insurer's regulatory balance sheet;
 - (c) for reinsurance arrangements and special purpose vehicles the amounts recoverable from the counterparty; and
 - (d) for derivatives, the market value of the derivative.
- (9) The minimum loss-given default for an exposure is nil.

21 Underwriting risk capital requirement

- (1) Underwriting risk means the risk that a class 12 insurer's—
- (a) insurance premiums; or
 - (b) claims provisions,
- as applicable, are inadequate or need to be increased.
- (2) The capital requirement in respect of underwriting risk under regulation 13(1)(c), in respect of an insurer, is the sum of –
- (a) the higher of its total net premiums –
 - (i) written in the 12 months up to and including the valuation date;

- (ii) projected to be written in the 12 months immediately following the valuation date; or
 - (iii) (where the insurer has not completed its first financial year after authorisation) projected to be written in its first financial year after authorisation, as stated in its corresponding application for Authorisation, multiplied by the premium risk capital factor; and
- (b) best estimate of outstanding claim amounts as at the valuation date, net of any corresponding amount recoverable from risk mitigation contracts that meet the risk mitigation requirements, multiplied by the reserve risk capital factor,
- determined under paragraph 8 of Schedule 2.
- (3) In paragraph (1) –
- “net written premiums” means gross premiums written by the insurer less any corresponding –
- (a) commissions; and
 - (b) reinsurance premiums ceded by the insurer or equivalent payable to a special purpose vehicle,
- or, in respect of paragraphs (2)(ii) and (iii), equivalent projected amounts (as applicable); and
- “claims provisions” include reported claims, claims incurred but not reported, claims incurred but not enough reported and (insofar as such a provision is included in addition to unearned premium reserve) unexpired risk reserve (or the same amounts however they may be described for accounting purposes).
- (4) Where a class 12 insurer has an aggregate stop loss risk mitigation arrangement that meets the requirements of regulation 28(5) the capital requirement for underwriting risk in paragraph (1) is limited to the insurer’s retention limit under the stop loss arrangement less a deduction for any claims covered under the agreement that have been settled.

22 Modification of BSCR risk capital requirements

The Authority, if the Authority considers it proportionate to do so, may modify the risk requirements contained in the BSCR, as specified by the Authority.

23 Capital add-on

Schedule 4 has effect and sets out the circumstances in which the Authority may impose a capital add-on.

24 Association of credit assessments to credit quality steps

- (1) Schedule 6 has effect and sets out the requirements for use of external credit assessments by a [class 12 insurer](#) or a [class 13 insurer in accordance with regulation 39\(2\)](#).
- (2) An insurer must take the nominated external credit assessment for an asset, liability or a counterparty determined under Schedule 6 and assign it to a credit quality step.
- (3) Where an external credit assessment is not available for a counterparty, an insurer must assign it a credit quality step of 5, unless stated otherwise in these Regulations.
- (4) The nominated external credit quality assessment must be capped at the Sovereign credit rating of the country of the exposure.

25 Adjustment for the loss-absorbing capacity of deferred taxes

- (1) The adjustment for the loss-absorbing capacity of a [class 12 insurer's](#) deferred taxes reflects potential compensation from unexpected losses, through a simultaneous decrease in the insurer's deferred taxes.
- (2) The adjustment to a [class 12 insurer's](#) SCR for the loss-absorbing capacity of deferred taxes referred to in regulation [12\(3\)\(c\)](#) is equal to the change in the value of an insurer's deferred taxes resulting from an instantaneous loss of an amount equal to the insurer's BSCR determined under regulation [13](#).
- (3) For the purpose of paragraph (2), and subject to paragraphs (4) to (6), deferred taxes must be valued under regulation [8\(e\)](#).
- (4) Where the loss referred to in paragraph (2) would result in an increase in an insurer's deferred tax assets, the insurer must not utilise this increase for the purpose of this adjustment unless it can demonstrate that future profits will be available in accordance regulation [8\(g\)](#), taking into account the magnitude of the loss referred to in paragraph (2) and its impact on the insurer's current and future financial situation.
- (5) For the purpose of paragraph (2), a decrease in the insurer's deferred tax liabilities or an increase in its deferred tax assets must result in a negative adjustment for the loss-absorbing capacity of its deferred taxes.
- (6) If the calculation of the adjustment under paragraph (2) results in a positive change of an insurer's deferred taxes, the adjustment is nil.
- (7) If it is necessary to allocate the loss referred to in paragraph (2) to its causes in order to calculate the adjustment for the loss-absorbing capacity of an insurer's deferred taxes, the insurer must allocate the loss to the risks that are captured by the BSCR in regulation [13](#). The allocation must be consistent with the contribution of the specific risk to the BSCR.

26 Look-through approach in respect of market risk

- (1) Subject to paragraph (4), a class 12 insurer must assess the economic substance of its market risk exposure inherent in all of its collective investments vehicles and funds, by adopting a “look-through” approach as follows —
 - (a) the insurer must assess the risks applying to each relevant asset underlying the investment vehicle or fund (as the case may require); and
 - (b) all of the relevant risk capital factors under regulations 14 to 19 must be applied to each of the underlying assets to calculate the capital requirement for market risk.
- (2) Where a number of iterations of the look-through approach is required, the number of iterations must be sufficient to ensure that all relevant market risk categories are captured.
- (3) A class 12 insurer must ensure that it is able to access the information required from external asset management firms in a timely manner, so that it can identify the nature of all relevant underlying assets.
- (4) Where a class 12 insurer’s board of directors considers it proportionate to do so —
 - (a) the full look through requirements of paragraph (1) may be waived and instead the market risk capital requirement may be calculated on the basis of the target underlying asset allocation of a collective investment vehicle or fund, provided that —
 - (i) such a target allocation is available to the insurer at the level of detail necessary for calculating the capital requirement; and
 - (ii) the underlying assets are managed according to that target allocation; and
 - (b) for the purposes of subparagraph (a), homogeneous data groupings may be used; or
 - (c) the collective investment entity or fund may be treated as an asset subject to other market risk in the other market risk capital requirement calculation under regulation 19.

27 Qualitative criteria for contractual risk mitigation techniques

- (1) A class 12 insurer must only allow for a contractual risk mitigation technique when determining its capital requirements, if that technique meets the following qualitative criteria —
 - (a) in accordance with paragraph (4), the technique must provide for effective risk transfer to a party other than the insurer and to this effect a contractual arrangement must —

- (i) ensure that the extent of the cover provided by the risk mitigation technique and the transfer of the insurer's risk are clearly defined and incontrovertible; and
 - (ii) not result in material basis risk or in the creation of another risk, unless the risk is provided for in the calculation of the insurer's BSCR;
 - (b) the contractual arrangement of the risk mitigation technique is legally effective and enforceable in all relevant jurisdictions;
 - (c) the insurer has taken all appropriate steps to ensure the effectiveness of the risk mitigation technique and its adequacy and appropriateness to address the risks related to that risk mitigation technique;
 - (d) the insurer is able to monitor the effectiveness of the risk mitigation technique and the related risks on an ongoing basis;
 - (e) the insurer has, in the event of a default, insolvency or bankruptcy of the counterparty in question, a direct claim on that counterparty;
 - (f) there is no double counting of risk mitigation effects in the insurer's eligible own-funds and in the calculation of its SCR;
 - (g) where the insurer uses insurance risk mitigation, the requirements of regulation 27 and 28 are met; and
 - (h) where the insurer uses financial risk mitigation, the requirements of regulations 27 and 29 to 31 are met, as applicable.
- (2) Unless paragraph (3) applies, the risk mitigation effect of the risk mitigation technique must remain in force for at least 12 months following the valuation date.
- (3) If the risk mitigation technique is in force for a period shorter than 12 months, but a class 12 insurer intends to replace it at the time of its expiry with a similar arrangement, the risk mitigation technique may be fully taken into account provided that –
- (a) the insurer has a written policy in force on the replacement or adjustment of that risk mitigation technique;
 - (b) the replacement of the risk mitigation technique does not take place more often than every 3 months;
 - (c) the replacement of the risk mitigation technique is not conditional on any future event that is outside of the control of the insurer;
 - (d) if the replacement of the risk mitigation technique is conditional on any future event that is within the control of the insurer, the conditions are clearly documented in the written policy referred to in subparagraph (a);
 - (e) the replacement of the risk mitigation technique is realistic and consistent with the insurer's current business practice and business strategy;

- (f) the risk that the risk mitigation technique cannot be replaced due to an absence of liquidity in the market is not material;
- (g) the initial contractual maturity is not shorter than one month in cases where the insurer transfers risks through the purchase or issuance of financial instruments; and
- (h) the initial contractual maturity is not shorter than three months where the insurer transfers underwriting risks using reinsurance contracts or special purpose vehicles, unless otherwise agreed with the Authority,

otherwise, the technique may only be taken into account in proportion to the period that the risk mitigation technique is in force.

- (4) Under paragraph 1(a), an insurer must prove the extent of an effective transfer of risk to ensure that any reduction in SCR or increase in own-funds resulting from its risk transfer arrangements is commensurate with the change in risk that the insurer is exposed to.

28 Insurance risk mitigation techniques

- (1) Unless the Authority specifies otherwise, a class 12 insurer must only place outward reinsurance with a reinsurer that —
 - (a) is licenced and regulated by an approved supervisor for the business being ceded; or
 - (b) has an assigned credit quality step of 0, 1, 2 or 3.
- (2) For an aggregate stop loss arrangement to be considered a recognisable risk mitigation arrangement of an insurer —
 - (a) the contract must provide for complete compensation for the aggregated exposures of the insurer (in excess of any retention level that may be specified in the contract; and
 - (b) approval must be received from the Authority in accordance with paragraphs (5) and (6).
- (3) In subparagraph (2)(a), complete compensation is provided where the ceded amount is either —
 - (a) without limit (such that it covers all of the insurer's potential aggregate losses in excess of the specified retention level of the insurer);
 - (b) at least equal to the insurer's total aggregate contractual limits of liability, or
 - (c) at least equal to the insurer's expected total aggregate losses.
- (4) The Authority's approval where complete compensation is provided under subparagraph's (3)(a) and (3)(b) is subject to the insurer providing sufficient contractual evidence.

- (5) The Authority's approval where complete compensation is provided under (3)(c) is subject to the insurer providing actuarially supported evidence which satisfies the Authority that any limit placed on the compensation due under the contract is sufficiently in excess of the insurer's reasonable expectation of the aggregate losses it might face across all of its lines of business during that time period.

29 Financial risk mitigation techniques

- (1) A class 12 insurer must be able to value reliably the relevant assets and liabilities that are subject to the risk mitigation technique and, if the risk mitigation technique includes the use of financial instruments, the financial instruments must be valued in accordance with Part 2 (as applicable).
- (2) If the risk mitigation technique includes the use of financial instruments, the financial instrument must have an assigned credit quality step of 0, 1 or 2.
- (3) If the risk mitigation technique is not a financial instrument, the counterparties to the risk mitigation technique must have an assigned credit quality step of 0, 1 or 2.

30 Additional requirements for collateral arrangements

- (1) In this regulation a "collateral arrangement" is an arrangement under which a collateral provider, for the purposes of securing or otherwise covering the performance of a relevant obligation, does one of the following –
 - (a) transfers full ownership of the collateral to the collateral taker; or
 - (b) provides collateral by way of security in favour of, or to, a collateral taker, but the legal ownership of the collateral remains with the collateral provider or a custodian when the security right is established.
- (2) In respect of a class 12 insurer, a collateral arrangement can only be recognised as a risk mitigation technique if –
 - (a) the insurer has the right to liquidate or retain, in a timely manner, the collateral in the event of a default, insolvency or bankruptcy or other credit event of the counterparty;
 - (b) there is sufficient certainty as to the protection achieved by the collateral because either –
 - (i) the collateral is of sufficient credit quality, sufficient liquidity (to enable the insurer, in the event that the collateral is called upon, to meet its obligations as they fall due) and is sufficiently stable in value (to ensure the intended level of protection is maintained); or

- (ii) the collateral is guaranteed by a counterparty with an assigned credit quality step 0, 1 or 2;
 - (c) there is no material positive correlation between the credit quality of the counterparty to the collateral arrangement and the value of the collateral; and
 - (d) the collateral offered under the arrangement is not securities issued by the insurer's counterparty or a participation of that counterparty.
- (3) If a collateral arrangement of a class 12 insurer involves collateral being held by a custodian or other third party, the insurer must ensure that all of the following criteria are met —
- (a) the relevant custodian or other third party segregates the assets held as collateral from its own assets;
 - (b) the segregated assets are held by a deposit-taking institution that has an assigned credit quality step of 0, 1 or 2, or 3;
 - (c) the segregated assets are individually identifiable and can only be changed or substituted with the consent of the insurer or a person acting as a trustee in relation to the insurer's interest in those assets;
 - (d) the insurer has the right to liquidate or retain, in a timely manner, the segregated assets in the event of a default, insolvency or bankruptcy or other credit event relating to the custodian or other third party holding the collateral on behalf of the relevant counterparty; and
 - (e) the segregated assets must not be used to pay, or to provide collateral in favour of, a person other than the insurer or as directed by the insurer.

31 Additional requirements for guarantees

A class 12 insurer can only recognise a guarantee as a risk mitigation technique if —

- (a) the credit protection provided by the guarantee is direct from the counterparty providing the protection (the "guarantor") to the insurer;
- (b) the extent of the credit protection offered under the guarantee is clearly defined and incontrovertible;
- (c) the guarantee does not contain any clause where the fulfilment of which is outside the direct control of the insurer, that —
 - (i) would allow the guarantor to cancel the protection unilaterally;
 - (ii) would increase the effective cost of protection as a result of a deterioration in the credit quality of the protected exposure;

- (iii) could prevent the guarantor from being obliged to pay out in a timely manner in the event that the counterparty of the exposure covered by the guarantee (“the original obligor”), defaults on its obligations due; and
- (iv) could allow the guarantor to reduce the duration of the guarantee;
- (d) on the default, insolvency or bankruptcy, or other credit event of the original obligor, the insurer has the right to pursue, in a timely manner, the guarantor for any monies due under the claim that is covered by the guarantee and the payment by the guarantor must not be subject to the insurer first having to pursue the original obligor;
- (e) the guarantee is an explicitly documented obligation assumed by the guarantor; and
- (f) the guarantee fully covers all types of regular payments the original obligor is expected to make in respect of the claim.

PART 4 MCR AND SCR – CLASS 13

32 Exemption from valuation and solvency regulations

A class 13 insurer (irrespective of any other class or classes in respect of which it is authorised) is exempt from the —

- (a) Insurance (Long-Term Business Valuation and Solvency) Regulations 2021; and
- (b) Insurance (Non Long-Term Business Valuation and Solvency) Regulations 2021.

33 Interpretation

In this Part —

“**approved bank**” means a bank that —

- (a) has an **assigned** credit quality step of 0, 1, 2 or 3; or
- (b) is otherwise approved or specified by the Authority under **regulation 39(d)(iii)**, for the purposes of **regulation 39(d)(i)**;

“**approved outward reinsurance**” means —

- (a) in relation to a class 13 insurer that is also authorised in respect of class 12, a reinsurer that —
 - (a) is authorised to carry on insurance business in its home jurisdiction by each supervisor relevant to that business and each such supervisor is an approved supervisor; and
 - (b) has **been assigned** a credit quality step of 0, 1 or 2; or

- (b) reinsurance otherwise approved or specified by the Authority under [regulation](#) —
 - (i) [39\(d\)\(iii\)](#) for the purposes of [regulation 39\(d\)\(ii\)](#); or
 - (ii) [39\(e\)\(ii\)](#) for the purposes of [regulation 39\(e\)\(i\)](#),
as applicable;

“full funding” and “fully funded” have the meaning given in [regulation 34](#);

“limited recourse”, in relation to an insurer, means a written legal right of the insurer which reduces the insurer’s liability under the contract based on a lack of availability of assets of the insurer to meet those liabilities whether in part or in full;

“MARE” is an abbreviation of “maximum aggregate [residual](#) exposure” and has the same meaning;

“maximum aggregate [residual](#) exposure” has the meaning given in [regulation 38](#);

“off-balance sheet”, in relation to a financial item in respect of a class 13 insurer, means —

- (a) the amount corresponding to that item which (irrespective of how it may be described) is not included on its relevant balance sheet; and
- (b) in respect of an item that is partially included and partially not included on its relevant balance sheet, the amount corresponding to the part that is not included;

“on-balance sheet”, in relation to a financial item in respect of a class 13 insurer, means —

- (a) the amount corresponding to that item which (irrespective of how it may be described) is included on its relevant balance sheet; and
- (b) in respect of an item that is partially included and partially not included on its relevant balance sheet, the amount corresponding to the part that is included; and

“relevant balance sheet”, in relation to a class 13 insurer, means the insurer’s balance sheet [corresponding to the valuation date](#).

34 Full funding requirement

- (1) A class 13 insurer must at all times be fully funded in accordance with paragraph (2).
- (2) To be fully funded, a class 13 insurer must comply with its —
 - (a) [MCR and SCR under this Part](#); and
 - (b) its capital adequacy requirement under [paragraph 11 of the CGC](#),
[and “full funding” is construed accordingly](#).

35 Minimum capital requirement

- (1) A class 13 insurer must, at all times, hold eligible own-funds of an amount that is equal to or greater than the MCR, determined under paragraph (2).
- (2) The MCR of a class 13 insurer, —
 - (a) where the insurer is a cell of a PCC and is also authorised in respect of class 12, is £0;
 - (b) where the insurer is not a cell of a PCC and is also authorised in respect of class 12, is £100,000;
 - (c) where the insurer is also authorised in respect of any of classes 3 to 9 or 11, is £500,000;
 - (d) where the insurer is also authorised in respect of any of classes 1, 2 or 10, is £3,000,000; or
 - (e) where the insurer is a standby authorised insurer, is £0,or such other amount as the Authority may specify.
- (3) In relation to the own-funds of a class 13 insurer, an MCR of £0 means that the insurer's assets must be equal to or exceed its liabilities in accordance with regulation 42.

36 Solvency capital requirement

- (1) A class 13 insurer must hold, at all times, eligible own-funds of an amount that is equal to or greater than the SCR, determined under this regulation.
- (2) A class 13 insurer must determine its SCR on the presumption that the insurer will pursue its business as a going concern —
 - (a) using the standard formula approach in paragraph (3); or
 - (b) in accordance with paragraph (4),as applicable.
- (3) The standard formula approach used to determine the SCR of a class 13 insurer is the sum of —
 - (a) a BSCR determined in accordance with regulation 37; plus
 - (b) any capital add-on imposed on the insurer by the Authority in accordance with regulation 23.
- (4) The SCR of a class 13 insurer that is also a standby authorised insurer is the same as its MCR.

37 Basic solvency capital requirement

The BSCR referred to in regulation 36(3)(a), in relation to a class 13 insurer, is its total aggregate off-balance sheet exposure to potential liability over the lifetime of its collective insurance obligations under all of the insurance contracts it has

written, determined under Regulation 38 (“maximum aggregate residual exposure” or “MARE”).

38 Maximum aggregate residual exposure (MARE)

- (1) MARE, in relation to a class 13 insurer, is —
 - (a) its maximum gross exposure to potential liability under all of the insurance contracts it has written where, at the valuation date, the insurer has any amount of exposure to potential liability (therefore excluding contracts where all of the insurer’s exposure to potential liability has been fully and permanently terminated); less
 - (b) the amounts referred to in paragraph (3).
- (2) In paragraph (1) —
 - (a) unless the Authority determines otherwise, the maximum gross exposure to potential liability under each contract must be a fixed written amount; and
 - (b) “gross” means being stated without applying any deductions, such as amounts recoverable from reinsurance and any of the amounts referred to in paragraph (3).
- (3) In relation to a class 13 insurer, the following must be deducted under paragraph (1)(b) —
 - (a) any part (or, if applicable, all) of the exposure insofar as the insurer has provided for the exposure as an on-balance sheet liability appearing on its relevant balance sheet;
 - (b) any paid claim, at the valuation date, insofar as the claim —
 - (i) contractually reduces the exposure residually; and
 - (ii) has been accounted for as paid in the insurer’s relevant balance sheet;
 - (c) any part (or, if applicable, all) of the exposure, at the valuation date, insofar as it can be reduced in accordance with any offset available to the insurer approved in writing or specified by the Authority for the purposes of this paragraph (paragraph (3));
 - (d) any part (or, if applicable, all) of the exposure, at the valuation date, insofar as it can be reduced in accordance with any limited recourse available to the insurer approved in writing or specified by the Authority for the purposes of this paragraph (paragraph (3));
 - (e) any part of the exposure, at the valuation date, insofar as it has been terminated permanently by means other than as referred to in subparagraphs (b), (c), (d) or (f) (such as where the exposure has been commuted back to the insured or reinsured); and
 - (f) any other deduction as may be approved in writing or specified by the Authority for the purposes of this paragraph (paragraph (3)),

and no two such deductions can be applied in respect of the same exposure.

- (4) Where necessary, any relevant off-balance sheet items relating to the calculation of the MARE under this paragraph must be currency converted in accordance with regulation 40.

39 Additional adjustments to own-funds

- (1) In respect of a class 13 insurer's own-funds, in accordance with regulation 42(1)(b), the following adjustments must be applied —
- (a) deduct from own-funds (by adding to on-balance sheet technical provisions) the amount necessary for the insurer's on-balance sheet technical provisions to be shown gross of any deductions (such as amounts recoverable, offsets or deductions for limited recourse which had been netted off for accounting purposes);
 - (b) add to own-funds (as on-balance sheet assets) the same total amount as referred to in subparagraph (a) itemised with appropriate descriptions to allow assessment of compliance with subparagraphs (d) and (f),
 - (c) add to own-funds (by deducting from on-balance sheet liabilities), any subordinated debt shown as a liability for accounting purposes which is approved in writing or specified by the Authority as own-funds;
 - (d) deduct from own-funds any on-balance sheet asset of the insurer (including any asset referred to in subparagraph (b)) which is not one of the following approved assets —
 - (i) cash amounts, and fixed term cash deposit amounts, of the insurer held at an approved bank;
 - (ii) amounts recoverable in respect of approved outward reinsurance of the insurer; or
 - (iii) any other on-balance sheet asset of the insurer approved in writing or specified by the Authority for the purposes of this subparagraph (subparagraph (d));
 - (e) add to own-funds the following off-balance sheet assets of the insurer (which, where necessary, must also be currency converted in accordance with regulation 40) —
 - (i) any approved outward reinsurance of the insurer insofar as it represents amounts that would be recoverable in respect of potential liabilities of the insurer arising from its off-balance sheet contractual exposures included in its MARE; and

- (ii) any other off-balance sheet asset approved in writing or specified by the Authority for the purposes of this subparagraph (subparagraph (e)); and
 - (f) after the adjustments in subparagraphs (a) to (e) have been made, deduct from own-funds any asset (whether on- or off- balance sheet) to the fullest extent that the asset is in accordance with regulation 43(5).
- (2) A class 13 insurer must apply regulation 24 for use of external credit assessments by the insurer.

40 Currency conversion for SCR purposes

For the purposes of regulation 38(4) and 39(e), in respect of a class 13 insurer, any relevant off-balance sheet amounts not already denominated in the reporting currency of the insurer's relevant balance sheet, must be converted to that currency using the same exchange rate for the currency used in the relevant balance sheet or, if no such exchange rate is used, an exchange rate approved by the Authority in writing for the purposes of this regulation.

41 Discretion to allow SCR to be calculated net of limited recourse

The Authority may, in addition to regulations 38(3)(d) and 39(d)(iii), approve in writing or specify circumstances where, and the degree to which, a class 13 insurer's SCR may be calculated net of limited recourse.

PART 5: OWN-FUNDS

42 Own-funds

- (1) An insurer's "own-funds" are the excess of its assets over its liabilities valued, in respect of a —
 - (a) class 12 insurer, under Part 2; and
 - (b) in respect of a class 13 insurer, under regulations 7, 9 and 39.
- (2) An insurer's own-funds consists of the sum of its basic own-fund items determined under regulation 45 and its ancillary own-fund items determined under regulation 46.

43 Eligibility

- (1) An own-fund item which meets the following conditions is 'eligible' —
 - (a) the item must be permanently available, or able to be called up on demand, to fully meet the insurance obligations of the insurer on a going concern basis, as well as in the case of winding-up;

- (b) in the case of winding-up, the total amount of the item must be available to meet the insurance obligations of the insurer and the repayment of the item must not be made to its holder until all other obligations of the insurer, including its insurance obligations towards policyholders, have been met;
 - (c) the item must be of sufficient duration, when compared to the duration of the relevant insurance obligations of the insurer. In particular, the average duration of an insurer's own-funds must not be significantly less than the average duration of the insurer's liabilities; and
 - (d) the item must be absent of —
 - (i) requirements or incentives to redeem its nominal sum;
 - (ii) mandatory fixed charges payable by the insurer;
 - (iii) encumbrances; or
 - (iv) any other factor that might prejudice, or appear to prejudice, the own-fund item's permanent availability, subordination or sufficiency of duration.
- (2) An own-fund item is therefore 'ineligible' if it doesn't meet the conditions under paragraph (1).
- (3) Eligible own funds are eligible capital resources referred to in sections 12 and 12A to D of the Act.
- (4) Without limiting the generality of paragraph (1)(d), under that paragraph, an own-fund item must be treated as ineligible to the fullest extent that it is in accordance with paragraph (5).
- (5) An own-fund item referred to in subparagraph (4) is one which is —
- (a) subject to a —
 - (i) security interest; or
 - (ii) contingent security interest,
(such as a mortgage, charge or lien) for a purpose other than securing that the insurer meets its insurance obligations; or
 - (b) restricted such that, in respect of the insurer's potential liabilities which may arise from the insurer's insurance obligations under the contracts of insurance it has written, the asset —
 - (i) is not available to meet any of the potential liabilities; or
 - (ii) exceeds the amount of the potential liabilities it is available to meet.

44 Use of eligible own-funds to meet capital requirements

- (1) An insurer must determine the quality of its eligible own-fund items using Schedule 7, which has effect, with Tier 1 being the highest quality and Tier 2 and Tier 3 reducing sequentially in quality.
- (2) A class 12 insurer, at a minimum, must hold eligible own-fund items of sufficient quality as follows —
 - (a) unless the Authority agrees in writing or specifies otherwise, and subject to subparagraph (b), to meet its SCR —
 - (i) the amount of Tier 1 own-fund items must be equal to or greater than 50% of the SCR;
 - (ii) the amount of Tier 3 own-fund items must be less than 15% of the SCR; and
 - (iii) the sum of Tier 2 and Tier 3 own-fund items must not exceed 50% of SCR, subject to the restriction in subparagraph (ii); and
 - (b) to meet its MCR —
 - (i) the amount of Tier 1 own-fund items must be equal to or greater than 80% of the MCR; and
 - (ii) the amount of Tier 2 own-fund items must not exceed 20% of the MCR.
- (3) Of the Tier 1 items in paragraph (2)(a)(i) or 2(b)(i), no more than 20% of those items can be —
 - (a) items referred to in paragraph 1(1)(c) of Schedule 7;
 - (b) for a class 12 insurer that is other than a cell of a PCC, items referred to in paragraph 1(1)(e) of Schedule 7; or
 - (c) items referred to in paragraph 1(1)(h) of Schedule 7.
- (4) Unless the Authority agrees in writing or specifies otherwise, a class 13 insurer at a minimum, must hold eligible own-fund items of sufficient quality as follows —
 - (a) to meet its SCR, 100% Tier 1 own-fund items; and
 - (b) to meet its MCR, 100% Tier 1 own-fund items.

45 Basic own-funds items

- (1) An eligible own-fund item of an insurer that meets the requirements below is classed as a basic own-fund item —
 - (a) the item is listed in paragraphs 1(1), 2(1) or 3(1) of Schedule 7;
 - (b) the item does not include features that may cause the insolvency of the insurer or may accelerate the process of the insurer becoming insolvent;

- (c) the item is free from encumbrances and is not connected with any other transaction that could result in that item not complying with regulation 43;
 - (d) the legal or contractual arrangements governing the item allows for the cancellation of distributions in relation to that item, as required under section 12A of the Act, if —
 - (i) the insurer is not in compliance with its capital requirements; or
 - (ii) the distribution would cause such non-compliance; and
 - (e) the item is only repayable or redeemable at the option of the insurer and the repayment or redemption of the item is subject to prior approval by the Authority.
- (2) An insurer's basic own-fund items must include amounts relating to expected profits in future premiums relating to existing contracts that are expected to be received in the future, where the insurer has anticipated these premiums in the calculation of its technical provisions.

46 Ancillary own-funds

- (1) The classification of an eligible own-fund item of an insurer as an ancillary own-fund item is subject to the approval of the Authority.
- (2) An ancillary own-fund item of an insurer may comprise the following eligible own-fund items to the extent they are not basic own-fund items determined under regulation 45 —
- (a) called up but unpaid share capital that is unpaid for more than 3 months, unpaid and uncalled ordinary share capital, initial funds, members' contributions or the equivalent basic own-fund item for mutual and mutual-type entities or preference shares;
 - (b) a letter of credit or a guarantee provided to the insurer; or
 - (c) any future claims which mutual or mutual type associations may have against their members by way of a call for supplementary contributions, within the following 12 months; or
 - (d) any other legally binding financial commitments provided to the insurer.
- (3) An ancillary own-fund item of an insurer is classified as Tier 2 or Tier 3 as follows —
- (a) if the item displays the features of a Tier 1 basic own-fund item in Schedule 7, once it has been called up and paid in, it is classed as Tier 2;
 - (b) otherwise, it is classed as Tier 3.

47 Additional requirements for PCCs

- (1) Where a cell has own-fund items in excess of its SCR or MCR, those own-fund items are not available to meet the SCR or MCR of any other cell or of the core of the PCC.
- (2) Where a core of a PCC has own-fund items in excess of its SCR and MCR, those own-fund items are not available to meet the SCR or MCR of any cell of the PCC unless —
 - (a) secondary liability applies in respect of the cell against the core in accordance with —
 - (i) section 17 of the Protected Cell Companies Act 2004 (liability of cellular and non-cellular assets); or
 - (ii) [section 122 of the Companies Act 2006 \(liability of cellular and non-cellular assets\)](#);
 - (b) the own-funds of the core in question are not otherwise allocated to another cell of the PCC by way of secondary liability;
 - (c) following any allocation of own-funds of the core by way of secondary liability, the core retains sufficient own-funds to meet its SCR and MCR;
 - (d) the own-fund items of the core are of an appropriate quality for the requisite tier of capital required by the cell: and
 - (e) the PCC has effective and demonstrable arrangements in place to determine the order and amount of entitlements of individual cells, and between cells, of the PCC in relation to any secondary liability entitlements the cells may have against the core.

48 Additional requirements for ICCs

- (1) Where an IC has own-fund items in excess of its SCR or MCR, those own-fund items are not available to meet the SCR or MCR of any other IC or of the ICC.
- (2) Where an ICC has own-fund items in excess of its SCR and MCR, those own-fund items are not available to meet the SCR or MCR of any of its ICs.

49 Additional requirements for class 13 insurers

- (1) In respect of a class 13 insurer's own-funds, the Authority may modify any [of the](#) requirements under [this Part](#) as may be specified by the Authority.
- (2) In respect of a class 13 insurer, in addition to any other requirements applicable to its own-fund items, the insurer must have control over its own-fund items to ensure that they remain in place to enable the insurer to comply with the requirements of [Part 4](#) at all times (including taking account of any circumstances which might unexpectedly extend the

duration of its insurance business exposures within its [maximum aggregate residual exposure under Part 4](#)).

MADE [DATE]

B. ROTH

Chief Executive of the Isle of Man Financial Services Authority

L. BOYLE

Member of the Isle of Man Financial Services Authority

SCHEDULE 1

[Regulation 13]

DIVERSIFICATION ADJUSTMENT AND CORRELATION MATRICES

1 Diversification adjustment

- (1) The diversification adjustment for use in the standard formula approach is –

$$\begin{aligned} \text{Diversification adjustment} \\ = \text{diversified amount} - \text{undiversified amount} \end{aligned}$$

where –

- (a) the undiversified amount is the result of the standard formula calculation before the diversification adjustment is applied;
- (b) the diversified amount is determined using the aggregation formula –

$$\text{Aggregation Formula} = \sqrt{\sum_{x,y} \text{Corr}_{x,y} \cdot C_x \cdot C_y}$$

where –

- (i) $\sum_{x,y}$ is the sum over all combinations of variables;
- (ii) $\text{Corr}_{x,y}$ is the correlation between variables x and y and where there are multiple variables, x and y make up the rows and columns of a correlation matrix; and
- (iii) C_x, C_y is the value corresponding to variable x and variable y;
- (c) $\text{Corr}_{x,y} = 1$ is equivalent to full correlation and leads to no diversification benefit; and
- (d) $\text{Corr}_{x,y} = 0$ is equivalent to no correlation and leads to full diversification benefit.
- (2) The diversification adjustment [under subparagraph \(1\)](#) must be negative.

2 Correlation Matrix: Market Risk Capital Requirement

$\text{Corr}_{x,y}$ for use in the diversification adjustment in regulation [13\(1\)\(a\)\(vii\)](#) is –

	Interest	Equity	Property	Currency	Spread
Interest	1	0	0	0	0
Equity and other market risks	0	1	0.5	0	0.5
Property	0	0.5	1	0	0.25

Currency	0	0	0	1	0
Spread	0	0.5	0.25	0	1

3 Correlation Matrix: SCR Standard Formula Approach

$Corr_{x,y}$ for use in the diversification adjustment in regulation 13(1)(d) is —

	Market	Default	Underwriting
Market	1	0	0
Default	0	1	0.25
Underwriting	0	0.25	1

SCHEDULE 2

[Regulations 14 to 21]

FACTORS, TABLES AND ADDITIONAL MATTERS

1 Interest Rate Risk Categories and Capital Factors

The interest rate risk capital factors for use in regulation 14 are as follows —

Duration category	Capital factors
Up to 2 years	0.0%
Over 2 years and up to 5 years	1.4%
Over 5 years	4.4%

2 Equity Risk Categories and Capital Factors

The equity risk capital factors for use in regulation 15 are as follows —

Category	Capital factors
Type 1 equities	14.0%
Type 2 equities	18.0%

3 Property Risk Capital Factor

The property risk capital factor for use in regulation 16 is 12%.

4 Currency Risk Capital Factor

The currency risk capital factor for use in regulation 17 is 9%.

5 Spread Risk Capital Factor

The equity risk capital factor for use in regulation 18 is 1.2%.

6 Other Market Risk Capital Factor

The other market risk capital factor for use in regulation 19 is 18.0%.

7 Counterparty Default Risk Categories and Capital Factors

(1) The recovery rate factors for use in regulation 20(6)(a) (Type 1 exposures) are as follows —

Category	Recovery rate
Reinsurance arrangements (including arrangements in respect of stop loss, special	50.0%

purpose vehicles and insurance securitisations)	
Other exposures	0.0%

- (2) The counterparty default risk capital factors for use in regulation 20(6)(b) (Type 1 exposures) are as follows –

Credit quality step / other category	Capital factors
0 to 2	0.0%
3	6.0%
4	23.0%
5 and 6	42.0%
Unrated	42.0%
Unrated bank incorporated in the Isle of Man and licensed under the Financial Services Act 2008 to conduct deposit taking activity	6.0% or in accordance with subparagraph (9), whichever gives the lower requirement

- (3) The counterparty default risk capital factors for use in regulation 20(7) (Type 2 exposures) are as follows –

Category	Capital factors
Type 2 exposures – receivables and recoverables that have been due for more than 3 months	45.0%
Other Type 2 exposures	7.5%

- (4) If a letter of credit, a guarantee or an equivalent arrangement is provided to fully secure an exposure of the insurer and this arrangement complies with the risk mitigation requirements, the provider of that letter of credit, guarantee or equivalent arrangement may be considered as the counterparty on the secured exposure for the purposes of assessing the probability of default of a counterparty.
- (5) Where the insurer has made an uncollateralised loan to, or holds a deposit or investment in, an undertaking within the same corporate group, where that undertaking has not been assigned a credit rating, but the parent of the group does have a credit rating, the insurer can use the rating of the parent when assessing the probability of default of the counterparty, but only when that undertaking is substantially acting as the treasury function for the group.
- (6) For unrated counterparties that are part of the same corporate group as the insurer, where there is a non-public rating available that could be used to assign a credit quality step then the insurer may use that rating, subject to obtaining approval from the Authority.

- (7) Where a reinsurance contract has a legally enforceable cut-through liability clause, or similar binding agreement, to a retroceding insurer, the insurer may use the credit quality step assigned to the retroceding insurer when determining the probability of default.
- (8) If a letter of credit, a guarantee or an equivalent arrangement is provided to fully secure an exposure of a class 12 insurer, the provider of that letter of credit, guarantee or equivalent arrangement may be considered as the counterparty on the secured exposure for the purposes of assessing the probability of default of a counterparty.
- (9) For banks incorporated in the Isle of Man and licensed under the Financial Services Act 2008 to conduct deposit taking activity the insurer may use a credit quality step of a holding company of the bank (and for this purpose, unless the Authority agrees in writing or specifies otherwise, “holding company” has the meaning given in section 220 of the Companies Act 2006).

8 Underwriting Risk Categories and Capital Factors

The underwriting risk capital factors for use in regulation 21 are as follows –

Category	Capital factors
Premium risk	10.0%
Reserve risk	10.0%

SCHEDULE 3

[Regulation 18]

EXPOSURES TO APPROVED ENTITIES LIST

The following are approved entities for the purposes of Regulation 18 —

- (a) Isle of Man Government;
- (b) United Kingdom Government;
- (c) Bank of England;
- (d) European Central Bank;
- (e) the central government or central bank of an EU Member State, denominated and funded in the domestic currency of that Member State;
- (f) instruments issued by a multilateral development bank including —
 - (i) the International Bank for Reconstruction and Development;
 - (ii) the International Finance Corporation;
 - (iii) the Inter-American Development Bank;
 - (iv) the Asian Development Bank;
 - (v) the African Development Bank;
 - (vi) the Council of Europe Development Bank;
 - (vii) the Nordic Investment Bank;
 - (viii) the Caribbean Development Bank;
 - (ix) the European Bank for Reconstruction and Development;
 - (x) the European Investment Bank;
 - (xi) the European Investment Fund;
 - (xii) the Multilateral Investment Guarantee Agency;
 - (xiii) the International Finance Facility for Immunisation; and
 - (xiv) the Islamic Development Bank;
- (g) exposures to international organisations including —
 - (i) the European Community;
 - (ii) the International Monetary Fund; and
 - (iii) the Bank for International Settlements;
- (h) exposures that are fully, unconditionally and irrevocably guaranteed by the —
 - (i) European Investment Bank;

- (ii) European Investment Fund;
- (iii) Isle of Man Government;
- (iv) United Kingdom Government;
- (v) the Bank of England;
- (vi) European Central Bank; and
- (vii) central government or central bank of an EU Member State, denominated and funded in the domestic currency of that Member State.

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SCHEDULE 4

[Regulation 23]

CAPITAL ADD-ON

- (1) Under regulation 12(3)(b) or 36(3)(b) the Authority may, in exceptional circumstances, increase an insurer's SCR by imposing a capital add-on if the Authority has concluded during the supervisory review process that the insurer's —
 - (a) risk profile deviates significantly from the assumptions underlying the standard formula approach;
 - (b) systems of governance deviate significantly from the requirements of the CGC and those deviations prevent the insurer from being able to properly identify, measure, monitor, manage and report the risks that it is or could be exposed to; or
 - (c) systems of governance deviate significantly from the requirements of the CGC and the application of other measures is in itself unlikely to improve the deficiencies sufficiently within an appropriate time-frame.
- (2) The imposition of a capital add-on by the Authority will be on an exceptional basis and used only as a measure of last resort, when other supervisory measures are ineffective or inappropriate.
- (3) The term exceptional must be understood in the context of the specific situation of each insurer rather than in relation to the number of capital add-ons imposed in the Island's insurance market.
- (4) The Authority will communicate its decision to impose a capital add-on in writing to an insurer, stating its reasons.
- (5) The Authority may vary or revoke a capital add-on in accordance with this regulation.
- (6) The capital add-on will have a numerically positive value and an insurer must provide the Authority with all information it requires to determine such an amount.
- (7) In the circumstance of paragraphs (1)(b) or (1)(c), the methodology used to determine the capital add-on must reflect an assessment of the significance of the deviation regarding the system of governance and be determined on a case-by-case basis.
- (8) At a minimum, the capital add-on will remain in place for as long as the circumstances under which it was imposed are not remedied to the satisfaction of the Authority and it may, if the standardised approach does not adequately reflect the very specific risk profile of an insurer, remain over consecutive years.

- (9) If the circumstances that led to the capital add-on requirement are appropriate for the insurer to remedy, then the insurer must take all reasonable steps to remedy those circumstances, within a timeframe agreed with the Authority.

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SCHEDULE 5

[Regulation 6]

REQUIREMENTS IN RESPECT OF RING-FENCED FUNDS**1 Recognition of assets and liabilities in a ring-fenced fund**

- (1) Where an insurer has ring-fenced funds, it must identify the assets and liabilities of those ring-fenced funds and comply with the requirements of this Schedule.
- (2) The assets in a ring-fenced fund of an insurer are those arising from the investment of premiums received by the insurer in relation to the contracts which comprise the ring-fenced fund, along with any other payments into and assets provided to, the fund.
- (3) The liabilities in a ring-fenced fund comprise those liabilities attributable to the insurance contracts or risks covered by the ring-fenced fund.
- (4) An insurer must attribute liabilities to the ring-fenced fund only if honouring those liabilities would entail an appropriate and permitted use of the restricted assets or eligible own-funds.

2 Materiality and valuation of a ring-fenced fund

- (1) When determining whether a ring-fenced fund is material an insurer must have regard to the following —
 - (a) the nature of the risks arising from or covered by the ring-fenced fund;
 - (b) the nature of the assets and liabilities within the ring-fenced fund including —
 - (i) the amount of restricted own-funds within the ring-fenced fund;
 - (ii) volatility of these those amounts over time; and
 - (iii) the proportion of its total own-funds represented by restricted own-funds;
 - (c) the proportion of the insurer's total assets and SCR that the ringfenced fund represents, both individually for each ring-fenced fund and on a combined basis with the insurer's other ring-fenced funds; and
 - (d) the likely impact of the ring-fenced fund on the calculation of the insurer's SCR due to the reduced scope for risk diversification.
- (2) An insurer must determine technical provisions for each of its material ring-fenced funds in accordance with regulation 9.

3 Determining the SCR for ring-fenced funds

- (1) An insurer must calculate a notional SCR for each material ring-fenced fund and its residual assets and liabilities.
- (2) If the insurer has determined it has a non-material ring-fenced fund, the assets and liabilities of that ring-fenced fund must be included within the residual [assets and liabilities](#).
- (3) An insurer's SCR is the sum of —
 - (a) the notional SCRs for each material ring-fenced fund; and
 - (b) the SCR for the residual.
- (4) If a ring-fenced fund is determined to have a negative notional SCR, the notional SCR must be set to zero before being aggregated with positive notional SCRs.
- (5) An insurer must determine its notional SCRs before making any adjustment to its basic own-funds, to avoid circularity in the calculation.
- (6) An insurer must calculate its notional SCRs in accordance with regulation [12 or 36 \(as applicable\)](#).

SCHEDULE 6

[Regulations 24 and 39(2)]

REQUIREMENTS FOR THE USE OF EXTERNAL CREDIT ASSESSMENTS

- (1) An insurer must only use external credit assessment issued by an ECAI that is approved by the Authority.
- (2) An insurer may nominate a different ECAI for each of its asset, liability and counterparty exposures. **In relation to an insurer,** when nominating an ECAI the following requirements must be met —
 - (a) **the** insurer must use the same ECAI for all exposures of a particular type;
 - (b) **the** insurer must use its nominated ECAIs in a continuous and consistent way over time;
 - (c) **the** insurer must only use nominated ECAI credit assessments that take into account all amounts of principal and interest owed to it;
 - (d) if only one credit assessment is available from a nominated ECAI for an item, that credit assessment must be used to determine the capital requirements for that item;
 - (e) if two credit assessments are available for the same item and they differ, the assessment that would generate the highest solvency capital requirement must be used;
 - (f) if more than two credit assessments are available for the same item and they all differ, the insurer must only consider the two assessments that would generate the lowest solvency capital requirements, and paragraph (e) applies to these two assessments;
 - (g) both solicited and unsolicited credit assessments from ECAIs must be taken into account; and
 - (h) if only one credit assessment is available for a securitisation position it must be assumed that no credit assessment is available and the capital requirements for that item will be derived as if no credit assessment by a nominated ECAI is available.
- (3) Credit assessments from a nominated ECAI for an issuer within a corporate group must not be used as the credit assessment for another issuer within the same corporate group.
- (4) Where a credit assessment exists for a specific issuing program or facility to which the item constituting the exposure belongs, that credit assessment must be used.
- (5) Where no directly applicable credit assessment exists for a certain item, but a credit assessment exists for a specific issuing program or facility to which the item constituting the exposure does not belong or a general

credit assessment exists for the issuer, that credit assessment must be used in either of the following cases —

- (a) it produces the same or higher capital requirement than would otherwise be the case and the exposure in question ranks pari passu or junior in all respects to the specific issuing program or facility or to senior unsecured exposures of that issuer, as relevant; or
- (b) it produces the same or lower capital requirement than would otherwise be the case and the exposure in question ranks pari passu or senior in all respects to the specific issuing program or facility or to senior unsecured exposures of that issuer, as relevant,

and in all other cases, insurers must consider that there is no credit assessment by a nominated ECAI available for the exposure.

SCHEDULE 7

[Regulations 44 to 46]

ASSESSING THE QUALITY OF BASIC OWN-FUND ITEMS INTO TIER 1, TIER 2
AND TIER 3**1 Tier 1 basic own-fund items**

- (1) The following basic own-fund items are classed as Tier 1, if they meet all of the features in subparagraph 1(3) —
 - (a) paid-up ordinary share capital and the paid-up related share premium account;
 - (b) paid-up initial funds, members' contributions or the equivalent basic own-fund item for mutual and mutual-type entities;
 - (c) paid-up subordinated mutual member accounts;
 - (d) surplus funds that are not considered as insurance liabilities;
 - (e) paid-up preference shares and the paid-up related share premium account;
 - (f) the reconciliation reserve;
 - (g) any other item that meets the requirements of paragraph 1(3), subject to the approval of the Authority; and
 - (h) paid-up subordinated liabilities.
- (2) The reconciliation reserve in subparagraph (1)(f) is —
 - (a) the insurer's total own-funds; less
 - (b) the amount of own shares held by the insurer, both direct and indirect holdings; less
 - (c) foreseeable dividends, distributions and charges determined under paragraphs (4) and (5) respectively; less
 - (d) the items in subparagraphs (1)(a) to (1)(e) and (1)(g) (tier 1 own-funds), paragraphs 2(1)(a) to 2(1)(e) (tier 2 basic own-funds), and paragraphs 3(1)(a) to 3(1)(d) (tier 3 basic own-funds).
- (3) The required features for an own-fund item to be classed as Tier 1 are —
 - (a) the item is either immediately available to meet the insurer's obligations or becomes available at the point the insurer has insufficient eligible capital resources to meet its capital requirements and does not hinder the recapitalisation of the insurer;
 - (b) for an item referred to in subparagraphs (1)(a), (1)(b), (1)(c), (1)(e), (1)(h) and (1)(g) if applicable —

- (i) the item does not include incentives to repay or redeem that item in a way that increases the likelihood that the insurer will repay or redeem that item if it has the option to do so; and
 - (ii) the item provides the insurer with full flexibility over the distributions of the basic own-fund item;
- (c) for an item referred to in subparagraphs (1)(a), (1)(b), and (1)(g), if applicable –
 - (i) the item ranks after all other claims in the event of winding-up proceedings of the insurer; and
 - (ii) the item either does not have a fixed maturity date or, if the insurer has a fixed maturity, is of the same maturity as the insurer;
- (d) for an item referred to in subparagraphs (1)(a), (1)(b), and (1)(g) if applicable, in subparagraph (b)(ii) full flexibility over the distributions is provided if all of the following conditions are met –
 - (i) there is no obligation for the insurer to make distributions;
 - (ii) non-payment of distributions does not constitute an event of default of the insurer;
 - (iii) the cancellation of distributions imposes no restrictions on the insurer; there is no preferential distribution treatment regarding the order of distribution payments and the terms of the contractual arrangement governing the item do not provide preferential rights to the payment of distributions; and
 - (iv) distributions are only paid out of distributable items;
- (e) for an item referred to in subparagraphs (1)(c), (1)(e), (1)(h) and (1)(g) if applicable, the item ranks –
 - (i) to the same degree as, or ahead of, items in subparagraphs (1)(a) and (1)(b);
 - (ii) after Tier 2 and Tier 3 items; and
 - (iii) after the claims of all policyholders and non-subordinated creditors.
- (f) for an item referred to in subparagraphs (1)(c), (1)(e), (1)(h) and (1)(g) if applicable, the item possesses one of the three following mechanisms, to be triggered when the insurer is significantly not in compliance with its SCR –
 - (i) the nominal or principal amount of the item is written down in such a way that all of the following are reduced –
 - (A) the claim of the holder in the event of winding-up proceedings;

- (B) the amount required to be paid on repayment or redemption of that item; and
 - (C) any distributions paid on that item.
 - (ii) the item automatically converts into an item listed in subparagraphs (1)(a) and (1)(b) and the provisions governing the conversion specify either –
 - (A) the rate of conversion and a limit on the permitted amount of conversion; or
 - (B) a range within which the instruments will convert into an item listed in paragraphs (1)(a) and (1)(b); or
 - (iii) another mechanism that achieves an equivalent outcome to those in subparagraphs (f)(i) and (f)(ii).
 - (g) For an item referred to in subparagraphs (1)(c), (1)(e), (1)(h) and (1)(g) if applicable –
 - (i) the item does not have a fixed maturity date;
 - (ii) the first contractual opportunity to repay or redeem the item does not occur before 5 years from the date of its issuance;
 - (iii) the item may only allow for repayment or redemption of that item between 5 and 10 years after the date of issuance if an insurer's SCR is exceeded by 150%; and
 - (h) for an item referred to in paragraphs (1)(c), (1)(e), (1)(h) and (1)(g) if applicable, in subparagraph (b)(ii), full flexibility over the distributions is provided if all of the following conditions are met –
 - (i) the insurer has full discretion at all times to cancel distributions in relation to the item for an unlimited period and on a noncumulative basis and the insurer may use the cancelled payments without restriction to meet its obligations as they fall due;
 - (ii) there is no obligation to substitute the distribution by a payment in any other form;
 - (iii) there is no obligation to make distributions in the event of a distribution being made on another own-fund item;
 - (iv) non-payment of distributions does not constitute an event of default of the insurer;
 - (v) the cancellation of distributions imposes no restrictions on the insurer; and
 - (iv) distributions are only paid out of distributable items.
- (4) Under subparagraph (2)(c), insurers must consider a dividend or distribution to be foreseeable when it has been either declared or approved by the Board, regardless of any requirement for approval at an annual general meeting or equivalent.

- (5) Under subparagraph (2)(c), insurers must consider the amount of foreseeable charges taken into account to be –
- (a) the amount of taxes which are foreseeable and are not already recognised as a liability on the regulatory balance sheet; or
 - (b) the amount of any obligations or circumstances arising during the related reporting period which are likely to reduce the profits of the insurer which have not been appropriately captured by the valuation of assets and liabilities under regulation [Part 2](#).

2 Tier 2 basic own-fund items

- (1) The following basic own-fund items are classed as Tier 2, if they meet all of the features in subparagraph (2) –
- (a) called up but unpaid ordinary share capital and the related share premium account;
 - (b) initial funds, members' contributions or the equivalent basic own-fund item for a mutual or mutual-type insurer;
 - (c) subordinated mutual member accounts;
 - (d) preference shares and the related share premium account;
 - (e) any other item that meets the requirements of paragraph (2), subject to the approval of the Authority; and
 - (f) subordinated liabilities.
- (2) The required features for an own-fund item to be classed as Tier 2 are –
- (a) the item ranks after the claims of all policyholders and non-subordinated creditors of the insurer;
 - (b) the item is undated or has an original maturity of at least 10 years;
 - (c) the first contractual opportunity to repay or redeem the item does not occur before 5 years from the date of issuance;
 - (d) the item may include limited incentives to repay or redeem that item, provided that these do not come into effect before 10 years from the date of issuance, as long as these incentives do not prevent any of the other requirements of this paragraph from being met;
 - (e) the item provides for the suspension of repayment or redemption of that item in circumstances where the insurer is not in compliance with its SCR or the repayment or redemption of that item would cause such non-compliance;
 - (f) the item meets the Tier 1 features set out in paragraph 1(3), but the limit set in regulation [44\(3\)](#) for items of its type, is exceeded so it is instead classified as Tier 2 under regulation [44\(2\)\(a\)\(ii\)](#);
 - (g) for items referred to in subparagraph (1)(a), (1)(b) and (1)d, unless specified under Manx legislation, the time period between calling up to pay and the item becoming paid-up must not be longer than

three months and, during this period, these own-fund items are considered called up but unpaid and are deemed available to absorb losses; and

- (h) for items which are considered called-up but unpaid, the contractual terms of the own-fund item must include the obligation for the unpaid amount to be paid in the event of the insurer not being in compliance with its SCR or entering into wind-up procedures prior to payment of called up items being received.

3 Tier 3 basic own-fund items

- (1) The following basic own-fund items are classed as Tier 3 if they meet all of the features in subparagraph (2) —
 - (a) subordinated mutual member accounts;
 - (b) preference shares and the related share premium account;
 - (c) an amount equal to the value of net deferred tax assets; and
 - (d) any other item that meets the requirements of paragraph (2), subject to the approval of the Authority; or
 - (e) subordinated liabilities.
- (2) The required features for an own-fund item to be classed as Tier 3 are —
 - (a) the item ranks after the claims of all policyholders and non-subordinated creditors of the insurer;
 - (b) the item is undated or has an original maturity of at least 5 years, and where the maturity date is the first contractual opportunity to repay or redeem the item; and
 - (c) the item may include limited incentives to repay or redeem that item.
- (3) Any basic own-fund items referred to in paragraph 1(1) or paragraph 2(1) (as applicable) of this Schedule that do not meet the features set out in paragraphs 1(3) and 2(2) (as applicable), of this Schedule (as applicable) and which have not been approved as ancillary own-funds under [regulation 46\(1\)](#), are classified as Tier 3 basic own-fund items.