2016 Volatility Reserve Regulation

(Schwankungsrückstellungs-Verordnung 2016 - SWRV 2016)

Full title

Regulation of the Financial Market Authority (FMA) on the Establishment of a Volatility Reserve for Non-life and Accident Insurance by Insurance and Reinsurance Undertakings (2016 Volatility Reserve Regulation – SWRV 2016; Schwankungsrückstellungs-Verordnung 2016)
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Preamble / Promulgation Clause

Based on Article 139 of the 2015 Insurance Supervision Act - (VAG 2016 - Versicherungsaufsichtsgesetz 2016), as published in Federal Law Gazette I No. 34/2015, last amended by federal act in Federal Law Gazette I No. 112/2015, the following shall be determined by regulation with the consent of the Federal Minister of Finance:

Text

Section 1
General provisions
Insurance class and business line

Article 1. (1) For the purposes of this regulation, the following are deemed to be insurance classes:

1. Accident insurance
2. Liability insurance
   a) General liability insurance
   b) Nuclear liability insurance
3. Motor vehicle liability insurance
4. Motor vehicle insurance
5. Motor vehicle passenger insurance
6. Aviation insurance
   a) aviation liability insurance
   b) aircraft hull insurance
   c) aviation passenger insurance
7. Legal expenses insurance
8. Fire insurance
   a) Industrial fire insurance
   b) Fire business interruption insurance
   c) Other fire damage insurance
9. Burglary insurance
10. Water pipe damage insurance
11. Glass breakage insurance
12. Storm damage insurance

13. Household insurance
14. Hail insurance
15. Livestock insurance
16. Machinery insurance
    a) Machinery business interruption insurance
    b) Other machinery business insurance
17. Computer insurance
18. Transport insurance
    a) Travel baggage insurance
    b) Other transport insurance
19. Credit insurance
20. Construction insurance
21. Other insurance types

(2) For the purposes of this regulation, the following are deemed to be business lines:

1. Occupational invalidity insurance
2. Occupational accident insurance
3. Motor vehicle liability insurance
4. Other motor vehicle insurance;
5. Sea, air and transport insurance;
6. Fire and other kinds of property insurance:
    a) Fire insurance
    b) Hail insurance
    c) Other property insurance
7. General liability insurance
8. Credit and suretyship insurance:
    a) Credit insurance
    b) Suretyship insurance
9. Legal expenses insurance
10. Assistance
11. Miscellaneous financial losses
12. Other insurance types

(3) A level one insurance class is an insurance class denoted by a number in para. 1. A level one business line is an business line denoted by a number in para. 2. A level two insurance class is an insurance class denoted by a lower case letter in para. 1. A level two business line is an business line denoted by a lower case letter in para. 2.

(4) A volatility reserve shall be established for the level one insurance classes listed in para. 1 or for the level one business lines listed in para. 2 in accordance with the provisions of the third Section.

(5) Instead of for the level one insurance classes listed in para. 1, the volatility reserve may alternatively also be established for the level two insurance classes listed in para. 1. When establishing a volatility reserve for the business lines listed in para. 2, this obliged to be established specially for business line 6 (“fire and other property insurances”) and for business line 8 (“loan and surety insurance”) in level two. The establishing of the volatility reserve on the level of the business line in level one is not permitted for both of these business lines.

(6) The transition from level one to level two is only possible in that financial year, in which the prerequisites pursuant to Article 9 are met for the first time for at least one of the level two insurance classes. If the prerequisites are fulfilled for the first time simultaneously for more than one of the level two insurance classes, any volatility reserve shall be divided up on the basis of the required amounts.

(7) If the prerequisites in Article 9 no. 1 within level two are no longer fulfilled for any of the insurance classes pursuant to para. 1, then a transition may be made to the corresponding level one insurance class.

(8) The principle of continuity shall be applied for the exercising of the discretion pursuant to Article 1 para. 4. Changing from the insurance classes listed in para. 1 to the business lines listed in para. 2, or changing from the business lines listed in para. 2 to the insurance classes listed in para. 1 shall only be permitted in the event of particular circumstances prevailing and taking into account the objective described in Article 222 para. 2 first sentence UGB. The undertakings shall explain the changes in the financial statements extended to include the notes and shall present their influence on the net assets, financial position and the results of operations of the undertaking. An existing volatility reserve shall be divided up proportionally on the basis of the newly selected insurance classes and business lines. The date from the observation period pursuant to Article 2 shall be adapted to the newly selected insurance classes and business lines.

Scope of application

Article 1a. The provisions in the regulation shall apply to insurance undertakings pursuant to Article 5 no. 1 VAG 2016 and reinsurance undertakings pursuant to Article 5 no. 2 VAG 2016.

Observation period

Article 2. (1) The observation period shall be the 15 financial years directly preceding the current financial year for hail insurance pursuant to Article 1 para. 1 no. 14 and para. 2 no. 6 point b, and the 30 financial years directly preceding the current financial year for credit insurance pursuant to Article 1 para. 1 no. 19, para. 2 no. 8 point a respectively.

(2) If an insurance undertaking or reinsurance undertaking has not yet operated an insurance class or a business line throughout the entire observation period pursuant to para. 1, but has done so for at least ten financial years prior to the financial year, all financial years shall be regarded as the observation period.

Claims ratio, average claims ratio, deviation

Article 3. (1) The claims ratio for a given financial year is the ratio of retained insurance benefits, including expenses for retained rebates, to retained premiums earned, expressed as a percentage.

(2) The average claims ratio is the arithmetic mean of the claims ratios during the observation period pursuant to Article 2.

(3) The deviation is the difference between the average claims ratio (Article 3 para. 2) for the observation period pursuant to Article 2 and the claims ratio for the respective financial year pursuant to para. 1.

(4) The retained insurance benefits correspond to the expenses for insurance claims excluding expenses associated with settling and preventing claims.

Expense ratio, average expense ratio

Article 4. (1) The expense ratio for a given financial year is the ratio of operating expenses for insurance operations, including underwriting expenses and expenses associated with settling and preventing claims less underwriting income, to premiums earned, expressed as a percentage. Expenses and income from reinsurance cessions included in the expenses and income used to calculate the expense ratio shall not be taken into account (gross amount).

(2) For insurance classes pursuant to Article 1 para. 1 and business lines pursuant to Article 1 para. 2 respectively, a uniform expense ratio shall be calculated.

(3) If an expense ratio is calculated for an individual insurance class pursuant to Article 1 para. 1 or for an individual business line pursuant to Article 1 para. 2 on the basis of internal count accounting, then this may be applied for this individual insurance class or for this individual business line. Expenses shall be allocated according to their cause, and changes may only be made to the allocation process used in special circumstances.

(4) The average expense ratio is the arithmetic mean of the expense ratios during the last three financial years in the observation period pursuant to Article 2.

Marginal claims ratio

Article 5. The marginal claims ratio is the difference between 100% and the average expense ratio.

Variance, standard deviation

Article 6. The variance in the claims ratios for the observation period pursuant to Article 2 is calculated by dividing the sum of the squared deviations (Article 3 para. 3) in the observation period by the number of financial years in the observation period minus one. The standard deviation is the square root of the variance.

Claims shortfall, claims surplus

Article 7. (1) If the claims ratio for the financial year pursuant to Article 3 para. 1 is lower than the average claims ratio pursuant to Article 3 para. 2, the claims shortfall shall be calculated as the product of the retained premiums earned during the financial year and the difference between the average claims ratio and the claims ratio for the financial year.

(2) If the claims ratio for the financial year pursuant to Article 3 para. 1 is higher than the average claims ratio pursuant to Article 3 para. 2, the claims surplus shall be calculated as the product of the retained premiums earned during the financial year and the difference between the claims ratio for the financial year and the average claims ratio. If the average claims ratio is lower than the marginal claims ratio pursuant to Article 5, the claims surplus shall be reduced by 60% of the product of the retained premiums earned during the financial year and the difference between the marginal claims ratio and average claims ratio, but by no more than the amount of the claims surplus.

Section 2

Procedure for indirect business

Article 8. (1) The direct and indirect business of an insurance class or a business line may be aggregated for the purposes of establishing a volatility reserve. If the volatility reserve is calculated separately, for indirect business, the insurance classes referred to in para. 1 nos. 3 to 5, nos. 8 to 13 and nos. 16 and 17 may be merged.

(2) The expense ratios pursuant to Article 4 may be calculated separately for direct and indirect business.

(3) Changing the procedure selected pursuant to para. 1 or para. 2 shall only be permitted upon this regulation entering into force and thereafter in the event of particular circumstances prevailing, and shall be required to satisfy the principle of continuity. Article 1 para. 8 third sentence shall apply.

Section 3

Establishing and releasing a volatility reserve

Prerequisites for establishing a volatility reserve

Article 9. A volatility reserve pursuant to this regulation shall be established for each insurance class pursuant to Article 1 para. 1 or each business line pursuant to Article 1 para. 2, if:

1. the average retained premiums earned during the past three financial years including the current financial year exceed EUR 150 000;
2. the standard deviation of the claims ratios for the observation period pursuant to Article 2 from the average claims ratio pursuant to Article 3 para. 2 is at least 5 percentage points; and
3. the sum of the claims ratio and expense ratio pursuant to Article 2 exceeded 100% at least once during the observation period.

Required amount

Article 10. (1) The required amount of the volatility reserve shall be six times in the case of hail insurance pursuant to Article 1 para. 1 no. 14 and Article 1 para. 2 no. 6 point b and credit insurance pursuant to Article 1 para. 1 no. 19 and Article 1 para. 2 no. 8 point a, and in all other insurance classes pursuant to Article 1 para 1 and business lines pursuant to Article 1 para. 2 four-and-a-half times the standard deviation of the claims ratios for the observation period from the average claims ratio, multiplied by the retained premiums earned in the balance sheet year.

(2) If the average claims ratio (Article 3 para. 2) is lower than the marginal claims ratio (Article 5), all insurance classes pursuant to Article 1 para. 1 and all business lines pursuant to Article 1 para. 2 except hail insurance shall carry out the following calculation: three times the difference between the marginal claims ratio and the average claims ratio multiplied by the retained premiums earned in the financial year shall be deducted from the amount calculated pursuant to para. 1. The insurance class hail insurance pursuant to Article 1 para. 1 no. 14 and the business line hail insurance pursuant to Article 1 para. 2 no. 6 point b shall be excluded.

(3) The volatility reserve may not exceed the required amount. If allocations pursuant to Article 11 or Article 12 result in the required amount being exceeded, the allocation shall be reduced accordingly. If the required amount at the end of the financial year is lower than the volatility reserve at the end of the previous financial year, the difference must always be released during the financial year. The terms of Article 14 para. 1 shall apply to the release.

Non-claim-based allocation

Article 11. Regardless of claim levels, 1.5% of the respective required amount shall initially be allocated to the volatility reserve in every financial year.

Claim-based allocation

Article 12. If the claims ratio for the financial year pursuant to Article 3 para. 1 is lower than the average claims ratio pursuant to Article 3 para. 2, the volatility reserve shall be increased by the claims shortfall pursuant to Article 7 para. 1.

Claim-based withdrawal

Article 13. If the claims ratio for the financial year pursuant to Article 3 para. 1 is higher than the average claims ratio pursuant to Article 3 para. 2, the volatility reserve shall be decreased by the claims surplus pursuant to Article 7 para. 2.

Releasing of the volatility reserve

Article 14. (1) If not all of the prerequisites defined in Article 9 for the establishment of a volatility reserve are met, the volatility reserve shall be released. This release may be distributed in an even manner across the current financial year and the following four financial years.

(2) The volatility reserve shall not be released if the prerequisites defined in Article 9 are not fulfilled during the current financial year but it is clear that they will be fulfilled again in the following financial year. In such a case, the volatility reserve from the end of the financial year preceding the current financial year shall be transferred unchanged to the balance sheet at the end of the financial year.

Section 4

Inclusion of new insurance classes and business lines

Article 15. (1) If the operation of a new insurance class pursuant to Article 1 para. 1 or a business line pursuant to Article 1 para. 2 is included, the third Section of this regulation shall apply for the first time as soon as a separate observation period of at least three years is available. The separate observation period shall begin no earlier than with the financial year in which the retained premiums earned for the insurance class or business line concerned exceed EUR 150 000 for the first time. The separate observation period shall be supplemented by the claims ratios for a ten-year observation period created from data for all insurance undertakings authorised in Austria to operate in the insurance class or business line concerned pursuant to Article 5 no. 1 VAG 2016 or reinsurance undertakings pursuant to Article 5 no. 2 VAG 2016; this data shall be provided to the insurance undertaking or reinsurance undertaking by the FMA.

(2) If, in the cases pursuant to para. 1, an expense ratio for the company cannot be calculated for earlier financial years in the observation period, the average expense ratio of the separate observation period shall be considered as the expense ratio for the earlier financial years.

Section 5
Entry into force and transitional provisions
Entry into force

Article 16. (1) This regulation shall enter into force on 1 January 2016 and shall apply for the first time for financial years that begin after 31 December 2015.

(2) The title of this regulation, Article 1a including heading, Article 2 para. 2 and Article 15 para. 1 last sentence in the version of the regulation published in Federal Law Gazette II no. 324/2016 shall enter into effect on the day following its publication.

Transitional provision

Article 17. (1) If a volatility reserve is reported in an insurance class pursuant to Article 1 para. 1 or in a business line pursuant to Article 1 para. 2 at the end of the financial year preceding the first-time application of this regulation and if, based on the calculation method used to date, the prerequisites for the establishment of a volatility reserve (Article 9) are also fulfilled in the financial year in which this regulation is applied for the first time but the prerequisites as defined in Article 9 are not met, Article 14 para. 1 shall apply accordingly.

(2) If the required amount calculated pursuant to Article 10 on the basis of this regulation is lower than the volatility reserve established for a particular insurance class pursuant to Article 1 para. 1 or business line pursuant to Article 1 para. 2 at the end of the financial year preceding the first-time application of this regulation, the provisions of Article 14 para. 1 shall apply with regard to releasing the differential amount.

(3) The allocation amounts arising in accordance with the third Section may be reduced pursuant to para. 4 during the financial year in which a volatility reserve is established for the first time and in the following six financial years.

(4) In applying para. 3, the allocation amounts arising for the individual insurance classes pursuant to Article 1 para. 1 or the business lines pursuant to Article 1 para. 2 shall be reduced in the proportion that corresponds to the ratio of the sum of all allocation amounts minus the sum of all calculated withdrawal amounts, provided that these are higher than the volatility reserve for the insurance class pursuant to Article 1 para. 1 or the business line pursuant to Article 1 para. 2 as at the end of the preceding financial year, to the sum of all allocation amounts. If the volatility reserve is calculated separately for direct and indirect business, then the reduction process shall be carried out separately for direct and indirect business.