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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	17 September 2025
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	C(2025) 6032 final
Subject:	COMMISSION DELEGATED DECISION (EU) .../... on the renewal of the determination that the solvency regime in force in Brazil, Japan and Mexico applicable to undertakings with their head office in those third countries is provisionally equivalent to that laid down in Title I, Chapter VI of Directive 2009/138/EC of the European Parliament and of the Council; C(2025)6032 final - D/13164

Delegations will find attached document C(2025) 6032 final.

Encl.: C(2025) 6032 final

EUROPEAN
COMMISSION

Brussels, 17.9.2025
C(2025) 6032 final

COMMISSION DELEGATED DECISION (EU) …/…

of 17.9.2025

on the renewal of the determination that the solvency regime in force in Brazil, Japan and Mexico applicable to undertakings with their head office in those third countries is provisionally equivalent to that laid down in Title I, Chapter VI of Directive 2009/138/EC of the European Parliament and of the Council

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Commission Delegated Decision (EU) 2015/2290[1] granting provisional equivalence under Article 227 of Solvency II to Brazil, Mexico and Commission Delegated Decision (EU) 2016/310 granting provisional equivalence under Article 227 of Solvency II to Japan [2] apply since the 1st of January 2016 and expire on the 1st of January 2026.

According to Article 227(6) of the Solvency II Directive[3]: *"provisional equivalence shall be subject to renewals for further periods of 10 years where the criteria referred to in paragraph 5 continue to be met. The Commission shall adopt any such delegated act in accordance with Article 301a and assisted by EIOPA in accordance with Article 33(2) of Regulation (EU) No 1094/2010".*

In 2024 the Commission received assistance from European Insurance and Occupational Pensions Authority (EIOPA) for Brazil, Mexico and Japan which concluded that the conditions based on which the Commission adopted its 2015 Delegated Decisions continue to be met. These factual statements are reiterated and updated in the current the Commission Delegated Decision.

This Commission Delegated Decision renews the provisional equivalence for Brazil, Japan and Mexico for a period of 10 years as of 01.01.2026.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

This Commission Delegated Decision as required by Better Regulation guidelines, was published for "Have your say" feedback and received contributions from two stakeholders in support of the proposed action. The Commission services have analysed the comments received and concluded that it can proceed with the renewal of the provisional equivalence decision under Article 227 of Solvency II Directive for Brazil, Mexico and Japan. Member States' experts were consulted via the Expert Group on Banking, Payments and Insurance on 04.06.2025.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

Article 227 of Solvency II relates to the equivalence for third-country insurers that are part of groups headquartered in the EU.

Article 227(6)[4] of the Solvency II Directive clarifies that "provisional equivalence shall be subject to renewals for further periods of 10 years where the criteria referred to in paragraph 5 continue to be met".

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[1]) Commission Delegated Decision (EU) 2015/2290 of 5 June 2015 on the provisional equivalence of the solvency regimes in force in Australia, Brazil, Canada, Mexico and the United States and applicable to insurance and reinsurance undertakings with head offices in those countries (OJ L 323 9.12.2015, p. 22, ELI: http://data.europa.eu/eli/dec_del/2015/2290/oj).

[2] Commission Delegated Decision (EU) 2016/310 of 26 November 2015 on the equivalence of the solvency regime for insurance and reinsurance undertakings in force in Japan to the regime laid down in Directive 2009/138/EC of the European Parliament and of the Council, C/2015/8147, *OJ L 58, 4.3.2016, p. 55–58*

[3] Consolidated text: Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (recast) (Text with EEA relevance)Text with EEA relevance EUR-Lex - 02009L0138-20240109 - EN - EUR-Lex (europa.eu)

[4] Idem 2

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(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II)[5], and in particular Article 227(6) thereof,

Whereas:

(1) In Commission Delegated Decision (EU) 2015/2290[6] and Commission Delegated Decision (EU) 2016/310[7], it was determined that the solvency regime in force in Brazil, Japan and Mexico and applicable to insurance and reinsurance undertakings with head offices in those third countries is to be considered provisionally equivalent to the regime laid down in Title I, Chapter VI, of Directive 2009/138/EC. Those provisional equivalences were granted as of 1 January 2016, and for a period of 10 years. Article 227(6), second subparagraph of Directive 2009/138/EC provides for the possibility to renew a provisional equivalence for a further period of 10 years, provided that the criteria laid down in Article 227(5) of that Directive continue to be met and subject to a delegated act of the Commission to that effect. In addition, the European Insurance and Occupational Pensions Authority ('EIOPA') is to assist the Commission when taking such a decision.

(2) In Brazil, the Insurance Decree-Law No 73/1966 requires insurers, to guarantee all their obligations, to establish technical provisions, special funds and provisions in accordance with the criteria established by the National Council of Private Insurance (CNSP). Under Resolution CNSP 3162/2014, the Minimum Capital Required (CMR) is the higher of the Base Capital and the Risk Capital. The Base Capital is a fixed

5 Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II OJ L 335, 17.12.2009, p. 1, ELI: http://data.europa.eu/eli/dir/2009/138/oj).

6 Commission Delegated Decision (EU) 2015/2290 of 5 June 2015 on the provisional equivalence of the solvency regimes in force in Australia, Brazil, Canada, Mexico and the United States and applicable to insurance and reinsurance undertakings with head offices in those countries (OJ L 323 9.12.2015, p. 22, ELI: http://data.europa.eu/eli/dec_del/2015/2290/oj).

7 Commission Delegated Decision (EU) 2016/310 of 26 November 2015 on the equivalence of the solvency regime for insurance and reinsurance undertakings in force in Japan to the regime laid down in Directive 2009/138/EC of the European Parliament and of the Council (*OJ L 58, 4.3.2016, p. 55*, ELI: http://data.europa.eu/eli/dec_del/2016/310/oj).

amount linked to the type of entity and the regions in which it has been authorised to operate, as well as the Risk Capital, which is the sum of capital requirements for underwriting, credit, operational and market risks. For most insurers, the Risk Capital is higher than the Base Capital, thus constituting the CMR. CNSP Resolution 432/2021 establishes the rules for the use of an internal model as an alternative to a standard formula to calculate the CMR. There are minimum corporate governance requirements applicable. Insurers must have internal controls over their activities, information systems and compliance with legal requirements. The Superintendência de Seguros Privados (SUSEP) is responsible for the supervision of the Brazilian insurance industry. SUSEP operates under the Ministry of Finance as the executive body of the regulations set by the CNSP. Its managing council has independent authority to establish SUSEP's general policies for regulation and compliance with CNSP's resolutions within its area of competence. Insurers are required to submit data on capital, assets, liabilities, revenue and expenditure to SUSEP on a monthly basis, as well as details of operations, the balance sheet, a profit and loss account on a quarterly basis. Insurers must also publish their financial statements, which contain quantitative and qualitative information. SUSEP may enter into agreements and exchange information with foreign supervisory authorities and is a signatory to the IAIS MMoU since 2014. Information may only be used for supervisory purposes within the scope of SUSEP's supervisory functions. Further, information obtained from another authority is only used for the purposes of that request. SUSEP's staff and former staff are bound to confidentiality by law.

(3) In Mexico, the act laying down a revised insurance prudential framework, the Ley de Instituciones de Seguros y de Fianzas (LISF), entered into force on 4 April 2015. Under the LISF, the Solvency Capital Requirement (SCR) applies, covering underwriting risks and financial and counterparty risks. Stress testing takes place at least once a year (dynamic solvency test). The Mexican regime allows the use of either a standard formula or an internal model for the calculation of the SCR. The Comisión Nacional de Seguros y Fianzas (CNSF) is responsible for the supervision of life and non-life insurers in Mexico. It has independent power to licence or withdraw the license of insurance undertakings. Insurers must report data on their organisation, operations, accounting, investment and capital to the CNSF on at least a quarterly basis. Insurers must also disclose their objectives, policies and practices in risk retention, transfer or mitigation, and they must publish quantitative and qualitative information on their operations, technical and financial situation and risks. The CNSF may cooperate and exchange information with foreign supervisors if there is an information exchange agreement. A number of such agreements are in place and the CNSF is a signatory to the IAIS MMoU since 2014. Where an information exchange agreement exists between CNSF and a foreign supervisor, the CNSF must ask the foreign supervisor for its prior consent before disclosing information which it provided. CNSF’s staff and former staff is not allowed to disclose confidential information. Professional secrecy requirements are laid down in the national law and any breach of professional secrecy leads to sanctions.

(4) In Japan, the Japanese solvency regime is laid down in the Insurance Business Act and Insurance Business Ordinance. Japan has an independent insurance supervisor with the necessary powers and resources to carry out its tasks, the Japanese Financial Services Agency (JFSA). The JFSA has been working on the introduction of the new solvency regime based on Economic Value-based Solvency Ratio (ESR) with solvency calculation based on the new regime effectively starting in the fiscal year ending on 31st of March 2026. Insurers and reinsurers must submit extensive reporting material

to the JFSA, and the JFSA has wide-ranging powers to restructure or wind-up insurers and reinsurers in difficulties. For both life and non-life undertakings, supervisory intervention can be triggered by three different thresholds, defined as different ‘Solvency Margin Ratios’ (SRM), expressed as a ratio of double the own funds divided by a capital requirement named the ‘Total Risk’. The ‘Total Risk’ metric covers underwriting risks, interest rate and market risks, operational risk and the catastrophe risk. Internal models are accepted for catastrophe and minimum guarantee risks. The JFSA has the power to impose certain remedial measures even if the highest threshold for supervisory intervention is not breached, including by requiring insurers to adopt measures to improve their profitability, credit risk, stability or liquidity risk. When the SRM is below 0 %, the JFSA may order the total or partial suspension of the business. The JFSA is also a signatory to the IAIS MmoU since June 2011. On 30 January 2023, EIOPA signed a cooperation framework with the JFSA on co-operation in the area of insurance supervision. JFSA staff are subject to stringent professional secrecy requirements. JFSA rules and practices adequately protect confidential information provided by foreign supervisors. All present or former JFSA staff are required to keep confidential any information which they receive in the course of their duties. Unauthorised disclosure can result in disciplinary sanctions, criminal investigations and punishment. Information received from foreign supervisors and indicated as confidential is treated accordingly and will only be used for the purposes agreed with the foreign supervisor.

(5) On the basis of the assistance of EIOPA and in the light of the solvency requirements applicable in Brazil, Japan and Mexico, it is clear that the criteria laid down in Article 227(5) of Directive 2009/138/EC continue to be met by the solvency regimes in force in Brazil, Japan and Mexico applicable to undertakings with their head office in those third countries. It is therefore appropriate to renew the determination, laid down in Delegated Decision (EU) 2015/2290 and Delegated Decision (EU) 2016/310, that those solvency regimes are provisionally equivalent to that laid down in Title I, Chapter VI of Directive 2009/138/EC. The Commission may, however, undertake a specific review at any time where relevant developments make it necessary to re-assess the equivalence determined by this Decision, including international developments. Such regular or specific reviews could lead to the amendment or repeal of this Decision. The Commission should therefore continue to monitor, with the assistance of EIOPA, the evolution of the solvency regimes in force in Brazil, Japan and Mexico and the fulfilment of the conditions on the basis of which this Decision has been adopted.

HAS ADOPTED THIS DECISION:

Article 1

The solvency regimes in force in Brazil, Japan and Mexico, and applicable to insurance and reinsurance undertakings with head offices in those third countries, shall continue to be considered as provisionally equivalent to the regime laid down in Title I, Chapter VI, of Directive 2009/138/EC.

Article 2

A renewal of the provisional equivalence is granted from 1 January 2026 to 31 December 2035.

Article 3

This Decision shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Done at Brussels, 17.9.2025

For the Commission
The President
Ursula VON DER LEYEN