



Maximum Interest Rate Regulation for Insurance Undertakings

(VU-HZV; *Versicherungsunternehmen-Höchstzinssatzverordnung*)

Full title

Regulation of the Financial Market Authority (FMA) determining a maximum interest rate for the calculation of the technical provisions in life assurance (Maximum Interest Rate Regulation for Insurance Undertakings – VU-HZV; *Versicherungsunternehmen-Höchstzinssatzverordnung*)

Original version: Federal Law Gazette II No. 299/2015

As amended by:

Federal Law Gazette II No. 152/2016

Federal Law Gazette II No. 266/2016

Preamble / Promulgation Clause

Based on Article 139 para. 1 in conjunction with para. 2 nos. 2 and 3 of the 2016 Insurance Supervision Act (VAG 2016 - *Versicherungsaufsichtsgesetz* 2016), published in Federal Law Gazette I No. 34/2015, last amended by the 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

Prudent person principle

Article 1. (1) The interest rate for calculating the technical provisions as referred to in Chapter 7 of the 2016 Insurance Supervision Act (VAG 2016; *Versicherungsaufsichtsgesetz*) in life assurance shall be determined in accordance with the prudent person principle. This shall mean in particular that it is not always permissible for the highest possible interest rate as defined in this Regulation to be applied.

(2) The interest rate for calculating the technical provisions should at any rate be chosen such that sufficient account is taken of ongoing compliance with the obligations arising from the insurance contracts, even if the capital markets, the cost structure or the technical parameters develop extremely negatively. In this regard, account should be taken of the following criteria in particular:

1. product features and risks;
2. product guarantees and options;
3. term of the obligation and any resulting reinvestment risks;
4. requirement for premiums to be sufficient pursuant to Article 92 para. 3 VAG 2016;
5. capital market situation.

Maximum assumed interest rate

Article 2. (1) The interest rate for calculating the technical provisions as referred to in Chapter 7 of the VAG 2016 must not amount to more than 0.50% for life assurance contracts. For state-sponsored retirement provision contracts pursuant to Articles 108g to 108i of the 1988 Income Tax Law (EStG 1988; *Einkommensteuergesetz*), Federal Law Gazette No. 400/1988, as amended by the federal act in Federal Law Gazette I No. 118/2015 (PZV), this interest rate may not exceed 0.50%.

(2) The interest rate for calculating the technical provisions for life assurance contracts denominated in a foreign currency may amount to a maximum of 60% of the average interest rate on government bonds in the currency concerned during the past ten years.

(3) The interest rates pursuant to para. 1 shall in any case also apply for the subsequent extensions of the term of insurance cover or increases in the premium, provided that the premium is increased by more than 25% of the premium when the contract was first concluded, and that this increase had not already been agreed upon at the time of concluding the contract.

(4) Where an annuity option is subsequently added to existing contracts, the interest rates pursuant to para. 1 shall apply to the retirement period.

(5) With regard to new contracts in the case of existing group insurance contracts, the interest rates pursuant to para. 1 shall apply.



(6) Paragraphs 1 to 5 shall not apply to:

1. unit-linked and index-linked life assurance contracts, with the exception of provisions concerning mortality, operating expenses or other risks;
2. single-premium contracts with a maximum term of eight years; and
3. non-bonus contracts.

The interest rate used for contracts pursuant to nos. 1 to 3 shall be lower by an adequate amount than the average net yield of the investments in life assurance.

Additional interest provision

Article 3. (1) Insurance undertakings shall establish an additional interest provision for their interest obligations towards the insured to the extent that the current or expected income from their financial management is not sufficient to cover these obligations. The additional interest provision shall be calculated and established in accordance with para. 2, provided that the calculation yields a value higher than 0.

(2) The additional interest provision (ZZR) shall be established in at least the following amount:

$$ZZR_t = \min\left(\frac{t - 2014}{7}; 1\right) \cdot DR_{t-1} \cdot \overline{RZ}_{t-1} \cdot \frac{\max(\overline{RZ}_{t-1} - RZS_{t-1}; 0)}{1,45\%}$$

The value of the ZZR in the year t shall be the product of the life/health insurance provision in the life balance sheet group at the time of $t-1$ (Article 144 para. 3 item D.II. VAG 2016) and the average guaranteed rate in the insurance undertaking's life assurance portfolio, where t denotes the financial year, DR_t the life/health insurance provision in the year t , ZZR_t the ZZR in the year t , \overline{RZ}_t the average guaranteed rate of an insurance undertaking in the year t and RZS_t the reference interest rate in the year t . In this context, the annual average government bond yield weighted by outstanding amounts or an index superseding it shall be used as the reference interest rate.

The average guaranteed rate in the year t , \overline{RZ}_t equals the quotient of the total guaranteed interest income in the year t and the life/health insurance provision in the life balance sheet group pursuant to Article 144 para. 3 item D.II. VAG 2016 at the time of $t-1$.

(3) The additional interest provision is a lump-sum provision which shall be posted as the life/health insurance provision and not allocated to the mathematical reserves of the individual insurance contracts.

(4) No additional interest provision need be established for insurance contracts pursuant to Articles 108g to 108i EStG 1988 (state-sponsored retirement provision) for which an additional provision is established pursuant to the Additional Provisions Regulation for State-sponsored Retirement Provision (PZV-ZRV; *Prämienbegünstigte Zukunftsvorsorge-Zusatzrückstellungs-Verordnung*), Federal Law Gazette II No. 297/2015 as amended.

(5) Where the total of all items pursuant to Article 4 para. 1 nos. 1 to 14 of the Life Assurance Profit Sharing Regulation (LV-GBV; *Lebensversicherung-Gewinnbeteiligungsverordnung*), Federal Law Gazette II No. 292/2015 as amended, is negative, the additional interest provision may be released in the amount of the difference only. The release amount shall be re-allocated to the additional interest provision in equal amounts over a period of no longer than five years from the release, as long as the value pursuant to para. 2 is not reached.

(6) Where the required provision pursuant to para. 2 is lower in the current financial year compared with the previous year, the additional interest provision may be released to that extent. The income from such a release shall be considered when calculating the assessment basis pursuant to Article 4 para. 1 no. 16 LV-GBV as amended until the total of all annual release amounts reaches the total of all expenses related to the allocation of the additional interest provision pursuant to Article 4 para. 1 no. 15 LV-GBV as amended.

Principle of continuity

Article 4. The calculation of the technical provisions in life assurance shall be subject to the principle of continuity and shall take appropriate account of the participation of the insured in the surplus over the entire term of the insurance contract.



Entry into force

Article 5. (1) This Regulation shall enter into force on 1 January 2016.

(2) Article 2 para. 1 shall be applied to insurance contracts that are concluded after 31 December 2015 or that stipulate commencement of insurance cover after 31 March 2016.

(3) Article 2 para. 3 in the version of Regulation amended in Federal Law Gazette II No. 152/2016 shall enter into force on 1 July 2016.

(4) Article 2 para. 1 in the version of the Regulation amended in Federal Law Gazette II No. 266/2016 shall enter into force on 1 January 2017 and shall be applied to insurance contracts that are concluded after 31 December 2016 or that stipulate commencement of insurances cover after 31 March 2016.