

## SCHEDULE 1

### [SCHEDULE 5 TO THE 1994 REGULATIONS] ASSETS TO BE TAKEN INTO ACCOUNT ONLY TO A SPECIFIED EXTENT

## PART I

### EXCESS EXPOSURE: METHOD OF CALCULATION

1. Unless the context requires otherwise, words and expressions used in this Schedule bear the same meanings as in Parts IV and V of these Regulations.

2. For the purposes of this Schedule—

“business amount” means—

- (a) for a society carrying on only general business, the general business amount;
- (b) for a society carrying on only long term business, the long term business amount;
- (c) for a society carrying on both general business and long term business, in the case of its general business assets, the general business amount and in the case of its long term business assets, the long term business amount;

“connected company” of any company means—

- (a) that company’s holding company;
- (b) a subsidiary of that company;
- (c) a subsidiary of the holding company of that company;

and references to “subsidiary” and “holding company” shall have the same meanings as they have in section 96 of the 1982 Act<sup>(1)</sup>;

“counterparty” in relation to a society means—

- (a) any one individual;
- (b) any one unincorporated body of persons;
- (c) any one company not being a member of a group;
- (d) any group of companies excluding any companies within the group which are dependants of the society; or
- (e) any government of a State together with all the public bodies, local authorities or nationalised industries of that State,

in which the society has made investments or against whom it has rights whether in pursuance of a contract entered into by the society or otherwise; and references to dealings with or by a counterparty includes dealings with or by any person or body of persons included within the definition of counterparty;

“counterparty exposure” means the aggregated value determined in accordance with paragraph 14 below;

“debts due or to become due” includes any debts which would become due if the society were to exercise any right to which it is entitled to require payment or repayment of the same;

“diversified contract for differences” means a contract for differences whose value does not depend to a significant extent on fluctuations in the value of, or the income from, assets of

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(1) These definitions were amended by section 30 of, and Schedule 2 to, the Companies Consolidation (Consequential Provisions) Act 1985 (1985 c. 9) and article 23 of, and Part II of Schedule 1 to, the Companies Consolidation (Consequential Provisions) (Northern Ireland) Order 1986 (S.I. 1986/1035).

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any of the descriptions in paragraphs 19 to 28, 30 or 32 to 38 of Part II of this Schedule and “undiversified contract for differences” shall be construed accordingly;

“excess concentration with a number of counterparties” has the meaning given in paragraph 18 below;

“general business amount” means the aggregate of the society’s insurance liabilities (net of reinsurance) in respect of general business and an amount equal to whichever is the greater of 225,000 ECU or 20 per cent. of the general premium income;

“group” has the meaning given in section 262(1) of the Companies Act 1985(2);

“index linked liabilities” means insurance liabilities in respect of index linked benefits;

“insurance liabilities” means amounts calculated in accordance with Part V of these Regulations in respect of those items shown at C and D under the heading “Liabilities” in Part I of Schedule 2 to the Friendly Societies (Accounts and Related Provisions) Regulations 1994;

“long term business amount” means the amount of the society’s insurance liabilities in respect of long term business (net of reinsurance ceded and excluding property linked liabilities), together with—

(a) the amount of the required margin of solvency (or the amount of the minimum guarantee fund if greater) determined in accordance with regulations 4 to 6 and Schedule 1 above less the amount of any implicit item valued in accordance with regulations 9 to 11 of these Regulations; and

(b) the amount of any deposit-back in connection with a contract of reinsurance in respect of long term business;

save that for the purposes of assessing compliance with the permitted asset exposure limit, it shall further exclude index linked liabilities;

“permitted asset exposure limit” has the meaning given in paragraph 3 of this Schedule;

“permitted counterparty exposure limit” has the meaning given in paragraph 4 of this Schedule;

“property linked liabilities” means insurance liabilities in respect of property linked benefits;

“readily realisable” in relation to a listed investment means a listed investment in respect of which regulation 26(4) does not apply or, by virtue of regulation 26(5), is to be taken not to apply;

“short term deposit” means a sum of money which may be withdrawn at the discretion of the lender without penalty or loss of accrued interest by giving notice of withdrawal of one month or less.

**3.** The permitted asset exposure limit for assets of any of the descriptions in any paragraph of Part II of this Schedule is the percentage of the business amount set out opposite that paragraph. In the case of an asset which is not covered by any of the descriptions in Part II of this Schedule (other than a derivative contract) the permitted asset exposure limit is nil.

**4.** The permitted counterparty exposure limit is—

(a) where the counterparty is an individual or an unincorporated body of persons, 5 per cent. of the business amount;

(b) where the counterparty is a counterparty of the type mentioned in sub-paragraph (e) in the definition of counterparty, 5 per cent. of the business amount;

(c) where the counterparty is a body corporate or group, each of—

(i) 20 per cent. of the business amount;

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(2) 1985 c. 6; section 262 was inserted by section 22 of the Companies Act 1989 (c. 40).

- (ii) 10 per cent. of the business amount where the exposure arises otherwise than by reason that debts are due, or are to become due, as a result of short term deposits made with an approved credit institution; and
- (iii) 5 per cent. of the business amount where the exposure is other than to bodies which are approved counterparties.

#### **Calculation of exposure to assets**

5. A value shall be ascribed to assets of each description which shall be an amount determined in accordance with the provisions of Part IV of these Regulations or, where the assets are of a description for the valuation of which no provision is made in Part IV of these Regulations, an amount which would reasonably be paid by way of consideration for an immediate assignment or transfer of such assets. The amount by which the society is exposed to assets of each description shall be determined by adjusting the value of the assets in accordance with paragraphs 6 to 12 below.

#### **Adjustments in respect of futures contracts**

6. The value ascribed under paragraph 5 above in respect of assets of each description shall be increased or decreased by the value of assets of that description which the society is deemed to have acquired or disposed of pursuant to a futures contract.

7. For the purposes of paragraph 6 above, the society shall be deemed to have acquired or disposed of assets pursuant to a futures contract if, at the relevant date, it has entered into (and not closed out) a futures contract which—

- (a) provides for the acquisition of assets by the society; or
- (b) is listed and provides for the disposal of assets by the society; or
- (c) is not listed but provides for the disposal of assets by the society to an approved counterparty and it is prudent to assume that such disposal will take place within one year of the relevant date.

#### **Adjustments in respect of options**

8. The figure arrived at under paragraphs 5 to 7 above in respect of assets of each description shall be increased or decreased by the value of assets of that description which the society is deemed to have acquired or disposed of pursuant to an option.

9. For the purposes of paragraph 8 above, the society shall be deemed to have acquired or disposed of assets pursuant to an option if, at the relevant date, it is a party to an option and it is prudent to assume that the option will be exercised and the option is one which—

- (a) provides for the acquisition of assets by the society; or
- (b) is listed and provides for the disposal of assets by the society; or
- (c) is not listed but provides for the disposal of assets by the society to an approved counterparty and it is prudent to assume that such disposal will take place within one year of the relevant date.

#### **Adjustments in respect of initial margins**

10. The figure arrived at under paragraphs 5 to 9 above in respect of assets of each description shall be increased by an amount representing the value of any assets of that description which have been transferred by the society by way of initial margin.

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### **Adjustments in respect of an undiversified contract for differences or a contract or asset having the effect of a derivative contract**

11. The amount arrived at in accordance with paragraphs 5 to 10 above shall be increased or decreased by an amount representing the value of assets which the society is deemed to have acquired or disposed of under—

- (a) an undiversified contract for differences; or
- (b) a contract or asset other than a diversified contract for differences which has the effect of a derivative contract.

12. For the purposes of paragraph 11 above, the society shall be deemed to have achieved the effect of such contract by entering into appropriate futures contracts or options. The assets deemed to be acquired or disposed of shall be dealt with in accordance with the provisions in paragraphs 6 and 8 respectively.

### **Excess asset exposure**

13. The amount by which the society is exposed to assets of a particular description in excess of the permitted asset exposure limit shall be calculated by subtracting the permitted asset exposure limit for assets of that description from the corresponding amount of the exposure, calculated in accordance with paragraphs 5 to 12 above. For this purpose, exposure to assets shall be excluded to the extent that such exposure has caused the recognition of excess exposure to assets of a different description. If the figure arrived at is negative, it shall be taken to be zero.

### **Calculation of exposure to a counterparty**

14. Subject to paragraphs 15 and 16 below, the value of all investments (determined in accordance with regulation 26 above) issued by any one counterparty and the value of all rights (determined in accordance with regulations 23, 30 and 31 above) against that counterparty, in each case up to the amount of the appropriate permitted asset exposure limit, shall be aggregated. Where the counterparty is an issuer of a collective investment scheme falling within regulation 27(1)(c) above, the value of units or other beneficial interest in the collective investment scheme shall be included.

15. Where a society has rights in respect of an obligation to be fulfilled by a counterparty and—
- (a) the obligation is a secured obligation which—
    - (i) is secured by cash deposited with, or a letter of credit established with, or securities issued by, or a guarantee provided by, an approved credit institution or an approved financial institution; and
    - (ii) is due to be fulfilled within 12 months of the relevant date; or
  - (b) the obligation is a secured obligation which is secured by listed securities which are readily realisable or by approved securities which in either case—
    - (i) have been deposited with an approved credit institution, an approved financial institution or an approved investment firm; and
    - (ii) are beneficially owned by the counterparty but will not be available for the benefit of creditors generally in the event of the winding-up of the counterparty,

the aggregation required by paragraph 14 above need not include the value of such rights.

16. If the society has liabilities to the counterparty which may be offset against the above-mentioned assets in accordance with generally accepted accounting concepts, bases and policies or other generally accepted methods appropriate for societies, then such liabilities may be offset for the purposes of the aggregation required by paragraph 14 above.

### **Excess counterparty exposure**

17. The amount by which the society is exposed to a counterparty in excess of the permitted counterparty exposure limit shall be calculated by subtracting from the amount of the exposure to such counterparty the amount of the permitted counterparty exposure limit for such counterparty. If the figure arrived at is negative, it shall be taken to be zero. If the society is exposed to a counterparty in excess of the permitted counterparty exposure limit in more than one of the circumstances set out in sub-paragraph (c) of paragraph 4 above, it shall make the deduction required under regulation 32(1)(b) above only in respect of the circumstances leading to the greatest excess exposure.

### **Excess concentration with a number of counterparties**

18. Where there is exposure to a counterparty of the type mentioned in paragraph 4(c)(ii) above, 40 per cent. of the business amount shall be deducted from the aggregate of such exposures. The amount so arrived at shall be the excess concentration with a number of counterparties. Where this amount is negative, it shall be taken to be zero. For the purposes of this paragraph—

- (a) exposure to a counterparty shall be taken into account only up to the level of the permitted counterparty exposure limit for that counterparty;
- (b) exposure to a counterparty shall not be taken into account if it does not exceed 5 per cent. of the business amount; and
- (c) exposure to a counterparty shall not be taken into account if the corresponding permitted counterparty exposure limit does not exceed 5 per cent. of the business amount.