

## SCHEDULE 4

### SUBORDINATE LEGISLATION RELATING TO AUDITORS AND ACCOUNTANTS

#### Auditors (Insurance Companies Act 1982) Regulations 1994

5.—(1) In relation to any time before they are varied or revoked by regulations made under subsection (2) of section 21A of the Insurance Companies Act, the Auditors (Insurance Companies Act 1982) Regulations 1994(1) shall have effect as if they were amended as follows.

(2) In regulation 2—

(a) for the definition of “auditor”, there shall be substituted the following definitions—

“‘auditor’ means—

- (a) auditor of an insurance company to which Part II of the Act applies; or
- (b) auditor of a body with which a UK or non-EC company is closely linked by control who is also auditor of the company;

‘of material significance’ means of material significance for determining whether any of the powers of intervention conferred on the Secretary of State by sections 38 to 45 of the Act should be exercised;”

(b) after that definition there shall be inserted the following definitions—

“‘the company concerned’ means—

- (a) in relation to an auditor of an insurance company to which Part II of the Act applies, that company;
- (b) in relation to an auditor of a body with which a UK or non-EC company is closely linked by control, that company;

‘contravention’, in relation to any provision of the Act, includes any failure to comply with that provision;”;

(c) in the definition of “matters”, after the word “applies” there shall be inserted the words “, or of a body with which a UK or non-EC company is closely linked by control,”.

(3) In paragraph (1) of regulation 3, for the words “paragraph (2)” there shall be substituted the words “paragraph (1A) or (2)”.

(4) After that paragraph there shall be inserted the following paragraph—

“(1A) Where the company concerned is a UK or non-EC company, the circumstances referred to in paragraph (1) above are circumstances in which the matters are such as—

- (a) to give the auditor reasonable cause to believe, as regards the company concerned—
  - (i) that its authorisation could be withdrawn under section 11 of the Act otherwise than by virtue of subsection (2)(ab) of that section;
  - (ii) that there is or has been, or may be or may have been, a failure to fulfil any of the criteria of sound and prudent management and that the failure is likely to be of material significance;
  - (iii) that there is or has been, or may be or may have been, a contravention of any provision of the Act and that the contravention is likely to be of material significance; or
  - (iv) that its continuous functioning may be affected; or

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- (b) in the case of the auditor of the company concerned, to preclude him from stating in his report that its annual accounts have been properly prepared in accordance with the Companies Act 1985 or section 17 of the Act.”
- (5) In paragraph (2) of that regulation—
- (a) there shall be inserted at the beginning the words “Where the company concerned is not a UK or non-EC company,”; and
  - (b) the words from “for determining” to the end shall be omitted.