

ANNEX

(Paragraph 5.7.12 of Chapter 5)

General requirement

1.1 An authorised undertaking may, subject to the prior approval of the competent authority grant an intra-group loan to an undertaking or a company within its group. Such a request shall be backed by a business case and be covered by a formal agreement (an intra-group loan agreement) which shall be submitted to the competent authority for its prior approval.

1.2 An authorised undertaking shall not be permitted to grant an intra-group loan within the first two years of its authorisation in terms of the Act.

1.3 An authorised undertaking shall not be permitted to grant an intra-group loan where this will lead to the double gearing of the licensable undertakings involved.

1.4 The intra-group loan agreement referred to in paragraph 1.1, which shall be entered into on an arms-length basis shall contain the following minimum criteria:

- (a) a minimum rate of interest payable commensurate with an arms-length transaction;
- (b) be subject to a prescribed definite period and shall not be open-ended;
- (c) a clear repayment period, which could be in the form of a bullet transaction repaid at the end of the loan period or in instalments during the life of the loan;
- (d) where the agreement is entered into with the immediate parent undertaking of the authorised undertaking, the agreement shall contain a clause to the effect that any dividend payments shall be reduced from the loan.

Conditions applicable to an authorised insurance undertaking

1.5 An intra-group loan entered into by an authorised insurance undertaking shall not exceed:

- (a) 25% of the assets valued in accordance with paragraph 5.2.1(a), the EU Commission Delegated Regulation and any regulatory and implementing technical standards issued pursuant to Article 86 of the Solvency II Directive (Solvency II valued assets);
- (b) the basic own funds in excess of the Solvency Capital Requirement of the authorised insurance undertaking, if such excess is higher than 25% of the Solvency II valued assets.

Insurance Rules - Valuation of assets and liabilities, technical provisions, own funds, Solvency Capital Requirement, Minimum Capital Requirement and investment rules (Solvency II – Pillar 1 Requirements)

1.6 An authorised insurance undertaking which enters into an intra-group loan agreement, shall ensure that the counterparty to the loan has a security rating of at least BBB or equivalent issued by a reputable credit rating agency. Where the counterparty does not meet the minimum rating requirement it shall meet the following tests based on the audited financial statements of the counterparty which shall be duly signed by an auditor within the preceding 12 months period prior to the seeking of the approval of the competent authority for the granting of the intra-group loan:

- (a) it shall have a clean audit report;
- (b) it shall maintain a gearing ratio of less than 50%;
- (c) it shall maintain an interest cover of at least 3 times; and
- (d) it shall maintain a current ratio in excess of 1.

Conditions applicable to an authorised reinsurance undertaking

1.7 An intra-group loan entered into by an authorised reinsurance undertaking shall not exceed:

- (a) 50% of the assets valued in accordance with paragraph 5.2.1(a), the EU Commission Delegated Regulation and any regulatory and implementing technical standards issued pursuant to Article 86 of the Solvency II Directive (Solvency II valued assets);
- (b) the basic own funds in excess of the Solvency Capital Requirement of the authorised insurance undertaking if such excess is higher than 50% of the Solvency II valued assets.

1.8 An authorised reinsurance undertaking which enters into an intra-group loan agreement shall ensure that the counterparty to the loan has a security rating of at least BBB or equivalent issued by a reputable credit rating agency, provided that where the counterparty does not meet the minimum rating requirement it shall meet the following tests based on the audited financial statements of the counterparty which shall be duly signed by an auditor within the preceding 12 months period prior to seeking of the approval of the competent authority for the granting of the intra-group loan:

- (a) it shall have a clean audit report;
- (b) it shall maintain a gearing ratio of less than 50%;
- (c) it shall maintain an interest cover of at least 3 times; and
- (d) it shall maintain a current ratio in excess of 1.

Insurance Rules - Valuation of assets and liabilities, technical provisions, own funds, Solvency Capital Requirement, Minimum Capital Requirement and investment rules (Solvency II – Pillar 1 Requirements)

Conditions applicable to a captive insurance undertaking or a captive reinsurance undertaking

1.9 An intra-group loan entered into by a captive insurance undertaking or a captive reinsurance undertaking shall not exceed:

- (a) 50% of the assets valued in accordance with paragraph 5.2.1(a), the EU Commission Delegated Regulation and any regulatory and implementing technical standards issued pursuant to Article 86 of the Solvency II Directive (Solvency II valued assets);
- (b) the basic own funds in excess of the Solvency Capital Requirement of the authorised insurance undertaking if such excess is higher than 50% of the Solvency II valued assets.

1.10 The intra group loan agreement entered into by a captive insurance undertaking or a captive reinsurance undertaking shall contain a clause which states that insurance claims can be paid through a reduction of the intra-group loan at the discretion of the captive insurance undertaking or a captive reinsurance undertaking.

1.11 Where the counterparty to the loan entered into by a captive insurance undertaking or a captive reinsurance undertaking is not rated and there is an undertaking within the group which has an investment grade rating, the captive insurance undertaking or the captive reinsurance undertaking shall ensure that the rated undertaking is a party to the agreement and that such rated undertaking guarantees the repayment of the intra-group loan.