STATUTORY INSTRUMENTS

1990 No. 1181

INSURANCE

The Insurance Companies (Credit Insurance) Regulations 1990

Made - - - -	*4th June 1990*
Laid before Parliament	*6th June 1990*
Coming into force - -	*1st July 1990*

The Secretary of State, being a Minister designated for the purposes of section 2(2) of the European Communities Act 1972(**1**) in relation to the authorisation of the carrying on of insurance business and the regulation of such business and its conduct(**2**), in exercise of the powers conferred by that section and by sections 17, 18, 20, 21, 32(1), (2) and (3), 33(1), 90(1), 96(1) and 97 of the Insurance Companies Act 1982(**3**), hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Insurance Companies (Credit Insurance) Regulations 1990 and shall come into force on 1st July 1990.

Interpretation

2.—(1) In these Regulations, except in so far as the context otherwise requires,–

"the 1982 Act" means the Insurance Companies Act 1982;

"credit insurance business" means all insurance business classified within general business class 14 of Part I of Schedule 2 to the 1982 Act that is not reinsurance;

"equalisation reserve" has the meaning given in regulation 3(1) below;

"the 1981 Regulations" means the Insurance Companies Regulations 1981(**4**);

"the 1983 Regulations" means the Insurance Companies (Accounts and Statements) Regulations 1983(**5**).

(**1**) 1972 c. 68.
(**2**) S.I.1976/2141.
(**3**) 1982 c. 50; sections 21 and 96(1) were amended by the Companies Consolidation (Consequential Provisions) Act 1985 (c. 9), section 30 and Schedule 2.
(**4**) S.I. 1981/1654, amended by S.I. 1987/2130 and to which there are other amendments not relevant to these Regulations.
(**5**) S.I. 1983/1811, amended by S.I. 1987/2130 and 1988/672.

(2) For the purposes of these Regulations, except where the context otherwise requires, expressions used in these Regulations have the same meanings as in the 1982 Act and the 1981 and 1983 Regulations.

Equalisation reserve

3.—(1) Subject to regulation 4 below, every company which carries on credit insurance business shall maintain a reserve (in these Regulations referred to as an "equalisation reserve") determined (at the option of the company) in accordance with one of the four methods set out in Schedule 1 to these Regulations.

(2) In applying section 32(5) of the 1982 Act (margins of solvency), the value of the company's liabilities shall be treated as being increased by the amount of the equalisation reserve.

Exemption from equalisation reserve requirement

4.—(1) Regulation 3 above shall not apply to a company carrying on credit insurance business where the premiums or contributions receivable in any financial year in respect of its credit insurance business in the United Kingdom are less than 4 per cent of the total premiums or contributions receivable by it in the United Kingdom in that financial year and less than 2,500,000 units of account.

(2) For the purposes of paragraph (1) above "premiums or contributions receivable" means the premiums or contributions recorded in the company's books in respect of a financial year as due to it in respect of contracts relating to credit insurance business commencing in that year or commencing in earlier financial years but not accounted for in the company's revenue account prior to that financial year, whether or not received by the company during that financial year, after deducting discounts, refunds and rebates of premiums as recorded in respect of the same period and after deducting premiums for reinsurance ceded in respect of that period; and for the purpose of determining whether a premium is due no account shall be taken of any credit arrangements made in respect thereof.

Amendments to the 1981 Regulations

5. The 1981 Regulations shall be amended as follows–

(a) in regulation 2 after the definition of "cede" and "cession" there shall be inserted the following definition–

> ""credit insurance business" has the meaning given in the Insurance Companies (Credit Insurance) Regulations 1990;"

(b) in paragraph 1(b) of Schedule 2 for the words "and frost (as included in general business class 9)" there shall be substituted the words ", frost (as included in general business class 9) and credit (as included in general business class 14)";

(c) in paragraph 6 of Schedule 3 for the words "subject to paragraphs 7, 8 and 9 below" there shall be substituted the words "subject to paragraphs 6A and B, 7, 8 and 9 below";

(d) after paragraph 6 of Schedule 3 there shall be inserted the following paragraphs–

> "**6A** In the case where the risks covered fall within class 14 of Part I of Schedule 2 to the 1982 Act and where the annual amount of premiums or contributions of the company due in respect of that class for each of the preceding three financial years exceeded 2,500,000 units of account or 4 per cent of the total amount of premiums or contributions receivable by the company, for the amount of units of account given in the table in paragraph 6 above there shall be substituted the amount of 1,400,000 units of account."

> "**6B** Where a company carrying on credit insurance business is required to increase the amount of units of account pursuant to paragraph 6A above, the company shall have:–

— a period of three years in which to bring the fund up to 1,000,000 units of account;

— a period of five years to bring the fund up to 1,200,000 units of account;

— a period of seven years to bring the fund up to 1,400,000 units of account;

such periods to run from the date on which the criteria set out in paragraph 6A are fulfilled."

(e) in paragraph 8 of Schedule 3 for the words "6 and 7 above" there shall be substituted the words "6, 6A, 6B and 7 above".

Amendments to the 1983 Regulations

6. The 1983 Regulations shall be amended as follows–

(a) in paragraph (1) of regulation 3,

(i) after the definition of "contract of insurance" there shall be inserted the following definition–

""credit insurance business" has the meaning given in the Insurance Companies (Credit Insurance) Regulations 1990;";

(ii) after the definition of "direct and facultative" there shall be inserted the following definition–

""equalisation reserve" has the meaning given in the Insurance Companies (Credit Insurance) Regulations 1990;";

(iii) in paragraph (b) of the definition of "premiums receivable", for the words "in any other case, the premiums recorded" there shall be substituted the words "except as provided for in paragraph (c) below, in any other case the premiums recorded";

(iv) after paragraph (b) of the definition of "premiums receivable" there shall be inserted the following paragraph–

"(c) for the purposes of preparing Form 29A or 29B as required by regulation 22A, the premiums recorded in the company's books in respect of a financial year as due to it in respect of contracts relating to credit insurance business commencing in that year or commencing in earlier financial years but not accounted for in the company's revenue account prior to that financial year, whether or not received by the company during that financial year, after deducting discounts, refunds and rebates of premiums as re corded in respect of the same period and after deducting premiums for reinsurance ceded in respect of that period; and for the purpose of determining whether a premium is due no account shall be taken of any credit arrangements made in respect thereof;";

(b) after regulation 22 there shall be inserted the following:–

"**Additional information on direct credit insurance business accepted**

22A. Without prejudice to regulation 9 above, every company which carries on credit insurance business shall, in accordance with the requirements of Schedule 2 below, prepare Form 29A or, where it elects to account for any business on a three-year basis, 29B, in respect of each financial year commencing on or after 1 July 1990 and where a financial year commenced before and ends after 1 July 1990 in respect of that part of the financial year falling after that date.";

(c) in Schedule 1, for Form 15 there shall be substituted the Form 15 set out in Schedule 2 to these Regulations;

(d) in Schedule 2:–

(i) in the rubric after “22” there shall be inserted “,22A”;

(ii) after Form 29 there shall be inserted Forms 29A and 29B as set out in Schedule 3 to these Regulations.

John Redwood
Parliamentary Under-Secretary of State,
Department of Trade and Industry

4th June 1990

SCHEDULE 1 Regulation 3(1)

Methods of calculating the equalisation reserve for credit insurance business

Method No 1

1. In respect of credit insurance business the company shall maintain an equalisation reserve to which shall be charged any technical deficit arising in that business for a financial year.

2. Such reserve shall in each financial year receive 75% of any technical surplus arising on credit insurance business, subject to a limit of 12% of the net premiums or contributions until the reserve has reached 150% of the highest annual amount of net premiums or contributions received during the previous five financial years.

Method No 2

1. In respect of credit insurance business the company shall set up an equalisation reserve to which shall be charged any technical deficit arising in that business for a financial year.

2. The mimimum amount of the equalisation reserve shall be 134% of the average of the premiums or contributions received annually during the previous five financial years after subtraction of the cessions and addition of the reinsurance acceptances.

3. Such reserve shall in each of the successive financial years receive 75% of any technical surplus arising in that class until the reserve is at least equal to the minimum amount calculated in accordance with paragraph 2.

Method No 3

1. Subject to paragraph 2(g) below, an equalisation reserve shall be maintained for credit insurance business for the purpose of offsetting any above-average claims ratio for a financial year in that business.

2. The equalisation reserve shall be calculated on the basis of the method set out below.

(a) All calculations shall relate to income and expenditure for the insurer's own account.

(b) An amount in respect of any claims shortfall for each financial year shall be placed to the equalisation reserve until it has reached, or is restored to, the required amount.

(c) There shall be deemed to be a claims shortfall if the claims ratio for a financial year is lower than the average claims ratio for the reference period. The amount in respect of the claims shortfall shall be arrived at by multiplying the difference between the two ratios by the earned premiums for the financial year.

(d) The required amount shall be equal to six times the standard deviation of the claims ratios in the reference period from the average claims ratio, multiplied by the earned premiums for the financial year.

(e) Where claims for any financial year are in excess, an amount in respect thereof shall be taken from the equalisation reserve. Claims shall be deemed to be in excess if the claims ratio for the financial year is higher than the average claims ratio. The amount in respect of the excess claims shall be arrived at by multiplying the difference between the two ratios by the earned premiums for the financial year.

(f) Irrespective of claims experience, 3.5% of the required amount of the equalisation reserve shall be first placed to that reserve each financial year until its required amount has been reached or restored.

(g) The length of the reference period shall be not less than 15 years and not more than 30 years. No equalisation reserve need be maintained if no underwriting loss has been noted during the reference period.

(h) The required amount of the equalisation reserve and the amount to be taken from it may be reduced if the average claims ratio for the reference period in conjunction with the expenses ratio show that the premiums include a safety margin.

Method No 4

1. Subject to paragraph 2(g) below, an equalisation reserve shall be maintained for credit insurance business for the purpose of offsetting any above-average claims ratio for a financial year in that business.

2. The equalisation reserve shall be calculated on the basis of the method set out below.

(a) All calculations shall relate to income and expenditure for the insurer's own account.

(b) An amount in respect of any claims shortfall for each financial year shall be placed to the equalisation reserve until it has reached the maximum required amount.

(c) There shall be deemed to be a claims shortfall if the claims ratio for a financial year is lower than the average claims ratio for the reference period. The amount in respect of the claims shortfall shall be arrived at by multiplying the difference between the two ratios by the earned premiums for the financial year.

(d) The maximum required amount shall be equal to six times the standard deviation of the claims ratio in the reference period from the average claims ratio, multiplied by the earned premiums for the financial year.

(e) Where claims for any financial year are in excess, an amount in respect thereof shall be taken from the equalisation reserve until it has reached the minimum required amount. Claims shall be deemed to be in excess if the claims ratio for the financial year is higher than the average claims ratio. The amount in respect of the excess claims shall be arrived at by multiplying the difference between the two ratios by the earned premiums for the financial year.

(f) The minimum required amount shall be equal to three times the standard deviation of the claims ratio in the reference period from the average claims ratio multiplied by the earned premiums for the financial year.

(g) The length of the reference period shall be not less than 15 years and not more than 30 years. No equalisation reserve need be maintained if no underwriting loss has been noted during the reference period.

(h) Both required amounts of the equalisation reserve and the amount to be placed to it or the amount to be taken from it may be reduced if the average claims ratio for the reference period in conjunction with the expenses ratio show that the premiums include a safety margin and that safety margin is more than one-and-a-half times the standard deviation of the claims ratio in the reference period. In such a case the amounts in question shall be multiplied by the quotient of one-and-a-half times the standard deviation and the safety margin.

SCHEDULE 2

Form 15

Regulation 6(c)

Returns under Insurance Companies Legislation
Liabilities (other than Long Term business)
Name of Company
Global Business/UK branch business/Community branch business

Financial year ended		Company registration number	Global UK/CM	Period ended day	month	year	Units	For official use
	F15					19	£000	

				As at the end of the financial year 1	As at the end of the previous year 2	Source Form	Line	Column
General business technical reserves	Unearned premiums		21			See Note below		
	Additional amount for unexpired risks		22					
	Claims outstanding (less amounts recoverable from reinsurers)	Reported claims	23					
		Claims incurred but not reported	24					
	Expenses for settling claims outstanding		25					
	Funds		26					
	Claims equalisation: other than credit business		27					
	Equalisation reserve: credit business		27(a)					
	Other		28					
	Total (21 to 28)		29					
Other insurance liabilities	Amounts due in respect of direct insurance and facultative reinsurance contracts accepted except amounts which must be included in line 29		31					
	Amounts due to ceding insurers and intermediaries under reinsurance treaties accepted except amounts which must be included in line 29		32					
	Amounts due to reinsurers and intermediaries under reinsurance contracts ceded		33					
Other liabilities	Loans secured		41					
	Loans unsecured		42					
	Subordinated loan stock		43					
	Taxation		44					
	Recommended dividend		45					
	Cumulative preference share dividend accrued		46					
	Other creditors		47					
Total (29 to 47)			59					
Amounts included in line 59 attributable to liabilities to related companies, other than those under contracts of insurance or reinsurance			61					

Note:
The sources are as follows:
Line 21 All forms 21.29.6+21.31.6 −(22.23.3+22.24.3−22.25.3)
Line 22 Summary form 20.23
Line 23 All forms 22.31.3+22.41.3
Line 24 All forms 22.32.3+22.42.3
Line 25 All forms 22.21.3+22.22.3
Line 26 All forms 24.42.5+27.46.3

SCHEDULE 3

Form 29A

Regulation 6(d)(ii)

Returns under Insurance Companies Legislation
Credit insurance: analysis of direct business
Name of Company
Global Business/UK branch business/Community branch business
Financial year ended

Items to be shown net of outwards reinsurance			The financial year	Previous year
			£000	£000
Underwriting income	Premiums receivable	1		
	Unearned premiums brought forward	2		
	Unearned premiums carried forward	3		
	Earned premiums (1+2−3)	4		
	Additional amount for unexpired risks brought forward	5		
	Total (4+5)	6		
Underwriting expenditure	Claims paid	7		
	Claims outstanding carried forward	8		
	Claims outstanding brought forward	9		
	Claims incurred (7+8−9)	10		
	Expenses incurred	11		
	Additional amount for unexpired risks carried forward	12		
	Total (10+11+12)	13		
Investment income receivable before deduction of tax [see Instruction]		14		
Balance of financial year (6+14−13)		15		
Transfer to (from) equalisation reserve		16		

Instruction for Completion of Form 29A

Completion of line 14 is optional. Where companies do not take account of investment income in determining their underwriting result, it should be left blank.

Form 29B

Regulation 6(d)(ii)

Returns under Insurance Companies Legislation
Credit insurance (three year accounting): analysis of direct business
Name of Company
Global Business/UK branch business/Community branch business
Financial year ended

Items to be shown net of outwards reinsurance		Insurance business incepted in: All years prior to the second year preceding the financial year 1 £000	Second year preceding the financial year 2 £000	First year preceding the financial year 3 £000	The financial year 4 £000	Total (1+2+3+4) 5 £000
Premiums receivable	1					
Claims paid	2					
Expenses incurred	3					
Funds: —brought forward	4				xxxxxxxxxxx xxxxxxxxxxx xxxxxxxxxxx	
—carried forward	5					
—increase (decrease) (4–5)	6					
Investment income receivable before deduction of tax [see Instruction]	7					
Balance on each under-writing year (1+7−2−3−6)	8					
Transfer to (from) equalisation reserve	9					

Instruction for Completion of Form 29B

Completion of line 7 is optional. Where companies do not take account of investment income in determining their underwriting result, it should be left blank.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement Council Directive 87/343/EEC (OJNo. L185, 4.7.87, p. 72), which amends, as regards credit insurance and suretyship insurance, Directive 73/239/EEC (OJ No. L228, 16.8.73, p. 3) relating to non-life insurance. They do so by the introduction of new provisions and by amending the Insurance Companies Regulations 1981 and the Insurance Companies (Accounts and Statements) Regulations 1983 with the following effect:

(a) a general obligation is imposed upon insurers carrying on credit insurance business to establish an equalisation reserve for the purpose of providing against above-average fluctuations in claims, in accordance with one of four specified methods which they may select (regulation 3 and Schedule 1);

(b) an exemption from this obligation is conferred upon companies whose credit insurance business falls under a specified threshold (less than 4% of receivable premiums or contributions and less than 2,500,000 units of account) (regulation 4);

(c) where a credit insurer exceeds the above threshold for 3 consecutive financial years, it will be required to increase the level of the minimum guarantee fund which it is required to maintain under regulation 9 of the 1981 Regulations (400,000 units of account) to 1,400,000 units of account over a seven-year period (regulation 5);

(d) an insurer carrying on credit insurance business will be required to make additional returns to the Secretary of State showing both the technical results and the technical reserves relating to its credit insurance business (regulation 6 and Schedules 2 and 3).