
STATUTORY INSTRUMENTS

1994 No. 1515

INSURANCE

The Insurance Companies (Accounts and Statements) (Amendment) Regulations 1994

<i>Made</i>	- - - -	<i>7th June 1994</i>
<i>Laid before Parliament</i>		<i>8th June 1994</i>
<i>Coming into force</i>	- -	<i>1st July 1994</i>

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

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Insurance Companies (Accounts and Statements) (Amendment) Regulations 1994 and shall come into force on 1st July 1994.

(2) In these Regulations “the 1983 Regulations” means the Insurance Companies (Accounts and Statements) Regulations 1983⁽⁴⁾.

Application

2. For paragraph (2) of regulation 2 of the 1983 Regulations (application) substitute—

“(2) Where the Secretary of State has directed, pursuant to paragraph 7(2) of Part I of Schedule 2F to the Act⁽⁵⁾, that Part II of the Act shall apply to an EC company, these Regulations shall apply to that company as they apply to a company with its head office in an EFTA State.

(3) These Regulations do not apply to—

(1) S.I. 1976/2141.

(2) 1972 c. 68.

(3) 1982 c. 50; section 21 was amended by the Companies Consolidation (Consequential Provisions) Act 1985 c. 9, section 30 and Schedule 2; and by S.I. 1991/1997, reg. 2 and Schedule, para. 47.

(4) S.I. 1983/1811; amended by S.I. 1987/2130; S.I. 1988/672; S.I. 1989/1952; S.I. 1990/1181; S.I. 1990/1333; S.I. 1991/2736, S.I. 1992/2890; S.I. 1993/946; S.I. 1993/3127 and by the European Economic Area Act 1993 (c. 51).

(5) Schedule 2F was inserted by S.I. 1994/1696, reg. 45(2) and Schedule 6.

- (a) an EEA deposit company or an EFTA company, in relation to long term business or general business carried on by it outside the United Kingdom; or
- (b) a Swiss general insurance company, in relation to general business carried on by it outside the United Kingdom.”

Interpretation

3.—(1) In paragraph (1) of regulation 3 of the 1983 Regulations⁽⁶⁾ (interpretation)—

- (a) for the definition of “admissible asset” substitute—
 - ““admissible asset” means an asset which is not required by regulation 45(3) of the Insurance Companies Regulations to be left out of account for the purposes specified in regulation 45(1) of those Regulations;”;
- (b) after the definition of “authorised unit trust scheme” insert—
 - ““branch” has the same meaning as in section 96A(2) of the Act⁽⁷⁾;”;
- (c) omit the definitions of “Community company” and “Community deposit company”;
- (d) for the definition of “credit insurance business” substitute—
 - ““credit insurance business” has the same meaning as in regulation 2(1) of the Insurance Companies Regulations;”;
- (e) after that definition insert—
 - ““derivative contract” has the same meaning as in regulation 44(1) of the Insurance Companies Regulations;”;
- (f) after the definition of “direct and facultative” insert the following definitions—
 - ““EC company” has the same meaning as in section 2(6) of the Act⁽⁸⁾;
 - ““EEA deposit company” means a company (other than a pure reinsurer) whose head office is not in an EEA State and which has made a deposit in an EEA State other than the United Kingdom in accordance with section 9(2)(b) of the Act⁽⁹⁾;
 - ““EEA State” has the same meaning as in section 5(4) of the Act⁽¹⁰⁾;
 - ““EFTA company” has the same meaning as in section 72B(7) of the Act⁽¹¹⁾;”;
- (g) for the definition of “equalisation reserve” substitute—
 - ““equalisation reserve” has the same meaning as in regulation 76(1) of the Insurance Companies Regulations;”;
- (h) for the definition of “external company” substitute—
 - ““external company” means a company, other than an EC company, an EFTA company, a Swiss general insurance company or a company to which section 9(2) of the Act applies, whose head office is outside the United Kingdom;”;
- (i) for the definition of “Insurance Companies Regulations” substitute—
 - ““Insurance Companies Regulations” means the Insurance Companies Regulations 1994⁽¹²⁾;”;

⁽⁶⁾ Regulation 3 was amended by [S.I. 1990/1181](#), reg. 3 and [S.I. 1993/3127](#), reg. 6(1); and there have been other amendments not relevant to this regulation.

⁽⁷⁾ Section 96A(2) was inserted by [S.I. 1990/1333](#), reg. 2(1) and substituted by [S.I. 1994/1696](#), reg. 51(3).

⁽⁸⁾ Section 2(6) was inserted by [S.I. 1994/1696](#), reg. 4(2).

⁽⁹⁾ Section 9(2) was amended by [S.I. 1994/1696](#), reg. 9(2).

⁽¹⁰⁾ Section 5(4) was inserted by [S.I. 1994/1696](#), reg. 5(2).

⁽¹¹⁾ Section 72B was inserted by [S.I. 1994/1696](#), reg. 41.

⁽¹²⁾ [S.I. 1994/1516](#).

- (j) after the definition of “non-proportional reinsurance treaty” insert—
 - ““option” has the same meaning as in regulation 44(1) of the Insurance Companies Regulations;”;
 - (k) for the definition of “pure reinsurer” substitute—
 - ““pure reinsurer” means—
 - (a) an insurance company whose head office is in the United Kingdom and whose business is restricted to reinsurance business; or
 - (b) an insurance company whose head office is not in the United Kingdom and whose business in the United Kingdom is restricted to reinsurance business;”;
 - (l) for the definition of “related company” substitute—
 - ““related company” has the same meaning as in Part VIII of the Insurance Companies Regulations;”;
 - (m) for the definition of “required margin of solvency” substitute—
 - ““required margin of solvency” has the same meaning as in Part IV of the Insurance Companies Regulations;”;
 - (n) in the definition of “required minimum margin”, for the words “required Community minimum margin” substitute the words “required EEA minimum margin”;
 - (o) in the definition of “United Kingdom deposit company”, for the words “in a member State” substitute the words “in an EEA State”;
 - (p) for the definition of “zillmerising” substitute—
 - ““zillmerising” has the same meaning as in Part IV of the Insurance Companies Regulations.”
- (2) For paragraph (3) of that regulation substitute—
 - “(3) In these Regulations—
 - (a) any reference to long term business or general business shall, in relation to an EEA deposit company or an EFTA company, be taken to refer to long term or general business carried on by it through a branch in the United Kingdom; and
 - (b) any reference to general business shall, in relation to a Swiss general insurance company, be taken to refer to general business carried on by it through a branch in the United Kingdom,and accordingly, any reference to, or requirement imposed in respect of, the accounts and balance sheet (including any notes, statements, reports and certificates annexed thereto) shall be taken as referring to, or imposing the requirement in respect of, business carried on through that branch.”
- (3) In paragraph (4) of that regulation—
- (a) in sub-paragraph (a), for the words “an agency or branch” substitute the words “a branch”;
 - (b) in sub-paragraph (b), for the words “an agency or branch in any member State” substitute the words “a branch in any EEA State”; and
 - (c) for sub-paragraph (ii) substitute—
 - “(ii) accounts prepared in respect of the long term business or the general business carried on, in the case of an external company, by the branch in the United Kingdom and, in the case of a United Kingdom deposit company, by the branches in question in the EEA States taken together.”

Balance sheet

- 4.—(1) In paragraph (5) of regulation 6 of the 1983 Regulations (balance sheet)—
- (a) in sub-paragraph (b), for the words from the beginning of that sub-paragraph to “in the United Kingdom” substitute the words “by every EFTA company and every EEA deposit company in respect of long term business carried on by it through a branch in the United Kingdom”;
 - (b) in sub-paragraph (d), for the words from the beginning of that sub-paragraph to “in the United Kingdom” substitute the words “by every EFTA company, every EEA deposit company and every Swiss general insurance company in respect of general business carried on by it through a branch in the United Kingdom”;
 - (c) in sub-paragraph (e)—
 - (i) for the words “an agency or branch” substitute the words “a branch”; and
 - (ii) for the words “member States” substitute the words “EEA States”; and
 - (d) in sub-paragraph (f)—
 - (i) omit the words “agencies or”; and
 - (ii) for the words “member States”, in each place where they occur, substitute the words “EEA States”.
- (2) After paragraph (5) of that regulation insert—
- “(5A) For each Form 13 which a company is required to complete, it shall complete Form 13A in respect of the same business.”

Additional information on general business (risk groups)

5. In regulation 11 of the 1983 Regulations (additional information on general business (risk groups))—
- (a) omit the words “agency or” in both places where they occur; and
 - (b) for the words “member State” substitute the words “EEA State”.

Provisions supplemental to regulation 11

6. For proviso (i) to paragraph (1) of regulation 12 of the 1983 Regulations (provisions supplemental to regulation 11) substitute—
- “(i) sub-paragraphs (a) and (b) above shall not apply to general business carried on through a branch in the United Kingdom by an EFTA company, a Swiss general insurance company or by an external company nor, in the case of a United Kingdom deposit company or an EEA deposit company, shall they apply to general business carried on through a branch in the EEA State concerned;”.

Additional information on general business (co-insurance)

7. For regulation 14 of the 1983 Regulations (additional information on general business (co-insurance)) substitute—
- “14. Every company which has participated in a Community co-insurance operation (as defined in section 96(1) of the Act(13)) otherwise than as the leading insurer (as so defined) in any financial year shall prepare Form 37 in accordance with the requirements of Schedule 2 below.”

(13) The definition was inserted by S.I. 1994/1696, reg. 50(1)(e).

Additional information on direct credit insurance business accepted

8. In regulation 22A of the 1983 Regulations⁽¹⁴⁾ (additional information on direct credit insurance business accepted)—

- (a) at the beginning, insert “(1)”;
- (b) for the words “every company which carries on credit insurance business” substitute the words “every UK company which carries on credit insurance business and every non-EC company which carries on credit insurance business in the United Kingdom”;
- (c) after paragraph (1) insert—

“(2) In this regulation, “UK company” and “non-EC company” have the same meanings as in section 5(4) of the Act⁽¹⁵⁾”

Derivative contracts

9. After regulation 22A of the 1983 Regulations insert—

“Additional information on derivative contracts

22B.—(1) Every company which is required to complete Form 13A pursuant to regulation 6(5A) above shall, in respect of each financial year, annex to the documents referred to in regulations 6, 7 and 8 above a statement comprising a summary of—

- (a) investment guidelines operated by the company during the relevant financial year for the use of derivative contracts;
- (b) the extent to which—
 - (i) any of the amounts recorded in Form 13; and
 - (ii) in the case of a company carrying on long term business, any of the amounts recorded in Form 45, would be materially changed if assets which the company had agreed to acquire or dispose of under derivative contracts outstanding at the end of the relevant financial year (in the case of options, being only those options which it is prudent to assume will be exercised) had been so acquired and disposed of;
- (c) where a summary required by sub-paragraph (b) above would have been materially different if the requirement had applied to derivative contracts outstanding at any other time during the relevant financial year, the extent of that difference;
- (d) the maximum loss which would be incurred by the company (its “exposure”) in the event of failure by any one other person to fulfil its obligations under derivative contracts outstanding at the end of the relevant financial year, both under existing market conditions and in the event of other foreseeable market conditions, together with an assessment of whether such exposure would have been materially different at any other time during the relevant financial year; and
- (e) the circumstances surrounding the use of any instrument which—
 - (i) is (wholly or in part) a derivative contract or a contract having equivalent effect; and
 - (ii) does not fall within regulation 55(3) of, or (where appropriate) paragraph 15 of Schedule 10 to, the Insurance Companies Regulations.

⁽¹⁴⁾ Regulation 22A was inserted by S.I. 1990/1181, reg. 6(b) and amended by S.I. 1991/2736, reg. 6.

⁽¹⁵⁾ Section 5(4) was inserted by S.I. 1994/1696, reg. 5(2).

(2) For the purposes of this paragraph, any reference to “the relevant financial year” shall mean, in the case of a financial year of the company ending on or before 30th June 1995, the period from 1st July 1994 to the end of the relevant financial year only.”

Shareholder controllers

10. After regulation 22B of the 1983 Regulations insert—

“Additional information on shareholder controllers

22C.—(1) Every UK company shall, in respect of each financial year, annex to the documents referred to in regulations 6, 7 and 8 above—

- (a) a statement naming each person who, to the knowledge of the company, has been, at any time during that year, a shareholder controller of that company; and
- (b) in the case of each person who is a shareholder controller of that company at the end of that year, a statement of—
 - (i) the percentage of shares he holds at that time in the company, or in another company of which the company is a subsidiary undertaking; and
 - (ii) the percentage of the voting power which he is entitled at that time to exercise, or control the exercise of, at any general meeting of the company, or another company of which it is a subsidiary undertaking,in each case, either alone or with any associate or associates.

(2) In this regulation—

“UK company” has the same meaning as in regulation 22A(2) above;

“subsidiary undertaking” has the same meaning as in section 96(1) of the Act(16) ; and

“associate”, “share”, and “shareholder controller” have the same meanings as in section 96C of the Act(17).”

Periodic actuarial investigation

11. In sub-paragraph (a)(ii) of regulation 24 of the 1983 Regulations (periodic actuarial investigations), for the words “a Community company (other than a United Kingdom company or a pure reinsurer) and a Community deposit company” substitute the words “an EFTA company and an EEA deposit company”.

Signature of documents

12. In paragraph (2) of regulation 25 of the 1983 Regulations (signature of documents), for the words from the beginning of that paragraph to “United Kingdom deposit company” substitute the words—

“In respect of any document relating to business carried on through a branch in the United Kingdom by an EFTA company, a Swiss general insurance company, an EEA deposit company or an external company or through branches in any EEA States taken together by a United Kingdom deposit company”.

(16) A definition was inserted by S.I. 1994/1696, reg. 50(1)(m).

(17) Section 96C was inserted by S.I. 1994/1696, reg. 52.

Audit and auditors' report

13. In paragraph (1) of regulation 27 of the 1983 Regulations (audit and auditors' report), after the number "22" insert a comma and the number "22B".

Qualifications of auditor

14. For regulation 30 of the 1983 Regulations (qualifications of auditor) substitute—

“30. For the purposes of section 21 of the Act(18) (audit of accounts), it is hereby prescribed that the description of the person qualified to audit the accounts and statements of a company under regulation 27 above (audit and auditors' report) shall be a person who is eligible for appointment as a company auditor under section 25 of the Companies Act 1989(19), other than a person to whom section 34(1) of that Act applies.”

Balance sheet and profit and loss account

15.—(1) For paragraph 3(2) of Schedule 1 to the 1983 Regulations (balance sheet and profit and loss account) substitute—

“(2) Boxes marked “Global/UK/CM” or “Global/UK” shall be completed by inserting—

(a) “UK” in the case of a Form which is—

(i) prepared by an EFTA company or an EEA deposit company in respect of long term or general business carried on through a branch in the United Kingdom; or

(ii) prepared by an external company (other than a pure reinsurer) in respect of long term or general business carried on through a branch in the United Kingdom; or

(iii) prepared by a Swiss general insurance company in respect of general business carried on through a branch in the United Kingdom; or

(b) “CM” in the case of a Form which is prepared by a United Kingdom deposit company in respect of long term or general business carried on through branches in the EEA States concerned; or

(c) “GL” in any other case.”

(2) In paragraph 8(5) of that Schedule, for the words “Part III of Schedule 8” substitute the words “Part II of Schedule 12”.

(3) In Form 9 in that Schedule, for the words “regulation 10(4) of the Insurance Companies Regulations 1981”, in both places where they occur, substitute the words “regulation 23(5) of the Insurance Companies Regulations 1994”.

(4) In Form 10 in that Schedule—

(a) for the words “Regulation 10 of the Insurance Companies Regulations 1981” substitute the words “regulation 23 of the Insurance Companies Regulations 1994”; and

(b) at the end insert—

“Instruction

The entry at line 54 shall include—

(18) Section 21 was amended by the Companies Consolidation (Consequential Provisions) Act 1985 c. 9, section 30 and Schedule 2; and by S.I. 1991/1997, reg. 2 and Schedule, para. 47.

(19) 1989 c. 40.

- (a) cumulative preference share capital, to the extent that liabilities in respect of such capital are left out of account in accordance with regulation 23(3) of the Insurance Companies Regulations 1994; and
 - (b) subordinated loan capital where, and to the extent that, the Secretary of State has, in accordance with section 68 of the Act (power to modify Part II in relation to particular companies), directed that the company may count such capital towards its required minimum margin,
and the amounts so included shall be stated in a note.”
- (5) In Form 13 in that Schedule—
- (a) in line 23, for the entry “Holdings in authorised unit trust schemes” substitute the entry “Holdings in authorised unit trust schemes and recognised schemes within the meaning of the Financial Services Act 1986(20)”,
 - (b) in line 35, for the entry “Share options and debenture options” substitute the entry “Rights under derivative contracts”;
 - (c) in lines 43 and 44, for the entry “Deposit and current accounts with approved financial institutions, and deposits with local authorities and Building Societies” substitute the entry “Deposits and current accounts with approved credit institutions and approved financial institutions, and deposits with local authorities”;
 - (d) in line 87, insert the entry “Deduction for inadmissible assets”;
 - (e) in Instruction 3, for the words “member States”, in each place where they occur, substitute the words “EEA States”;
 - (f) in Instruction 5, for the words “Regulation 47 of the Insurance Companies Regulations 1981” substitute the words “regulations 49(2) and 54 of the Insurance Companies Regulations 1994”; and
 - (g) after Instruction 5 insert—
 - “6 In line 87, “deduction for inadmissible assets” means the value of assets left out of account pursuant to regulation 57(2)(b) of the Insurance Companies Regulations 1994.
 - 7 Assets consisting of rights under a stock lending transaction shall be shown in the line appropriate to the security to which title has been transferred under the relevant agreement and not as a debt. In this Instruction, “stock lending transaction” has the same meaning as in regulation 44(1) of the Insurance Companies Regulations 1994.”
- (6) After Form 13 in that Schedule insert Form 13A as set out in the Schedule to these Regulations.
- (7) In Form 14 in that Schedule, for the words “Part V of the Insurance Companies Regulations 1981” substitute the words “Part VIII of the Insurance Companies Regulations 1994”.
- (8) In Form 15 in that Schedule, at the end insert—

“Instructions

1 The entry at line 43 shall exclude subordinated loan capital where, and to the extent that, the Secretary of State has, in accordance with section 68 of the Insurance Companies Act 1982, directed that the company may count such capital towards its required minimum margin.

2 The entry at line 46 shall exclude cumulative preference share dividends accrued to the extent that liabilities in respect of such dividends are left out of account in accordance with regulation 23(3) of the Insurance Companies Regulations 1994 and the amount so excluded shall be stated in a note.”

Long term business: revenue account and additional information

16.—(1) In Schedule 3 to the 1983 Regulations (long term business: revenue account and additional information), in Form 45—

(a) in Instruction 2—

(i) for the words “Regulation 59(5) of the Insurance Companies Regulations 1981” substitute the words “regulation 69(5) of the Insurance Companies Regulations 1994”; and

(ii) for the words “Regulation 59(6)” substitute the words “regulation 69(7)”; and

(b) after Instruction 5 insert—

“6 Where the yield in column 3 for a type of asset shown in line 4, 5, 6, 8, 9, 10 or 11 above (assumed to be zero for assets in line 11) is significantly different from the weighted average of the yields for each asset of that type determined in accordance with regulation 69(6) of the Insurance Companies Regulations 1994, then the latter yield figure shall be shown in a note to this Form. For this purpose, the weighted average of the yields means an average yield weighted by the value of each asset of that type as entered in column 1.”

(2) In Instruction 1 in Form 46 in that Schedule—

(a) for the words “Regulation 59(3) and (4) of the Insurance Companies Regulations 1981” substitute the words “regulation 69(3) and (4) of the Insurance Companies Regulations 1994”; and

(b) for the words “Regulation 59(6)” substitute the words “regulation 69(7)”.

(3) In Form 49 in that Schedule, after Instruction 2 insert—

“3 The value of rights under derivative contracts (shown separately for asset and liability positions) held by each internal linked fund shall be stated in a note.”

Abstract of valuation report prepared by the appointed actuary

17.—(1) In the opening paragraph of Schedule 4 to the 1983 Regulations (abstract of valuation report prepared by the appointed actuary), for the words “Regulation 54” substitute the words “regulation 64”.

(2) In paragraph 4 of that Schedule, at the end of sub-paragraph 2(b), for the full stop substitute a semi-colon and insert—

“(c) a description of the investment guidelines of the fund, including the use of derivative contracts.”

(3) In paragraph 5 of that Schedule—

(a) in sub-paragraph (1)(b), for the words “Regulation 58” substitute the words “regulation 68”;

(b) at the end of sub-paragraph (1)(g), for the full stop substitute a semi-colon and insert—

“(h) the method by which allowance has been made, if any, for derivative contracts in the determination of the amount of the long term liabilities.”; and

(c) in sub-paragraph (2)(a), for the words “Regulation 38(5)” substitute the words “regulation 45(6)”.

(4) In sub-paragraph (d) of paragraph 7 of that Schedule—

(a) for the words “Regulation 57(1)” substitute the words “regulation 67(1)”; and

(b) for the words “Regulations 55 to 64” substitute the words “regulations 66 to 75”.

(5) In sub-paragraph (b) of paragraph 8 of that Schedule, for the words “Regulation 61(1)” substitute the words “regulation 71(1)”.

Certificate by directors etc.

- 18.—**(1) In paragraph 1 of Schedule 6 to the 1983 Regulations (certificate by directors etc.)—
- (a) in sub-paragraph (a)(i), for the words “accounts and records” substitute the words “accounting records”; and
 - (b) in sub-paragraph (d)—
 - (i) for the words “Regulation 27” substitute the words “regulation 32”; and
 - (ii) for the words “Regulations 25 and 26” substitute the words “regulations 27 and 31”.
- (2) In paragraph 4 of that Schedule—
- (a) in sub-paragraph (a)(ii), for the words “Regulation 10(4)” substitute the words “regulation 23(5)”;
 - (b) for sub-paragraph (b) substitute—
 - “(b) in the case of—
 - (i) an EFTA company and of an EEA deposit company, that the value of the admissible assets of the long term business or of the general business carried on by the company through a branch in the United Kingdom was maintained at not less than the amount of the liabilities of that business; and
 - (ii) a Swiss general insurance company, that the value of the admissible assets of the general business carried on by the company through a branch in the United Kingdom was maintained at not less than the amount of the liabilities of that business;”;
 - (c) in sub-paragraph (c)(i), for the words “an agency or branch” substitute the words “a branch”;
 - (d) in sub-paragraph (c)(i)(bb), for the words “Regulation 10(4)” substitute the words “regulation 23(5)”;
 - (e) in sub-paragraph (c)(ii), for the words “member States” substitute the words “EEA States”;
 - (f) in sub-paragraph (c)(iii), for the words “Regulation 14” substitute the words “regulation 7”;
 - (g) in sub-paragraph (d)(i), for the words “agencies and branches in the member States” substitute the words “branches in the EEA States”;
 - (h) in sub-paragraph (d)(i)(aa), for the words “required Community minimum margin” substitute the words “required EEA minimum margin”;
 - (i) in sub-paragraph (d)(i)(bb), for the words “Regulation 10(4)” substitute the words “regulation 23(5)”;
 - (j) in sub-paragraph (d)(ii)—
 - (i) for the words “required Community minimum margin” substitute the words “required EEA minimum margin”; and
 - (ii) for the words “member States”, in each place where they occur, substitute the words “EEA States”;
 - (k) in sub-paragraph (d)(iii), for the words “Regulation 14” substitute the words “regulation 7”.
- (3) After paragraph 6 of that Schedule insert—

“**6A.** Subject to paragraph 8 below, the certificate required by regulation 26(a) shall also state, by way of a list, any published guidance with which the systems of control established and maintained by the company in respect of its business comply, or in accordance with which the return has been prepared.”

- (4) In paragraph 7 of that Schedule—
- (a) for the words “a Community company”, substitute the words “an EFTA company or a Swiss general insurance company”; and
 - (b) for the words “an agency or branch” substitute the words “a branch”.
- (5) In paragraph 9 of that Schedule—
- (a) in sub-paragraph (a)(iii)—
 - (i) for the words “Part VI” substitute the words “Part IX”; and
 - (ii) for the words “Part V” substitute the words “Part VIII”; and
 - (b) at the end of sub-paragraph (a)(iv)(**21**) insert—
 - “(v) that, in his opinion, premiums for contracts entered into during the financial year and the income earned thereon are sufficient, on reasonable actuarial assumptions, and taking into account the other financial resources of the company that are available for the purpose, to enable the company to meet its commitments in respect of those contracts and, in particular, to establish adequate mathematical reserves; and”; and
 - (c) in sub-paragraph (b), for the words “required Community minimum margin” substitute the words “required EEA minimum margin”.
- (6) In paragraph 11 of that Schedule—
- (a) at the beginning of sub-paragraph (b)(ii), insert the words “subject to paragraph 12 below,”;
 - (b) in sub-paragraph (c)(i), for the words “required Community minimum margin” substitute the words “required EEA minimum margin”; and
 - (c) in sub-paragraph (c)(ii), for the words “Regulation 10(4)” substitute the words “regulation 23(5)”.
- (7) After paragraph 11 of that Schedule insert—
- “**12.** To the extent that the information and explanations they have received do not allow the auditors to express an opinion on whether it was reasonable for the persons giving the certificate required to be signed in accordance with regulation 26(a) above to have made the statement required by paragraph 6A above, the auditors shall add to their report such qualification, amplification or explanation as may be appropriate.”

Transitional provisions

19.—(1) Every document submitted to the Secretary of State pursuant to section 22 of the Act (deposit of accounts etc. with Secretary of State) in respect of a financial year of a company ending before 1st July 1994 shall be in the same form in which it would have been and have the contents which it would have had if these Regulations had not been made.

(2) In respect of a financial year of the company ending before 1st July 1995, Forms 10, 13 and 15 shall be deemed to have been completed in accordance with these Regulations if the information included in column 2 of those Forms (as at the end of the previous year) is the same as it would have been if these Regulations had not been made; and, to the extent that it is appropriate to do so, the fact

(21) Sub-paragraph (a)(iv) was inserted by [S.I. 1993/946](#), reg. 2(2).

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that such information is not comparable with the corresponding information in column 1 of those Forms (as at the end of the financial year) shall be stated in a note.

Transitory provision

20.—(1) This regulation applies if in any member State (“the defaulting State”) the third general insurance Directive and the third long term insurance Directive are not fully or substantially implemented on or before 1st July 1994.

(2) Until such date as those Directives are fully or substantially implemented in the defaulting State, the 1983 Regulations shall have effect in relation to an insurance company whose head office is in that State as if that State were an EFTA State rather than a member State.

(3) In this regulation, the “third general insurance Directive” and “the third long term insurance Directive” shall have the meanings given in section 96A of the Act⁽²²⁾ .

7th June 1994

Neil Hamilton
Parliamentary Under-Secretary of State,
Department of Trade and Industry

(22) Section 96A was inserted by [S.I. 1990/1333](#), reg. 2(1) and amended by [S.I. 1992/2890](#), reg. 9(4); [S.I. 1993/174](#), reg. 6(3) to (5) and [S.I. 1994/1696](#), reg. 51.

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SCHEDULE

Regulation 15

ANALYSIS OF DERIVATIVE CONTRACTS

Returns under Insurance Companies Legislation

Form 13A

Analysis of derivative contracts

Name of Company

Global business/UK branch business/EEA branch business

Business: Long Term/Other than Long Term

Financial year ended

Category of Assets

Derivative Contracts	Company registration number	Global/UK/EEA	Period ended			Units	Category of assets	For official use
			Day	Month	Year			
			19					
		As at the end of the financial year		As at the end of the previous year				
		Assets	Liabilities	Assets	Liabilities			
		1	2	3	4			
Futures Contracts	Fixed-interest securities	11						
	Equity Shares	12						
	Land	13						
	Currencies	14						
	Other	15						
Options	Fixed-interest securities	21						
	Equity Shares	22						
	Land	23						
	Currencies	24						
	Other	25						
Contracts for Differences	Fixed-interest securities	31						
	Equity Shares	32						
	Land	33						
	Currencies	34						
	Other	35						
Adjustment for reserves	41							
Provision for adverse changes in value	42							
Total (11 to 42)	51							

Instructions for Completion of Form 13A

1 Form 13A shall be completed in respect of the total assets (other than any long-term business assets), and for the total long-term business assets, if any, of the company or branch. Form 13A shall also be completed for each fund or group of funds and each category of assets referred to in Instructions 1 and 3 to Form 13.

2 The codes specified in Instructions 1 to 3 to Form 13 shall be used as appropriate.

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3 Derivative contracts used in connection with property linked long term contracts shall be excluded from Form 13A. All other derivative contracts shall be included, except for those which are assets of the company but to which regulation 55 of the Insurance Companies Regulations 1994 does not apply.

4 The derivative contracts shall be analysed according to the type of assets shown in the second column of this form that represents the principal subject of the contract.

5 All amounts in respect of assets and liabilities under derivative contracts (whether with one or more counterparties) shall be shown gross unless there is a legal right of set-off.

6 The asset value of derivative contracts shown in lines 11 to 35 of this form shall be determined in accordance with regulation 55 of the Insurance Companies Regulations 1994, but excluding any deduction for margins made in accordance with paragraph (2) of that regulation.

7 The amount of any liability under a derivative contract shall be determined in accordance with regulation 60(1) of the Insurance Companies Regulations 1994, but excluding any deduction for any margins as shall have been paid or transferred in respect of that contract.

8 The net effect of any margins paid, transferred, or received in respect of contracts included in lines 11 to 35 shall be shown at line 41.

9 The provision for adverse changes in value shown at 13A.42.2 shall be the amount determined in accordance with regulation 61 of the Insurance Companies Regulations 1994.

10 “Futures contracts”, “Options” and “Contracts for Differences” have the same meaning as in Part VIII of the Insurance Companies Regulations 1994.

11 The entry at 13A.51.1 shall be shown at 13.35.1

12 The entry at 13A.51.2 shall be included in 14.47.1 or 15.47.1 as appropriate.

13 Columns 3 and 4 need not be completed where the previous financial year ended prior to 1st July 1994.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 1st July 1994, amend the Insurance Companies (Accounts and Statements) Regulations 1983 (S.I. 1983/1811) (“the 1983 Regulations”), made under the Insurance Companies Act 1982 (“the Act”) and amended under the Act and section 2(2) of the European Communities Act 1972 (“the 1972 Act”). The 1983 Regulations prescribe the form and contents of the annual returns which insurance companies carrying on business in the United Kingdom are required to make to the Secretary of State.

The Act is to be amended, with effect from 1st July 1994, by the Insurance Companies (Third Insurance Directives) Regulations 1994 (S.I. 1994/1696) (“the Third Directives Regulations”) to implement Council Directives 92/49/EEC (O.J. No. L228, 11.8.92, p.1) and 92/96/EEC (O.J. No. L360, 9.12.92, p.1) (“the Third Directives”).

The primary purpose of these Regulations, made under powers contained in the Act and section 2(2) of the 1972 Act, is to implement the Third Directives to the extent that they affect the form

and contents of the annual returns. In addition, the Regulations contain amendments which are consequent upon the consolidation of the Insurance Companies Regulations 1981 (S.I. 1981/1654) by the Insurance Companies Regulations 1994 (S.I. 1994/1516).

The principal changes made by these Regulations are:

- to exclude EC companies from the requirement to submit an annual return to the Secretary of State (regulation 2);
- to require additional information to be given in respect of derivative contracts, subordinated loan capital and cumulative preference share capital (regulations 4, 9, 13 and 15 to 17);
- to require information to be given in respect of shareholder controllers of the company (regulation 10);
- to require additional certificates to be given by the directors and the appointed actuary (regulation 18).

Regulation 1 contains citation, commencement and interpretation provisions.

Regulation 2 amends the application of the Regulations so that they do not apply to an EC company except where the Secretary of State has issued a direction pursuant to paragraph 7 of Part I of Schedule 2F to the Act.

Regulations 2 to 8, 11, 12 and 14 to 18 take account of the effect of the European Economic Area Act 1993 on the 1983 Regulations, contain further interpretative provisions and make consequential amendments arising mainly in relation to the Third Directives Regulations and the Insurance Companies Regulations 1994.

Regulations 4, 9, 13 and 15 to 17 provide for additional information to be given in relation to derivative contracts, subordinated loan capital and cumulative preference share capital; this includes an analysis of derivative contracts in new Form 13A set out in the Schedule, to be accompanied by a statement of additional information required by new regulation 22B, and amendments to existing forms. Regulation 17 additionally requires the abstract of the valuation report by the appointed actuary to describe the investment guidelines of the long term fund, including the use of derivative contracts and the method by which allowance has been made for derivative contracts in the determination of the long term liabilities.

Regulation 10 provides for information to be given in relation to shareholder controllers; the information required is the name of any person who has been at any time during the year a shareholder controller of the company and, in the case of any person who is a shareholder controller at the end of each financial year, a statement of the percentage of shares that he holds and the percentage of the voting power that he is entitled to exercise.

Regulation 18 requires additional certificates to be given by the directors of the company stating, by way of a list, any published guidance with which the company's internal systems of control comply, and by the appointed actuary stating his opinion that premiums for contracts entered into during the financial year are sufficient to enable the company to meet its commitments in respect of those contracts.

Regulation 19 contains transitional provisions.

Regulation 20 provides for the case where another member State fails to implement (whether fully or substantially) the Third Directives before 1st July 1994. In that circumstance, a company whose head office is in a member State will be treated (pending such full or substantial implementation) as if its head office were in an EFTA State.

A Compliance Cost Assessment is available, copies of which have been placed in the libraries of both Houses of Parliament. Copies are also available from the Insurance Division of the Department of Trade and Industry, Room 817, 10-18 Victoria Street, London SW1H 0NN. A similar assessment was provided with the draft Insurance Companies (Third Insurance Directives) Regulations 1994 laid before Parliament on 24th May 1994 for approval by resolution of each House.

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