



Banc Ceannais na hÉireann
Central Bank of Ireland

Eurosystem

Guidance on Applications for Approval of Ancillary Own Funds – 2018

1. Overview

- 1.1 “Solvency II Information Note 1 – Applications for approval of certain items specified in Article 308a of the Solvency II Directive”, “Solvency II Information Note 3 – Applications for approval of certain items specified in Article 308a of the Solvency II Directive” and “Solvency II Information Note 4 – Applications for approval of certain items specified in Article 308a of the Solvency II Directive – Undertaking Specific Parameters” have been replaced by the following:
- Guidance on Applications for Approval of Ancillary Own Funds;
 - Guidance on Applications for Approval of Basic Own Funds & Capital Contributions;
 - Guidance on Applications for Approval of the Matching Adjustment;
 - Guidance on Applications for Approval of the Volatility Adjustment;
 - Guidance on Applications for Approval of Transitional Risk Free Interest Rates;
 - Guidance on Applications for Approval of Transitional Technical Provisions;
 - Guidance on Applications for Approval of Undertaking Specific Parameters.
- 1.2 Regulation 105 of the European Union (Insurance and Reinsurance) Regulations 2015 (S.I. 485 of 2015) (hereafter “Regulation 105”) permits (re)insurance undertakings to use ancillary own-fund items, subject to prior approval by the Central Bank of Ireland (hereafter ‘Central Bank’).

2. Approvals Process for Applications

- 2.1 This document provides guidance in relation to the Central Bank's requirements for applying to use ancillary own-fund items outlined in Regulation 105. In order to ensure an efficient application process and avoid unnecessary delays in the review of those applications it is vital that firms submit applications that include all relevant information necessary for the assessment and decision by the Central Bank. The complete application should be submitted in electronic format to your usual supervisory contact.

3. Ancillary Own Fund Items

- 3.1 As per Regulation 105, in order for ancillary own-fund items to be recognised in determining own funds, Central Bank approval is required.
- 3.2 Applications for approval for the use of each ancillary own fund item should include all elements required in the Commission Implementing Regulation 2015/499 on the Approval for the use of Ancillary Own-Fund Items¹ (hereafter “Implementing Regulation”). A checklist based on the relevant Articles of the Implementing Regulation is attached below. Failure to provide all of the necessary information will result in the application being deemed incomplete.

¹ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015R0499&from=EN>

Appendix 1 – Contents of Application Checklist

- Complete all sections of this checklist.
- Insert the relevant section or page number from your application in the column marked 'Applicant'.

	Applicant
Article 1 - General features of the application	
1. An insurance or reinsurance undertaking shall submit a written application to the Central Bank for approval of each ancillary own-fund item.	
2. The application shall be submitted in English (or Irish if desired).	
3. The application shall be approved by the Board of the insurance or reinsurance undertaking, and documentary evidence of the approval shall be submitted.	
4. The application shall consist of a cover letter and supporting evidence.	

Article 2 - Cover letter	
1. The insurance or reinsurance undertaking shall submit a cover letter confirming that:	
(a) any legal or contractual terms governing the ancillary own-fund item or any connected arrangement are unambiguous and clearly defined;	
(b) the amount ascribed to the ancillary own-fund item in the application complies with Regulation 105(2);	
(c) the economic substance of the ancillary own-fund item, including how the item provides basic own funds once called up, has been fully reflected in the application;	
(d) taking into account likely future developments, as well as the circumstances at the date of the application, the insurance or reinsurance undertaking considers that the ancillary own-fund item complies with the	

criteria for the classification of own funds;	
(e) no facts have been omitted which if known by the Central Bank could influence its decision regarding whether to approve; an ancillary own-fund item, the amount for which approval of an item shall be granted, or the time period for which approval of a calculation method shall apply.	
2. The cover letter shall also list the other applications submitted by the insurance or reinsurance undertaking, or currently foreseen within the next six months, together with the corresponding application dates;	
3. The cover letter shall be signed by persons authorised to sign on behalf of the Board of the insurance or reinsurance undertaking.	

Article 3 - Amount or method	
1. The application by the insurance or reinsurance undertaking shall seek approval of a specified monetary amount for an ancillary own-fund item, or, a method to determine the amount of an ancillary own-fund item.	
2. Where the insurance or reinsurance undertaking seeks approval of a specified monetary amount, the application shall include an explanation for the amount, based on prudent and realistic assumptions.	
3. Where the insurance or reinsurance undertaking seeks approval of a calculation method, it shall provide:	
(a) an explanation of the method and how it reflects the loss-absorbency of the ancillary own-fund item;	
(b) a description of any assumptions upon which the method relies and how these assumptions are prudent and realistic;	
(c) the item's expected initial amount that has been calculated in accordance with the method and a justification of that amount;	
(d) an explanation of the validation processes the insurance or reinsurance undertaking will implement to ensure that the results of the method continue to reflect the loss-absorbing capacity of the item on an ongoing basis.	

Article 4 - Supporting evidence	
1. The supporting evidence shall contain sufficient information to allow the Central Bank to assess whether the application complies with the criteria determined in Regulation 105 and Articles 62 to 65 of Commission Delegated Regulation (EU) 2015/35, ('Delegated Regulation') and shall contain at least the information described in paragraphs 2 to 6.	
2. The insurance or reinsurance undertaking shall provide information regarding the nature of the ancillary own-fund item and the loss absorbing capacity of the basic own-fund item into which the ancillary own-fund item converts on being called up, including:	
(a) the item's legal or contractual terms, together with the terms of any connected arrangement and evidence that the counterparty has entered into, or will enter into, the contract and any connected arrangement;	
(b) evidence that the contract and any connected arrangements are legally binding and enforceable in all relevant jurisdictions, based on a legal opinion;	
(c) the period during which the contract is in effect and, if different, the period during which the insurance or reinsurance undertaking may call upon the item;	
(d) confirmation that the ancillary own-fund item, once that item has been called up and paid in, would display all of the features of a basic own-fund item classified in Tier 1 in accordance with Article 71 of the Delegated Regulation, or all of the features of a basic own-fund item classified in Tier 2 in accordance with Article 73 of the Delegated Regulation;	
(e) confirmation that the item's contractual terms do not contain any provision which might create a disincentive for the insurance or reinsurance undertaking to call upon the item to absorb losses or place any constraint upon its ability to be callable on demand;	
(f) confirmation that the ancillary own-fund item or its benefits would only be available to the insurance or reinsurance undertaking and would not be transferrable or assignable to any other party, or be able to be	

encumbered in any other way;	
(g) any factors which restrict the conditions under which the insurance or reinsurance undertaking might seek to call upon the item, including but not limited to conditions of stress specific to the insurance and reinsurance undertaking or wider market stress;	
(h) whether the insurance or reinsurance undertaking has, or in the future may have, any obligation to, or any expectation or understanding that it will pay funds or provide any other benefit to the counterparty or to a third party in connection with the item, other than in the event of repayment of a basic own-fund item which would satisfy the features in Article 71(1)(h), and Article 73(1)(d) of the Delegated Regulation;	
(i) a copy of the medium term capital management plan including how the item will contribute to the insurance or reinsurance undertaking's existing capital structure, and how the item might enable the insurance or reinsurance undertaking to meet its existing or future capital requirements.	
3. Except where Article 63(6) of the Delegated Regulation applies and the status of a group of counterparties may be assessed as though it were a single counterparty, the insurance or reinsurance undertaking shall provide information regarding the status of each counterparty including:	
(a) the names and a description of each counterparty, including the nature of any relationship between the insurance or reinsurance undertaking and the counterparty;	
(b) an assessment of the risk of default of the counterparties in order to support the assessment by the Central Bank specified in Article 63(2) of the Delegated Regulation;	
(c) an assessment of the liquidity position of the counterparties in order to support the assessment by the Central Bank specified in Article 63(3) of the Delegated Regulation;	
(d) an assessment of the counterparties' willingness to pay in order to support the supervisory assessment specified in Article 63(4) of the Delegated Regulation;	

(e) a description of the range of circumstances in which the insurance or reinsurance undertaking might seek to call upon the item including current expectations as to when the item might be called prior to or at the point of non-compliance with the Solvency Capital Requirement ("SCR") or Minimum Capital Requirement ("MCR"):	
(f) information on any other factors relevant to the status of the counterparties to support the assessment by the Central Bank specified in Article 63(5) of the Delegated Regulation.	
Where the counterparties are treated as a group of counterparties in accordance with Article 63(6) of the Delegated Regulation, the information in points (a) to (f) shall be provided in respect of the group of counterparties.	
Where the counterparty is a member of the same group or subgroup as the insurance or reinsurance undertaking by virtue of Regulation 216 of SI 485 and has commitments under ancillary own-fund items to different entities within the group, the information in points (b) to (f) shall evidence the ability of the counterparty to satisfy multiple calls on ancillary own-funds items at the same time, having regard to the circumstances and the entities of the group.	
4. The insurance or reinsurance undertaking shall provide information regarding the recoverability of the funds, including:	
(a) details of arrangements which might enhance the recoverability of the item including the availability of collateral;	
(b) details of whether national law, in any relevant jurisdiction, prevents a call being made or satisfied, including in the event of resolution, administration or insolvency proceedings being initiated in respect of the insurance or reinsurance undertaking;	
(c) details of arrangements or circumstances that might prevent a call being made or satisfied in deteriorating financial conditions including non-compliance with the SCR or MCR.	
5. The insurance or reinsurance undertaking shall provide information regarding past calls including:	
(a) information on its experience of past calls or the collection of other funds due from the same or similar counterparties in the same or similar	

circumstances;	
(b) all relevant available market data relating to past calls or the collection of other funds due from the same or similar counterparties in the same or similar circumstances;	
(c) an assessment as to the relevance and reliability of the information described in points (a) and (b) as regards the expected outcome of future calls by the insurance or reinsurance undertaking.	
6. The insurance or reinsurance undertaking shall provide a description of the processes it has in place to identify any future changes, as specified in Article 62(1)(d) of the Delegated Regulation, which may have the effect of reducing the loss-absorbency of the ancillary own-fund item. The description shall include at least:	
(a) how it intends to identify changes to:	
i. the structure or contractual terms of the arrangement, including the cancellation or expiry of an ancillary own-fund item or the use or call up partly or wholly of an ancillary own-fund item;	
ii. the status of the counterparties concerned, including the default of a counterparty;	
iii. the recoverability of the ancillary own-fund item, including calls on other ancillary own-fund items provided by the same counterparties.	
(b) how it intends to inform the Central Bank of changes identified, including what mechanisms it has put in place to identify when the change should be escalated to the Board of the undertaking and to the supervisory authority.	

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