

ANNEX

(Paragraph 5.7.12 of Chapter 5)

Intra-Group Loans

General requirements

1.1 An authorised insurance undertaking, an authorised reinsurance undertaking, a captive insurance undertaking and a captive reinsurance undertaking (“an authorised undertaking”) may, subject to the prior approval of the competent authority, grant an intra-group loan to another entity which forms part of the same 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 where this will lead to the double gearing of the licensable entities involved.

1.3 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 programme, which could be in the form of a lump-sum 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.

1.4 The intra-group loan agreement referred to in paragraph 1.1, may also contain other provisions which ensure the repayment of the loan, such as a guarantee by another group undertaking or a right of set-off.

1.5 The requirements and conditions contained in this Annex are without prejudice to the Prudent Person Principles set out in section 5.7 of this Chapter of the Insurance Rules.

1.6 The requirements contained in this Annex shall apply to intra-group loan agreements entered into, on or after, **1st January 2017**.

Specific conditions applicable to authorised undertakings, other than captive insurance undertakings or captive reinsurance undertakings

1.7 An authorised insurance undertaking or 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. 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%; and
- (c) it shall maintain a current ratio in excess of 1.

1.8 The competent authority does not expect an authorised insurance undertaking to grant intra-group loans in its initial stages of its operations unless it is able to satisfy the authority that the loaned funds are not required to sustain its operations on an ongoing basis.