
STATUTORY INSTRUMENTS

1994 No. 1516

INSURANCE

The Insurance Companies 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 by that section and by sections 2(5), 5(1)(a), 7(6), 9(1)(b) and (c) and (7), 15(6), 32(1), (2) and (3), 33(1), 35(1), 60(1), 61(1), 62(1), 72(1) and (2), 74(1) and (2), 75(2) and (5), 78(1), (2), (5) and (6), 84(1), 86, 90, 96(1) and 97 of the Insurance Companies Act 1982⁽³⁾, hereby makes the following Regulations:—

PART I
PRELIMINARY

Citation and commencement

1. These Regulations may be cited as the Insurance Companies Regulations 1994 and shall come into force on 1st July 1994.

Interpretation: general

2.—(1) In these Regulations, unless the context otherwise requires—

“the Act” means the Insurance Companies Act 1982;

“cede” and “cession”, in relation to reinsurance, include retrocede and retrocession;

“credit insurance business” means all insurance business falling within general business class 14 of Part I of Schedule 2 to the Act that is not reinsurance;

(1) S.I. 1975/427, S.I. 1976/2141.
(2) 1972 c. 68.
(3) 1982 c. 50.

“deposit back arrangement”, in relation to any contract of reinsurance, means an arrangement whereby an amount is deposited by the reinsurer with the cedant;

“EEA margin of solvency” shall be construed in accordance with section 32 of the Act⁽⁴⁾;

“equalisation reserve” has the meaning given in regulation 76(1) below;

“guarantee fund” has the meaning given in regulation 22(1) below;

“linked long term contract” means a contract of the kind described in section 78 of the Act;

“mathematical reserves” means the provision made by an insurer to cover liabilities (excluding liabilities which have fallen due and liabilities arising from deposit back arrangements) arising under or in connection with contracts for long term business;

“minimum guarantee fund” has the meaning given in regulation 22(2) below;

“mutual” means an insurance company which is—

- (a) a body corporate having no share capital (except a wholly owned subsidiary with no share capital but limited by guarantee), or
- (b) a registered society;

“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;

“Schedule” means Schedule to these Regulations;

“the Stock Exchange” means the International Stock Exchange of the United Kingdom and the Republic of Ireland Limited;

“United Kingdom margin of solvency” shall be construed in accordance with section 32 of the Act;

“unit of account” means the unit of account known as the ECU;

and the words and expressions which are also used in the Act have the same meanings as in the Act.

(2) For the purposes of these Regulations, other than regulation 30, the rate of conversion from the ECU to the pound sterling shall, in the case of general business, be subject to a minimum of 41.66 pence per ECU.

PART II

AUTHORISATION ETC.

Benefits in kind

3.—(1) For the purposes of sections 2(5) and 15(6) of the Act, there is hereby prescribed any contract of insurance which—

- (a) is a contract under which the benefits provided by the insurer are exclusively or primarily benefits in kind in the event of accident to or breakdown of a vehicle, and
- (b) contains the terms specified in paragraph (2) below.

(2) The terms referred to in paragraph (1) above are—

(4) Section 32 was amended by S.I. 1994/1696, reg. 14.

- (a) that, subject to such restrictions as may be set out in the contract, the assistance shall normally be available on demand at least throughout the mainland of Great Britain; but in no case is assistance to be available outside the United Kingdom and the Republic of Ireland except where it is provided without the payment of additional premium by a body in the country concerned with whom the insurer has entered into a reciprocal agreement;
 - (b) that assistance provided in the case of an accident or breakdown occurring within the United Kingdom or the Republic of Ireland shall normally be provided by the insurer's servants or exceptionally by garages acting as the insurer's agents or appointed by the insurer;
 - (c) that the assistance shall take either or both of the forms of assistance specified in paragraph (3) below.
- (3) The forms of assistance referred to in paragraph (2) above are—
- (a) repairs to the relevant vehicle at the place where the accident or breakdown has occurred; this assistance may also include the delivery of parts, fuel, oil, water or keys to the relevant vehicle;
 - (b) removal of the relevant vehicle either to the nearest or most appropriate place at which repairs may be carried out, or to—
 - (i) the home, point of departure or original destination within the United Kingdom of the driver and passengers provided the accident or breakdown occurred within the United Kingdom; or
 - (ii) the home, point of departure or original destination within the Republic of Ireland of the driver and passengers provided the accident or breakdown occurred within the Republic of Ireland or within Northern Ireland; or
 - (iii) the home, point of departure or original destination within Northern Ireland of the driver and passengers provided the accident or breakdown occurred within the Republic of Ireland.
- This form of assistance may include the conveyance of the driver or passengers of the relevant vehicle, with the vehicle, or, where the vehicle is to be conveyed only to the nearest or most appropriate place at which repairs may be carried out, the driver and passengers may alternatively be separately conveyed to the nearest location from which they may continue their journey by other means.
- (4) Paragraph (1)(a) above shall not preclude the insurer from reimbursing the policy holder for all or part of any sums paid by him in respect of assistance either because he failed to identify himself as the policy holder or because he was unable to get in touch with the insurer in order to claim the assistance.
- (5) In this regulation—
- “the assistance” means the benefits to be provided under a contract of the kind prescribed in paragraph (1) above;
 - “breakdown” means an event—
 - (a) which causes the driver of the relevant vehicle to be unable to start a journey in the vehicle or involuntarily to bring the vehicle to a halt on a journey because of some malfunction of the vehicle or failure of it to function, and
 - (b) after which the journey cannot reasonably be commenced or continued in the relevant vehicle;
 - “the insurer” means the insurance company providing the assistance;
 - “the policy holder” means the person entitled to the assistance;

“the relevant vehicle” means the vehicle (including a trailer or caravan) in respect of which the assistance is required.

Authorisation: submission of information

- 4.—(1) The information to be submitted pursuant to section 5(1) of the Act shall be—
- (a) for long term business, the information specified in the appropriate Part of Schedule 1, and
 - (b) for general business, the information specified in the appropriate Part of Schedule 2.
- (2) In Schedules 1 and 2 (subject to the notes at the beginning of each Schedule)—
- (a) Part I is appropriate for insurance companies whose head office is in the United Kingdom,
 - (b) Part II is appropriate for insurance companies, other than EC companies, whose head office is in an EEA State other than the United Kingdom in respect of—
 - (i) direct business, or
 - (ii) both direct business and reinsurance,
 - (c) Subject to paragraph (3) below, Part III is appropriate for insurance companies whose head office is not in an EEA State in respect of—
 - (i) direct business, or
 - (ii) both direct business and reinsurance, and
 - (d) Part IV is appropriate for insurance companies whose head office is not in the United Kingdom in respect of reinsurance only.
- (3) Notwithstanding sub-paragraph (2)(c) above, Part II of Schedule 2 is appropriate for Swiss general insurance companies.
- (4) For the purposes of this regulation—
- “classes of insurance business”, in Schedules 1 and 2, means the classes of insurance business specified in Schedules 1 and 2 to the Act;
 - “the company”, in Schedules 1 and 2, means an insurance company and includes a body that seeks to become an insurance company after authorisation;
 - “direct business”, in paragraph (2) above and in Schedules 1 and 2, means insurance business other than reinsurance business;
 - “information”, in paragraph (1) above and in Schedules 1 and 2, includes proposal and financial forecast.
- (5) References in Schedule 2 to general and special policy conditions do not include specific conditions intended to meet, in an individual case, the particular circumstances of the risk to be covered.

Main agents: exceptions

- 5.—(1) An unlimited agent shall not be regarded as a main agent of an applicant for the purposes of section 96E(1)(b) of the Act(5) if—
- (a) he was appointed before 1st April 1982, and
 - (b) for the base period and for every subsequent financial year for which a set of annual accounts has been deposited by the applicant under section 22 of the Act, the value of the agent’s business has been not more than 10 per cent. of the value of the applicant’s business.

(5) Section 96E(1)(b) was inserted by [S.I. 1994/1696](#), reg. 54.

(2) In this regulation—

“the base period” means the financial year covered by the last set of annual accounts deposited by the applicant under section 18 of the Insurance Companies Act 1974⁽⁶⁾ before 1st April 1982;

“unlimited agent” means a person appointed by an applicant to be the applicant’s agent in respect of general business in the United Kingdom with authority to enter into contracts on behalf of the applicant without limit on the aggregate amount of premiums;

“the value of the agent’s business” means the aggregate of the amounts of gross premiums receivable by the applicant in respect of general business in the United Kingdom under contracts entered into by the agent on the applicant’s behalf;

“the value of the applicant’s business” means the aggregate of the amounts of gross premiums receivable by the applicant in respect of general business in the United Kingdom.

Authorisation: UK assets of applicants from non-EEA States etc.

6. For the purposes of section 9(1)(b) of the Act⁽⁷⁾ (which provides that the Secretary of State shall not issue an authorisation under section 3 of the Act in respect of long term or general business to an applicant to which section 9 applies unless he is satisfied that the applicant has in the United Kingdom assets of such value as may be prescribed) there is hereby prescribed—

- (a) a value at least equal to the minimum guarantee fund appropriate to the United Kingdom margin of solvency required by section 32(2)(b) of the Act, or
- (b) where in relation to an applicant seeking to carry on insurance business in the United Kingdom and one or more other EEA States the said section 9(1)(b) is (by virtue of section 9(2)(a) of the Act⁽⁸⁾) to have effect as if the reference to the United Kingdom were a reference to the EEA States concerned taken together, a value at least equal to—
 - (i) the minimum guarantee fund appropriate to the EEA margin of solvency required by section 32(3)(b) of the Act⁽⁹⁾, or
 - (ii) if the deposit is not made in the United Kingdom, half the minimum guarantee fund specified in paragraphs 1 to 6 of Schedule 5 as appropriate to the type of business to be carried on by the applicant.

PART III DEPOSITS

Interpretation: Part III

7. In this Part of these Regulations—

“Accountant General” means the Accountant General of the Supreme Court;

“deposit” means the deposit mentioned in section 9(1)(c) of the Act and “depositor” means an insurance company making (or intending to make) such a deposit;

“the minimum”, in relation to a deposit, means one-half of the minimum guarantee fund appropriate to the margin of solvency which the depositor is required to maintain under section 32(2)(b) or (3)(b) of the Act;

⁽⁶⁾ 1974 c. 49.

⁽⁷⁾ Section 9(1) was amended by S.I. 1994/1696, reg. 9.

⁽⁸⁾ Section 9(2)(a) was amended by S.I. 1994/1696, reg. 9.

⁽⁹⁾ Section 32(3)(b) was amended by S.I. 1994/1696, reg. 14.

“permitted securities” means securities in which cash under the control of or subject to the order of the Supreme Court may be invested pursuant to Order 22, rule 13, of the Rules of the Supreme Court 1965⁽¹⁰⁾.

Making and amount of deposit

8. Every deposit made pursuant to section 9(1)(c) of the Act shall (subject to section 9(2)(b) of the Act) be made with the Accountant General and shall be maintained by the depositor at a level equal to at least the minimum.

Direction etc. by the Secretary of State

9.—(1) The Secretary of State, where he is satisfied that a deposit is required to be made with the Accountant General pursuant to regulation 8 above or under an agreement of the kind mentioned in section 9(2)(b) of the Act, may (and on the application of the depositor shall)—

- (a) certify the fact of the requirement,
- (b) specify the minimum in pounds sterling, and
- (c) direct the Accountant General to receive the deposit.

(2) Where the minimum changes, the Secretary of State may (and on the application of the depositor shall)—

- (a) certify the fact of the change,
- (b) specify the changed minimum in pounds sterling, and
- (c) direct the Accountant General to receive any additional sum required to ensure that the deposit is maintained in accordance with regulation 8 above.

Permitted securities

10.—(1) Subject to paragraph (2) below, any payment to be made by the depositor to the Accountant General in respect of the deposit may be partly or wholly effected by the lodgement of permitted securities instead of cash.

(2) Paragraph (1) above shall not apply unless the depositor gives to the Accountant General—

- (a) a valuation of the securities as on a day not more than two days before that on which the Accountant General receives the request for such a lodgement to be effected, and
- (b) a report by a duly authorised person stating that in his opinion the valuation has been made in accordance with Part VIII of these Regulations.

(3) In paragraph (2) above “duly authorised person” means a member of the Stock Exchange or a person who is eligible for appointment as a company auditor under section 25 of the Companies Act 1989⁽¹¹⁾.

Investment

11.—(1) Subject to paragraph (2) below, the Accountant General may on the application of a depositor—

- (a) invest in permitted securities (to be specified by the applicant) any cash which constitutes or forms part of the deposit or will do so on the maturity of any security, or

⁽¹⁰⁾ S.I. 1965/1776 amended by S.I. 1969/1894, rule 4 and by S.I. 1982/1111, rule 113.

⁽¹¹⁾ 1989 c. 40.

- (b) realise any securities (to be specified by the applicant) constituting or forming part of the deposit and either reinvest the net proceeds in permitted securities (to be specified by the applicant) or retain the net proceeds as cash.

(2) No application may be made under paragraph (1) above unless at least twenty-eight days have elapsed since any previous application under that paragraph.

Disposal of surplus

12.—(1) Subject to paragraphs (2) and (3) below, the Secretary of State on the application of a depositor may direct the Accountant General—

- (a) to transfer to the depositor any of the securities constituting or forming part of the deposit, or
- (b) to realise any of the securities constituting or forming part of the deposit and to pay the net proceeds to the depositor, or
- (c) to pay to the depositor any cash which constitutes or forms part of the deposit (or will do so on the maturity of any security).

(2) The Secretary of State shall not give a direction under paragraph (1) above unless it appears to him that the remaining cash and securities constituting the deposit after the dealing specified in the direction has been carried out will, if valued in accordance with Part VIII of these Regulations as on the day before the direction is given, be equal in value to at least the minimum.

(3) Nothing in paragraph (1) or (2) above shall relieve the depositor of the obligation imposed on him by regulation 8 above to maintain the deposit at a level equal to at least the minimum.

Cessation of business etc.

13.—(1) Where the depositor has ceased to carry on in the United Kingdom the business in respect of which the deposit was made or has ceased to be a company to which section 9 of the Act applies, then, except in a case where paragraph (2) below applies, the depositor or any other person who is entitled to give a good discharge for the funds representing the deposit may apply to the Secretary of State for those funds to be released to the depositor or to that other person, as the case may be.

(2) In the event of the depositor becoming bankrupt, the amount of the deposit shall be paid to the trustee or assignees in bankruptcy; and if, in a case where the depositor is a corporation, the corporation is ordered to be wound up by or under the supervision of the court, the amount of the deposit shall be repaid to the corporation.

(3) The Secretary of State, on receipt of an application under paragraph (1) above accompanied by the appropriate declaration, may in relation to any cash or securities constituting the deposit or part of the deposit direct the Accountant General that—

- (a) the cash shall be paid to the applicant, or
- (b) the securities shall be realised and the net proceeds shall be paid to the applicant, or
- (c) the securities shall be transferred to the applicant.

(4) In paragraph (3) above “the appropriate declaration” means a statutory declaration by the applicant—

- (a) declaring that the applicant knows of no other person who has made or is entitled to make any claim to or on the relevant funds, and
- (b) if the applicant is not the depositor—
 - (i) declaring that the applicant is entitled to give a good discharge for the relevant funds, and
 - (ii) stating the circumstances in which the applicant is so entitled.

Effect of direction etc.

14.—(1) A direction given by the Secretary of State pursuant to this Part of these Regulations shall be sufficient authority for the Accountant General to comply with it; and it shall be the duty of the Accountant General to act accordingly.

(2) A direction given under regulation 9(1) or (2) above shall be construed as authorising the Accountant General to receive any amount necessary to ensure the maintenance of the deposit at a level equal to at least the minimum or the changed minimum, as the case may be.

(3) The Secretary of State (without prejudice to his power to give a direction under regulation 9(1) or (2) above) may give a direction authorising the Accountant General to receive an amount which, either alone or when aggregated with sums already deposited, is less than the minimum or the changed minimum, as the case may be.

Application of rules under s.38(7) of the Administration of Justice Act 1982

15.—(1) The funds rules (except in so far as they may be inconsistent with this Part of these Regulations) shall apply for the purposes of this Part of these Regulations, subject to the modification in paragraph (2) below.

(2) Any reference in the funds rules to cash, securities or funds lodged in court shall be taken to include any cash or securities deposited with the Accountant General pursuant to the Act and this Part of these Regulations.

(3) In paragraphs (1) and (2) above “the funds rules” means any rules for the time being in force under section 38(7) of the Administration of Justice Act 1982(12).

PART IV

MARGINS OF SOLVENCY

Interpretation: Part IV

16. In this Part of these Regulations—

“first calculation” and “second calculation” have the meaning given in regulation 18(1) to (3) below;

“implicit items” has the meaning given by regulation 23(5) below and “implicit item” shall be construed accordingly;

“required margin of solvency” means a margin of solvency required by section 32 of the Act;

“zillmerising” means the method known by that name for modifying the net premium reserve method of valuing a long term policy by increasing the part of the future premiums for which credit is taken so as to allow for initial expenses.

Margins of solvency: determination

17.—(1) Subject to paragraphs (2) to (5) below, the margin of solvency to be maintained by an insurance company to which Part II of the Act applies shall be determined—

- (a) as regards long term business, in accordance with regulations 18 to 21 below, and
- (b) as regards general business, by taking the greater of the two sums resulting from the application of the two methods of calculation set out in Schedules 3 and 4 respectively.

- (2) Where an insurance company is required to maintain a United Kingdom margin of solvency or an EEA margin of solvency—
- (a) the United Kingdom margin of solvency shall be determined by applying paragraph (1) above, but only to business carried on in the United Kingdom, and
 - (b) the EEA margin of solvency shall be determined by applying paragraph (1) above, but only to business carried on in the EEA States taken together.
- (3) For a contract to which section 1(3) of the Act applies, the required margin of solvency shall be determined by taking the aggregate of the results arrived at by applying—
- (a) in the case of so much of the contract as is within any class of long term business, the appropriate method prescribed by this Part of these Regulations for that class, and
 - (b) in the case of so much of the contract as is within general business class 1 or 2, the method of calculation set out in Schedule 3 (excluding paragraphs 7, 8 and 9).
- (4) Where an insurance company carries on long term business and owing to the nature of that business more than one margin of solvency is produced in respect of that business by the operation of this Part of these Regulations, the margins in question shall be aggregated as regards the company in order to arrive at the company's required margin of solvency for long term business.
- (5) Where an insurance company carries on both long term and general business and is accordingly required to maintain separate margins of solvency in respect of the two kinds of business—
- (a) these Regulations shall apply for determining the margin of solvency for each kind of business separately, and
 - (b) assets other than those representing the fund or funds maintained by the company in respect of its long term business, if they are not included among the assets covering the liabilities and the margin of solvency relating to the company's general business, may be included among the assets taken into account in covering the liabilities and the margin of solvency for the company's long term business.

Long term classes I, II and IX

18.—(1) For long term business of class I, II or IX the required margin of solvency shall be determined by taking the aggregate of the results arrived at by applying the calculation described in paragraph (2) below (“the first calculation”) and the calculation described in paragraphs (3), (4), (5) and (6) below (“the second calculation”).

- (2) For the first calculation—
- (a) there shall be taken a sum equal to 4 per cent. of the mathematical reserves for direct business and reinsurance acceptances without any deduction for reinsurance cessions,
 - (b) the amount of the mathematical reserves at the end of the last preceding financial year after the deduction of reinsurance cessions shall be expressed as a percentage of the amount of those mathematical reserves before any such deduction, and
 - (c) the sum mentioned in sub-paragraph (a) above shall be multiplied—
 - (i) where the percentage arrived at under sub-paragraph (b) above is greater than 85 per cent. (or, in the case of a pure reinsurer, 50 per cent.), by that greater percentage, and
 - (ii) in any other case, by 85 per cent. (or, in the case of a pure reinsurer, 50 per cent.).
- (3) For the second calculation—
- (a) there shall be taken, subject to paragraphs (4), (5) and (6) below, a sum equal to 0.3 per cent. of the capital at risk for contracts on which the capital at risk is not a negative figure,

- (b) the amount of the capital at risk at the end of the last preceding financial year for contracts on which the capital at risk is not a negative figure, after the deduction of reinsurance cessions, shall be expressed as a percentage of the amount of that capital at risk before any such deduction, and
 - (c) the sum arrived at under sub-paragraph (a) above shall be multiplied—
 - (i) where the percentage arrived at under sub-paragraph (b) above is greater than 50 per cent., by that greater percentage, and
 - (ii) in any other case, by 50 per cent.
- (4) Where, in a case other than that of a pure reinsurer, a contract provides for benefits payable only on death within a specified period and is valid for a period of not more than three years from the date when the contract was first made, the percentage to be taken for the purposes of paragraph (3) (a) above shall be 0.1 per cent.; and where the period of validity from that date is more than three years but not more than five years, the percentage to be so taken shall be 0.15 per cent.
- (5) For the purposes of paragraph (4) above, the period of validity of the contract evidencing a group policy is the period from the date when the premium rates under the contract were last reviewed for which the premium rates are guaranteed.
- (6) In the case of pure reinsurers, the percentage to be taken for the purposes of paragraph (3) (a) above shall be 0.1 per cent.
- (7) For the purposes of the second calculation, the capital at risk is—
- (a) in any case in which an amount is payable in consequence of death other than a case falling within sub-paragraph (b) below, the amount payable on death, and
 - (b) in any case in which the benefit under the contract in question consists of the making, in consequence of death, of the payment of an annuity, payment of a sum by instalments or any other kind of periodic payments, the present value of that benefit,
- less in either case the mathematical reserves in respect of the relevant contracts.
- (8) When the amount of the mathematical reserves referred to in paragraph (2)(a) above, or the amount of the capital at risk referred to in paragraph (3)(a) above, is to be calculated for the purposes of determining the required margin of solvency, the day as on which that amount is calculated shall be the same as that as on which the margin of solvency is determined; and the mathematical reserves referred to in paragraph (7) above shall also be calculated as on that day when the capital at risk in question is that referred to in paragraph (3)(a) above, but shall be calculated as at the end of the last preceding financial year when the capital at risk in question is that referred to in paragraph (3) (b) above.

Long term classes III, VII and VIII

19.—(1) For long term business of class III, VII or VIII the required margin of solvency shall be determined in accordance with paragraphs (2) to (5) below.

(2) In so far as an insurance company bears an investment risk, the first calculation shall be applied.

(3) In so far as—

- (a) an insurance company bears no investment risk, and
- (b) the total expired and unexpired term of the relevant contract exceeds five years, and
- (c) the allocation to cover management expenses in the relevant contract has a fixed upper limit which is effective as a limit for a period exceeding five years,

the first calculation shall be applied, but as if regulation 18(2)(a) above contained a reference to 1 per cent. instead of 4 per cent.

(4) If neither paragraph (2) nor paragraph (3) above applies, then, subject to paragraph (5) below, the required margin of solvency is zero.

(5) Where an insurance company covers a death risk, a sum arrived at by applying the second calculation (regulation 18(4) and (5) above being disregarded) shall be added to any required margin of solvency, including a required margin of solvency of zero, arrived at under paragraph (2), (3) or (4) above.

Long term classes IV and VI

20. For long term business of class IV or VI the required margin of solvency shall be determined by applying the first calculation.

Long term class V

21. For long term business of class V the required margin of solvency shall be equal to 1 per cent. of the assets of the relevant tontine.

Guarantee fund and minimum guarantee fund

22.—(1) Subject to paragraphs (2) and (3) below, one-third of a required margin of solvency (being, in the case of long term business, the required margin of solvency arrived at in accordance with regulation 17(4) above) shall constitute the amount (“the guarantee fund”) to be prescribed or determined for the purposes of section 33 of the Act.

(2) The guarantee fund shall not be less than an amount (“the minimum guarantee fund”) arrived at in accordance with Schedule 5, whether the required margin of solvency is greater or less than that amount.

(3) In the case of long term business, items that are not implicit items must be at least large enough to cover either the minimum guarantee fund or 50 per cent. of the guarantee fund, whichever is the greater.

Valuation

23.—(1) Where an insurance company has assets equal to or in excess of its liabilities, then, in addition to any other applicable valuation regulations, paragraphs (2) to (5) below shall have effect for determining the extent to which the value of the assets exceeds the amount of liabilities in connection with the required margin of solvency, the guarantee fund and the minimum guarantee fund.

(2) Where—

(a) a company has issued shares some or all of which are not fully paid and the total paid-up value of all the shares is equal to or greater than one quarter of their nominal value or, in the case of shares issued at a premium, of the aggregate of their nominal value and the premium, or

(b) at least one quarter of the fund of a mutual is paid up,

an amount not greater than half the total value of the amounts unpaid may be taken into account as an asset; and for the purposes of this paragraph a share shall not be regarded as fully paid if there are any amounts due but unpaid thereon.

(3) Where a company has issued cumulative preference shares, liabilities in respect of such shares shall (notwithstanding regulation 60(2) below) only be left out of account—

- (a) in the case of such shares which are redeemable shares for the purposes of section 159 of the Companies Act 1985(13), up to 25 per cent. of the required margin of solvency; and
 - (b) in the case of such shares which are not so redeemable, up to 50 per cent. of the required margin of solvency.
- (4) In the case of a mutual carrying on general business, any claim which the mutual has against its members by way of a call for supplementary contributions for a financial year shall have its full value for that financial year, subject to the limitation that the value shall not exceed the lesser of—
- (a) 50 per cent. of the difference between the maximum contributions and the contributions called in, or
 - (b) 50 per cent. of the required margin of solvency.
- (5) The items mentioned in regulations 24 to 26 below (which relate to future profits, zillmerising and hidden reserves and shall be known as “implicit items”) shall have no value except in pursuance of an order under section 68 of the Act; but in pursuance of such an order—
- (a) any of the implicit items may be valued in accordance with the said regulations 24 to 26 as respects long term business, and
 - (b) the implicit item relating to hidden reserves may be valued in accordance with regulation 26 below as respects general business.

Implicit items: future profits

24.—(1) The implicit item relating to future profits may be valued at not more than 50 per cent. of the full amount of future profits.

(2) For the purposes of paragraph (1) above, the full amount of future profits shall be obtained by multiplying the estimated annual profit by a factor which shall as nearly as may be represent the average number of years remaining to run on policies but shall, if it exceeds 10, be reduced to 10.

(3) For the purposes of paragraph (2) above—

- (a) the estimated annual profit shall be taken to be one-fifth of the profits made in long term business over a period of five years (“the relevant period”) ending on the last day of the most recent financial year for which a valuation under section 18 of the Act has been carried out, substantial items of an exceptional nature being excluded, and
- (b) the average number of years remaining to run on policies shall be calculated—
 - (i) by multiplying the number of years to run on each policy by the actuarial value of the benefits payable under the policy, adding together the products so obtained and dividing the total by the aggregate of the actuarial values of the benefits payable under all the policies, or
 - (ii) by an approximation to this method of calculation suitable to the circumstances of the case, including, where appropriate, an approximation involving the grouping of contracts,

appropriate allowance being made in either case for premature termination of contracts.

(4) For the purposes of paragraph (3)(a) above—

- (a) where a valuation under section 18 of the Act has been carried out annually in relation to the relevant period, the profits made in long term business for any particular year of the relevant period shall be taken to be the surplus (if any) arising in the long term fund since the last such valuation, and the profits so made for that period shall be taken to be the aggregate of those surpluses less any deficiencies in the long term fund during that period;

- (b) where an insurance company has carried on long term business throughout the relevant period but valuations under section 18 of the Act have not been made annually in that period, the profits so made for that period shall be taken to be the aggregate of surpluses arising in the long term fund since the last valuation preceding the relevant period less any deficiencies in the long term fund since that last valuation, except that the surplus or deficiency arising in the period ending with the first valuation within the relevant period shall be proportionately reduced to allow for any period of time falling outside the relevant period;
- (c) where an insurance company has not carried on long term business throughout the relevant period, the profits made in long term business for the relevant period shall be taken to be the aggregate of any surpluses arising in the long term fund during that part of the relevant period for which long term business was carried on less any deficiencies in the long term fund during that part of that period.

Implicit items: zillmerising

25.—(1) Where zillmerising is appropriate but either is not practised or is at a rate less than the loading for acquisition costs included in the premium, then, subject to paragraph (6) below, the implicit item relating to zillmerising may be valued at an amount not exceeding the difference between—

- (a) the non-zillmerised or partially zillmerised figure for mathematical reserves maintained by the company concerned, and
- (b) a figure for mathematical reserves (not less than those required by Part IX of these Regulations) zillmerised at a rate equal to the loading for acquisition costs included or allowed for in the premium.

(2) Where zillmerising is not practised, then, subject to paragraph (6) below, the value given by paragraph (1) above (less any amount relating to temporary assurances) shall not exceed 3.5 per cent. of the aggregate of the difference between—

- (a) the relevant capital sums for long term business activities, and
- (b) the mathematical reserves (excluding mathematical reserves for temporary assurances).

(3) Where zillmerising is practised but is at a rate less than the loading for acquisition costs, then, subject to paragraph (6) below, the value given by paragraph (1) above (less any amount relating to temporary assurances) together with the difference between the partially zillmerised mathematical reserves and the non-zillmerised mathematical reserves shall not exceed 3.5 per cent. of the aggregate of the difference between—

- (a) the relevant capital sums of long term business activities, and
- (b) the mathematical reserves (excluding mathematical reserves for temporary assurances).

(4) In paragraphs (2) and (3) above “relevant capital sums” means—

- (a) for whole life assurances, the sum assured,
- (b) for policies where a sum is payable on maturity (including policies where a sum is also payable on earlier death), the sum payable on maturity,
- (c) for deferred annuities, the capitalised value of the annuity at the vesting date (or the cash option if it is greater),
- (d) for capital redemption contracts, the sums payable at the end of the contract period, and
- (e) for linked long term contracts, notwithstanding sub-paragraphs (a) to (d) above, the lesser of—

- (i) the amount for the time being payable on death, and

- (ii) the aggregate of the value for the time being of the units allocated to the contract (or, where entitlement is not denoted by means of units, the value for the time being of any other measure of entitlement under the contract equivalent to units) and the total amount of the premiums remaining to be paid during such of the term of the contract as is appropriate for zillmerising or, if such premiums are payable beyond the age of seventy-five, until that age,

excluding in all cases any vested reversionary bonus and any capital sums for temporary assurances.

(5) Where, under the contract relating to any such business as is mentioned in paragraph (4) above, the payment of premiums is to stop before the sum assured becomes due, then, notwithstanding the said paragraph (4), “relevant capital sums” in paragraphs (1) to (3) above shall be taken to mean the mathematical reserves appropriate for that contract at the end of the premium-paying term.

(6) For the purposes of this regulation—

- (a) reserves for vested reversionary bonuses shall not be regarded as mathematical reserves, and
- (b) the result given by paragraph (1), (2) or (3) above shall be reduced by the amount of any undepreciated acquisition costs brought into account as an asset.

Implicit items: hidden reserves

26. The implicit item relating to hidden reserves, if it consists of hidden reserves resulting from the underestimation of assets and overestimation of liabilities (other than mathematical reserves), may, in so far as the hidden reserves in question are not of an exceptional nature, be given its full value.

PART V

CURRENCY MATCHING, LOCALISATION

Matching: general requirement

27.—(1) Where in the case of an insurance company to which Part II of the Act applies the company’s liabilities in any particular currency exceed 5 per cent. of its total liabilities, the company shall hold sufficient assets in that currency to cover at least 80 per cent. of the company’s liabilities in that currency.

(2) Where an insurance company carries on both long term and general business, the requirements of paragraph (1) above apply to the assets and liabilities of each kind of business separately.

(3) Where the contract of insurance expresses any liability in terms of a particular currency, that liability shall be regarded as a liability in that currency.

(4) For the purposes of this regulation—

“assets”, except in the case of assets of the kind referred to in regulation 45(2) below, means assets valued in accordance with Part VIII of these Regulations; and

“liabilities” means provision by an insurance company to cover liabilities arising under or in connection with contracts of insurance (not being liabilities relating to insurance business excluded by regulation 32 below).

(5) For the purposes of this regulation references to assets in a currency shall be construed as references to assets expressed in or capable of being realised (without exchange risk) in that currency; and an asset is capable of being realised (without exchange risk) in a currency if it is reasonably

capable of being realised in that currency without risk that changes in exchange rates would reduce the cover of liabilities in that currency.

(6) The provisions of this regulation have effect subject to regulations 28 to 30 below.

Matching: property linked benefits

28.—(1) In so far as the liabilities for property linked benefits and index linked benefits are covered by assets which determine the benefits payable under a linked long term contract, regulation 27 above does not apply.

(2) In so far as the liabilities for property linked benefits are determined by reference to assets in a currency other than that in which the company's obligations to the policy holder are expressed, those liabilities shall for the purposes of regulation 27 be deemed to be liabilities in the first-mentioned currency.

(3) In this regulation "property linked benefits" and "index linked benefits" have the meanings given by regulation 44(1) below.

Matching: currency of general business liabilities

29.—(1) The currency of an insurance company's general business liabilities shall, for the purposes of regulation 27 above, be determined as follows.

(2) Where the liabilities are not expressed as liabilities in terms of a particular currency, they shall be regarded as liabilities in the currency of the country in which the risk is situated or, if the company on reasonable grounds so determines, in the currency in which the premium payable under the contract is expressed.

(3) However, the company may regard its liabilities as liabilities in the currency which it will use in accordance with past experience or, in the absence of such experience, in the currency of the country in which it is established—

- (a) for contracts covering risks falling within general business classes 4, 5, 6, 7, 11, 12 and 13 (producer's liability only);
- (b) for contracts covering risks falling within any other general business class where, in accordance with the nature of the risks, the company's liabilities are liabilities in a currency other than that determined in accordance with paragraph (2).

(4) Where a claim has been notified to an insurance company and the company's liability in respect of that claim is payable in a currency other than one which would result from the application of the above provisions, the liability shall be regarded as a liability in the currency in which the company is actually obliged to pay it.

(5) Where a claim is assessed in a currency which is known to the company in advance but which is different from a currency determined in accordance with the above provisions, the company may regard its liabilities as liabilities in that currency.

Matching: exception for certain liabilities

30.—(1) Subject to paragraphs (2) and (3) below, an insurance company need not cover its liabilities by assets in a particular currency if those assets would amount to 7 per cent. or less of the remainder of its assets in other currencies.

(2) Until 31st December 1998, paragraph (1) has effect in relation to general business liabilities required to be covered by assets in Greek drachmas, Irish pounds or Portuguese escudos as if the amount of 2 million ECU, if less than the percentage mentioned in that paragraph, were substituted for that percentage.

(3) Until 31st December 1996, paragraph (1) has effect in relation to general business liabilities required to be covered by assets in Belgian francs, Luxembourg francs or Spanish pesetas as if the amount of 2 million ECU, if less than the percentage mentioned in that paragraph, were substituted for that percentage.

Localisation

31.—(1) Subject to paragraph (2) below, assets held pursuant to regulation 27 above shall be held—

- (a) if they cover liabilities in sterling, in the European Community;
- (b) if they cover liabilities in any other currency, in the European Community or in the country of that currency.

(2) In the case of a relevant co-insurance operation and a relevant company, assets held pursuant to regulation 27 above shall be held in the European Community or, if the head office or branch through which the leading insurer participates in the operation is established in an EFTA State, in that State.

(3) For the purpose of applying paragraphs (1) and (2) above to tangible assets and assets consisting of a claim against a debtor or a listed or unlisted investment, the following provisions shall have effect—

- (a) a tangible asset shall be regarded as held in the place where it is situated;
- (b) an asset consisting of a claim against a debtor shall be regarded as held in any place where it can be enforced by legal action;
- (c) an asset consisting of a listed investment shall be regarded as held in any place where—
 - (i) there is a stock exchange (of the kind described in paragraph (a) of the definition of “listed” in regulation 44(1) below) where it is listed, or
 - (ii) there is a regulated market as defined in regulation 44(1) below where it is dealt in;
- (d) an asset consisting of an unlisted investment issued by an incorporated company shall be regarded as held in the place where the head office of that company is situated.

(4) In this regulation—

“assets” and “liabilities” have the same meaning as in regulation 27 above;

“leading insurer”, “relevant co-insurance operation” and “relevant company” have the same meaning as in regulation 63 below;

“listed” and “unlisted” have the meaning given in regulation 44(1) below.

Exclusions from regulations 27 to 31

32.—(1) Nothing in regulations 27 to 31 above shall apply to—

- (a) insurance business carried on by a UK company outside the European Community; or
- (b) insurance business carried on by any other company to which Part II of the Act applies outside the United Kingdom; or
- (c) reinsurance business (unless it is facultative reinsurance written by an insurance company who also carries on insurance business that is not reinsurance).

(2) Nothing in regulation 31 above shall apply to insurance business of groups 3 and 4 (within the meaning of Part II of Schedule 2 to the Act).

Margin of solvency of non-EC company whose head office is not in an EFTA State etc.: location of assets

33. Without prejudice to regulation 31 above—
- (a) the assets representing a United Kingdom margin of solvency maintained under section 32(2)(b) of the Act by a non-EC company whose head office is not in an EFTA State and which is not a Swiss general insurance company shall be kept—
 - (i) up to an amount at least equal to the appropriate guarantee fund or minimum guarantee fund (whichever is the greater), within the United Kingdom, and
 - (ii) as to the remainder, within the United Kingdom and the other EEA States, and
 - (b) the assets representing an EEA margin of solvency maintained under section 32(3)(b) of the Act by a non-EC company whose head office is not in an EFTA State and which is not a Swiss general insurance company shall be kept—
 - (i) up to an amount at least equal to the appropriate guarantee fund or minimum guarantee fund (whichever is the greater) within the EEA States where the company carries on business (or in any one or more of them), and
 - (ii) as to the remainder, within the United Kingdom and the other EEA States.

PART VI

CHANGE OF CONTROL

Particulars of changes of director, controller or manager, etc.

34. The particulars prescribed for the purposes of sections 60(1), 61(1) and 62(1) of the Act⁽¹⁴⁾ shall be those set out in Schedule 6 to these Regulations.

PART VII

CONDUCT OF BUSINESS

Contents of advertisements: overseas insurers

35.—(1) Subject to regulation 37 below, paragraphs (2) and (3) of this regulation apply to any insurance advertisement which relates to a contract of insurance with an insurance company which, at the time when the advertisement is issued—

- (a) does not have its head office in an EEA State; and
 - (b) is not authorised to carry on insurance business in the United Kingdom by virtue of section 3 or 4 of the Act.
- (2) An advertisement to which this paragraph applies shall include the following statement—
- “This advertisement relates to an insurance company which is not authorised to carry on insurance business in the United Kingdom. This means that the management and solvency of the company are not supervised by Her Majesty’s Government and you will not be protected by the Policyholders Protection Act 1975 if the company should be unable to meet its liabilities to you.”

⁽¹⁴⁾ Section 62(1) was substituted by [S.I. 1994/1696](#), reg. 36.

(3) An advertisement to which this paragraph applies and in which an insurer is named (whether by his full name or by a name under which he ordinarily carries on business) shall include the full name of the insurance company, the country where the insurance company is registered and the country where the principal office is situated (if different).

(4) Subject to regulation 37 below, any insurance advertisement in respect of long term business which either does not relate to a contract of insurance, or relates to such a contract but does not name the insurance company, shall include a statement that the advertisement is about insurance if that advertisement is issued by or on behalf of an insurance company which, at the time when the advertisement is issued—

- (a) does not have its head office in an EEA State; and
- (b) is not authorised to carry on long term business in the United Kingdom by virtue of section 3 or 4 of the Act.

Contents of advertisements: statement of capital

36. Any insurance advertisement which contains the name of an insurance company to which Part II of the Act applies, or of an EC company carrying on insurance business in the United Kingdom, being a company incorporated with a share capital, and which states the amount of the authorised capital of the company shall also state the amount of that capital which has been subscribed and the amount thereof which has been paid up at the time the advertisement is issued.

Interpretation of and provisions supplemental to regulations 35 and 36

37.—(1) For the purposes of regulations 35 and 36 above, “insurance advertisement” means an insurance advertisement which invites any person to enter into or offer to enter into, or which contains information calculated to lead directly or indirectly to any person entering into or offering to enter into, any contract of insurance other than a contract of reinsurance.

(2) The matters required to be included in an advertisement pursuant to regulation 35 above shall be shown prominently, clearly and legibly.

(3) The words specified in regulation 35(2) above shall appear prominently and shall, if the insurer is named, appear—

- (a) immediately after or alongside the statement of the full name of the insurer, or
 - (b) if the name (whether the full name or any other name) of the insurer is stated more than once in the advertisement, immediately after or alongside the most prominent statement of the name; and, for this purpose, if two or more statements of the name are equally prominent, that which appears first in the advertisement shall be treated as the most prominent.
- (4) Regulations 35 and 36 above shall not apply to insurance advertisements which—
- (a) relate to a contract which will cover large risks only; or
 - (b) are investment advertisements approved by an authorised person under section 57 of the Financial Services Act 1986⁽¹⁵⁾.

Intermediaries: connected persons

38.—(1) For the purposes of regulation 39 below a person is connected with an insurance company if—

- (a) that person, or any partner, director, controller or manager of that person, is a partner, director, controller or manager of the insurance company or of any controller thereof;

(15) 1986 c. 60.

- (b) the insurance company, or any partner, director, controller or manager of the insurance company, is a partner, director, controller or manager of that person or of any controller thereof;
- (c) that person or any controller thereof has an interest in 10 per cent. or more of the shares of the insurance company or of any controller thereof;
- (d) the insurance company or any controller thereof has an interest in 10 per cent. or more of the shares of that person or of any controller thereof;
- (e) that person, under any contract, not being a contract of employment, or under any other arrangement (whether legally enforceable or not) with the insurance company or with any associated company, undertakes not to perform any services relating to any class or part of a class of insurance business for any insurance company other than the insurance company and, where the undertaking also relates to any associated company, the associated company: Provided that an individual who gives an undertaking of the kind referred to above to any registered society shall not, by virtue of such undertaking, be a person connected with the society or with any company which is, within the meaning of section 736(2) Companies Act 1985⁽¹⁶⁾ or Article 4(5)(b) of the Companies (Northern Ireland) Order 1986⁽¹⁷⁾, a wholly owned subsidiary of the society.

(2) For the purposes of paragraph (1)(c) and (d) above, a person shall be treated as having an interest in shares of a company if, by virtue of Part I of Schedule 13 to the Companies Act 1985 (other than paragraph (4)(b)), he would be so treated for the purposes of sections 324 to 328 of that Act.

(3) A person who issues an invitation of the kind mentioned in regulation 39(1) below in respect of a contract of insurance which will be underwritten at Lloyd's shall, in respect of that contract of insurance, be connected with the insurance company to which that contract relates if that person or any partner, director, controller or manager of that person will take a share in the contract as a member of Lloyd's.

(4) In this regulation—

“associated company”, in relation to a body corporate, means a subsidiary or holding company or subsidiary of the holding company of that body;

“controller”, in relation to a body corporate which is not an insurance company, means a person who is or would be, if he were a company, a holding company of that body;

“manager”, in relation to a body corporate which is not an insurance company, means a person who directly or indirectly takes part in or is concerned in the management of the affairs of that body.

Invitation by intermediary

39.—(1) Subject to regulation 40 below, any person who invites another person who is ordinarily resident in the United Kingdom to make an offer or proposal or to take any other step with a view to entering into a contract of insurance with an insurance company shall, if he is connected with that company at the time the invitation is issued, provide the person to whom the invitation is issued, in the manner specified in paragraph (3) below, with information indicating the circumstances of his connection with that company.

(2) Subject to regulation 40 below, any person who, in the course of carrying on any business or profession, invites another person who is ordinarily resident in the United Kingdom to make an offer or proposal or to take any other step with a view to entering into a contract of insurance with an insurance company which is not an authorised or permitted insurer shall provide the person to whom the invitation is issued, in the manner specified in paragraph (3) below, with information indicating

⁽¹⁶⁾ Section 736 was substituted by the Companies Act 1989 (c. 40), section 144(1).

⁽¹⁷⁾ S.I. 1986/1032 (N.I.6.).

that the insurance company to which the invitation relates is not an authorised or permitted insurer in respect of the contract in question.

(3) An intermediary shall provide the information required under paragraph (1) or (2) above in the following manner—

- (a) where the invitation is issued in writing and is sent or delivered, by sending or (as the case may be) by delivering with the invitation a written statement containing that information;
- (b) where the invitation is issued orally, by supplying that person with the information orally, and—
 - (i) if the person is present when the invitation is issued, by delivering to him immediately thereafter a written statement containing that information; or
 - (ii) if the person is not so present, by sending by post or causing to be delivered to him as soon as reasonably practicable, at the address supplied by him for the purpose or at his last known address, a written statement containing that information.

(4) The requirement of the written statement referred to in paragraph (3) above shall be deemed to have been complied with where the invitation issued by the intermediary under paragraph (1) above is issued on stationery having printed upon it, in prominent positions, on the side on which the invitation is contained, the name of the intermediary, the name of the insurance company and a clear statement of the relationship between them and which contains in the body of the invitation a clear indication of the name of the insurance company to which the invitation relates, expressed in the same style as in the printed statement:

Provided that where the intermediary is a Lloyd's broker or a member of Lloyd's and it is clearly indicated in the invitation that the contract will be underwritten at Lloyd's there may be inserted, in place of the statement of relationship referred to above, the expression "Lloyd's Brokers" or (as the case may be) "Mr. _____ is a member of Lloyd's" without a reference to the names of the underwriters concerned.

(5) In this regulation—

"authorised", in relation to an insurer, means authorised to carry on insurance business in the United Kingdom by virtue of section 3 or 4 of the Act;

"contract of insurance" does not include a contract of reinsurance or a contract of insurance the effecting and carrying out of which constitutes the carrying on of industrial assurance business or insurance business of groups 3 and 4 as specified in Part II of Schedule 2 to the Act;

"intermediary" means a person to whom the requirements of paragraph (1) or (2) above apply in respect of an invitation issued by him;

"permitted", in relation to an insurer, means permitted to carry on insurance business in the United Kingdom otherwise than by virtue of section 3 or 4 of the Act.

Cases excepted from regulation 39

40.—(1) Regulation 39 above shall not apply to—

- (a) an invitation for the renewal or amendment of the terms of any contract of insurance effected before 11th October 1976;
- (b) an invitation for the renewal or amendment of the terms of a contract of insurance effected as a result of an invitation issued by an intermediary in accordance with regulation 39 above where there has been no significant change in the circumstances relevant to the information provided when the contract was first effected;
- (c) an amendment of an invitation issued by an intermediary in accordance with regulation 39 above where there has been no significant change in the circumstances relevant to the information provided when the invitation was first issued;

- (d) an invitation for the effecting of a contract of insurance in respect of general business where—
- (i) the contract relates to business of group 2 or 5 as specified in Part II of Schedule 2 to the Act and the initial premium to be paid in respect of that contract exceeds £5,000; or where the person to whom the invitation is made has, through the intermediary, prior to that invitation entered into other contracts of insurance of the class to which the contract relates and has paid premiums in respect thereof which in the aggregate either exceed £5,000 in the previous calendar year or exceed that figure in the calendar year during which the invitation in question is made; or
 - (ii) the contract relates to any other class of insurance business and the initial premium to be paid exceeds £1,000; or where the person to whom the invitation is made has, through the intermediary, prior to that invitation entered into contracts of insurance of the class to which the contract relates and has paid premiums in respect thereof which in the aggregate either exceed £1,000 in the previous calendar year or exceed that figure in the calendar year during which the invitation is made;
- (e) an invitation for the effecting of a contract of insurance with such persons as are mentioned in section 2(2)(b) or (c) of the Act.

(2) Regulation 39(1) above shall not apply to an invitation for the effecting of a contract of insurance the carrying out of which is to be shared between two or more insurance companies where the share to be taken by any company, or the share in the aggregate to be taken by two or more companies, with which the intermediary is connected, does not exceed one-quarter of the total.

(3) Regulation 39(2) above shall not apply to an invitation for the effecting of a contract of insurance the carrying out of which is to be shared between two or more insurance companies where the share to be taken by any company which is not an authorised or permitted insurer, or the share in the aggregate to be taken by two or more companies which are not authorised or permitted insurers, does not exceed one-quarter of the total.

(4) In this regulation “authorised”, “contract of insurance”, “intermediary” and “permitted” have the same meaning as in regulation 39 above.

Notice of long-term contract

41.—(1) Subject to the following provisions of this regulation—

- (a) a statutory notice in relation to a long-term contract which is not an investment agreement shall have the contents and be in the form set out in Schedule 7;
- (b) a statutory notice in relation to a long-term contract which is an investment agreement shall have the contents and be in the form set out in Schedule 8; and
- (c) the notice of cancellation annexed to a statutory notice shall have the contents and be in the form set out in Schedule 9.

(2) A statutory notice shall be printed on a single sheet of paper.

(3) The lettering of statutory notices and notices of cancellation shall be easily legible; and capital letters and figures shall be used in all the places in which they are shown in the form as set out in each Schedule.

(4) In statutory notices the lettering of the words “IMPORTANT! YOU SHOULD READ THIS CAREFULLY” shall be set out in larger printing than all other lettering and in bolder printing than all other lettering except that of main headings and sub-headings.

(5) In statutory notices and notices of cancellation the lettering of all main headings and sub-headings shall be set out in bolder printing than all other lettering except (in the case of a statutory notice) that of the words “IMPORTANT! YOU SHOULD READ THIS CAREFULLY”.

(6) In statutory notices and notices of cancellation there shall be substituted for words contained within square brackets in the appropriate Schedule and for the square brackets containing them the information or wording which, as indicated by those words, should be inserted there.

(7) For the purposes of this regulation and Schedules 7, 8 and 9—

“EC contract” has the same meaning as in section 75(5B)(18) of the Act;

“investment agreement” has the same meaning as in section 44(9) of the Financial Services Act 1986;

“long-term contract” means a contract for long-term insurance;

“non-EC contract” has the same meaning as in section 75(5B) of the Act;

“notice of cancellation” means a notice of the kind mentioned in section 75(2)(b) of the Act;

“statutory notice” means a notice of the kind mentioned in section 75(2) of the Act;

and in the paragraphs in the forms set out in Schedules 7 and 8 headed “Your right to withdraw from the transaction” the description or title of the person to whom the notice of cancellation should be sent may be substituted for or included with the name of that person.

Exemptions from regulation 41

42. Section 75(1) of the Act(19) and regulation 41 above shall not apply to—

- (a) contracts where none of the proposers or policy holders is an individual;
- (b) contracts of term assurance effected for periods of six months or less;
- (c) contracts of reinsurance;
- (d) contracts which insure a policy holder’s obligations to make payments under a personal credit agreement of the kind mentioned in section 8(1) of the Consumer Credit Act 1974(20) or a consumer hire agreement of the kind mentioned in section 15(1) of that Act(20) where the terms of that personal credit agreement or consumer hire agreement have been entered into on the understanding that the long-term contract will remain in force.

Linked contracts

43.—(1) Benefits payable under any contract to which this regulation applies shall not be determined, either wholly or partly, by reference to the value of, or the income from, or fluctuations in the value of, property of any description other than property of any of the descriptions specified in Part I of Schedule 10 which, where appropriate, comply with the provisions of paragraph 16 of that Schedule.

(2) Benefits payable under any contract to which this regulation applies shall not be determined, whether directly or indirectly, either wholly or partly by reference to fluctuations in any index of the value of property other than an index described in Part II of Schedule 10.

(3) This regulation applies to ordinary long-term contracts which are—

- (a) contracts entered into by—
 - (i) insurance companies to which Part II of the Act applies;
 - (ii) EC companies the effecting of which constitutes the carrying on of ordinary long-term insurance business in the United Kingdom; or

(18) Section 75(5B) was inserted by S.I. 1993/1327, reg. 2(3).

(19) Section 75(1) was substituted by S.I. 1993/1327, reg. 2(1) and further substituted by S.I. 1994/1696, reg. 43.

(20) 1974 c. 39; as amended by S.I. 1983/1878, article 4, Schedule Part II.

(20) 1974 c. 39; as amended by S.I. 1983/1878, article 4, Schedule Part II.

- (iii) members of Lloyd's,
 - or have been entered into by any such insurance company or other person at any time before 1st July 1975 and are still in force;
 - (b) contracts under which the benefits payable to the policy holder are wholly or partly to be determined by reference to the value of, or the income from, property of any description (whether or not specified in the contract) or by reference to fluctuations in, or in an index of, the value of property of any description (whether or not so specified); and
 - (c) not contracts specified in paragraph (4) below as being contracts to which this regulation does not apply.
- (4) The contracts referred to in paragraph (3)(c) above to which this regulation does not apply are—
- (a) contracts entered into before, or in pursuance of a contract subsisting at the date of, the coming into force of these Regulations to the extent that they provide for benefits to be determined by reference to the value of, or the income from, or fluctuations in property of any description to which benefits were permitted to be determined before the coming into force of these Regulations;
 - (b) contracts with any policy holder who is a person not ordinarily resident in the United Kingdom;
 - (c) contracts entered into by an insurance company to which Part II of the Act applies by reason only that the policy holder is eligible to participate in any established surplus as defined in section 30(4) of the Act;
 - (d) contracts entered into by an EC company by reason only that the policy holder is eligible to participate in an excess of assets representing the whole or a particular part of the fund or funds maintained by the company in respect of its long term business over the liabilities, or a particular part of the liabilities, of the company attributable to that business as determined in accordance with the law of the member State in which the head office of the company is situated;
 - (e) subject to paragraph (5) below, contracts to manage the investments of pension funds that are not combined with contracts of insurance covering either conservation of capital or payment of a minimum interest;
 - (f) contracts entered into before 30th June 1995 to the extent that they provide for benefits to be determined by reference to a collective investment scheme within the meaning of the Financial Services Act 1986 which was a listed security immediately before the coming into force of these Regulations.
- (5) Benefits payable under contracts referred to in paragraph (4)(e) above shall not be determined, either wholly or partly, by reference to the value of, or the income from, or fluctuations in the value of derivative contracts other than permitted derivative contracts as defined in paragraph 15 of Schedule 10.
- (6) In this regulation, “ordinary long-term contract” means a contract for ordinary long-term insurance business.
- (7) Any reference in this regulation to contracts of a similar description to any specified contract is a reference to contracts which correspond with that contract in both the following respects—
- (a) the provisions defining the descriptions of property or indices by reference to which the benefits payable thereunder are to be determined are the same as in that contract; and
 - (b) the insurance company or other person undertaking to pay the benefits provided for thereunder is the same as in that contract.

(8) This regulation does not apply in relation to contracts linked to property of the description in paragraph 11(b) of Schedule 10 entered into before 1st February 1992 save to the extent that responsibility as mentioned in that paragraph extends at least to acts or omissions after that date.

PART VIII

VALUATION OF ASSETS

Interpretation: Part VIII

44.—(1) In this Part of these Regulations, unless the context otherwise requires—

“approved counterparty” means any of the following—

- (a) an approved credit institution;
- (b) a person who is exempt pursuant to section 43 of the Financial Services Act 1986; or
- (c) a person who is an authorised person within the meaning of section 207(1) of the Financial Services Act 1986⁽²¹⁾ in respect of investment business of a kind which includes entering into unlisted derivative contracts as principal;

“approved credit institution” means an institution recognised or permitted under the law of an EEA State to carry on any of the activities set out in Annex 1 to Council Directive [89/646/EEC](#) of 15 December 1989 on the co-ordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of credit institutions⁽²²⁾;

“approved financial institution” means any of the following—

- the central bank of an EEA State;
- the International Bank for Reconstruction and Development;
- the International Finance Corporation;
- the International Monetary Fund;
- the Inter-American Development Bank;
- the African Development Bank;
- the Asian Development Bank;
- the Caribbean Development Bank;
- the European Investment Bank;
- the European Community;
- the European Atomic Energy Community; and
- the European Coal and Steel Community;

“approved investment firm” means an investment firm as defined in article 2 of Council Directive [93/22/EEC](#) of 10 May 1993 on investment services in the securities field⁽²³⁾;

“approved securities” means any of the following—

- (a) any securities issued or guaranteed by, or the repayment of the principal of which, or the interest on which is guaranteed by, and any loans to or deposits with, any of the following, namely, any government, public or local authority or nationalised industry or

⁽²¹⁾ 1986 c. 60.

⁽²²⁾ O.J. No. L386, 30.12.89, p.1.

⁽²³⁾ O.J. No. L141, 11.6.93, p.27.

undertaking, which belongs to Zone A as defined in Council Directive 89/647/EEC of 18 December 1989 on a solvency ratio for credit institutions⁽²⁴⁾;

- (b) any loan to, or deposit with, an approved financial institution; and
- (c) debentures issued by the Agricultural Mortgage Corporation Limited or the Scottish Agricultural Securities Corporation Limited;

“asset” includes part of an asset;

“building society” means a building society within the meaning of the Building Societies Act 1986⁽²⁵⁾;

“company” includes any body corporate;

“contract for differences” means a contract which falls within paragraph 9 of Part I of Schedule I to the Financial Services Act 1986⁽²⁶⁾;

“debenture” includes debenture stock and bonds, whether constituting a charge on assets or not, and loan stock or notes;

“debt” includes an obligation to pay a sum of money under a negotiable instrument;

“derivative contract” means a contract for differences, a futures contract or an option;

“enactment” includes an enactment of the Parliament of Northern Ireland;

“equity share” means a share of equity share capital;

“equity share capital” means, in relation to a company, its issued share capital excluding any part thereof which, neither as respects dividends nor as respects capital, carries any right to participate beyond a specified amount in a distribution;

“fixed interest securities” means securities which under their terms of issue provide for fixed amounts of interest;

“futures contract” means a contract which falls within paragraph 8 of Part I of Schedule I to the Financial Services Act 1986;

“general business amount” has the meaning given in regulation 57(9) below;

“general business assets” and “general business liabilities” mean respectively assets and liabilities of an insurance company which are not long term business assets or long term business liabilities;

“general premium income” means, in relation to any body in any year, the net amount, after deduction of any premiums payable for reinsurance, of the premiums receivable by the body in that year in respect of all insurance business other than long term business;

“index linked benefits” means benefits—

- (a) provided for under any contract the effecting of which constitutes the carrying on of ordinary long-term insurance business; and
- (b) determined by reference to fluctuations in any index of the value of property (whether specified in the contract or not);

“industrial and provident society” means any society registered (or deemed to be registered) under the Industrial and Provident Societies Act 1965⁽²⁷⁾ or the Industrial and Provident Societies Act (Northern Ireland) 1969⁽²⁸⁾;

⁽²⁴⁾ O.J. No. L386, 30.12.89, p.14.

⁽²⁵⁾ 1986 c. 53.

⁽²⁶⁾ Paragraph 9 of Part I of Schedule 1 was amended by S.I. 1990/349, art. 2(2).

⁽²⁷⁾ 1965 c. 12.

⁽²⁸⁾ 1969 c. 24 (N.I.).

“insurance liabilities” means, in relation to an insurance company, any debt due from or other liabilities of the company under any contract of insurance to which it is a party;

“intermediary” means a person who in the course of any business or profession invites other persons to make offers or proposals or to take other steps with a view to entering into contracts of insurance with an insurance company, other than a person who only publishes such invitations on behalf of, or to the order of, some other person;

“linked assets” means, in relation to an insurance company, long term business assets of the company which are, for the time being, identified in the records of the company as being assets by reference to the value of which property linked benefits are to be determined;

“listed” means, in relation to an investment—

- (a) that there has been granted and not withdrawn a listing in respect of that investment on any stock exchange in a member State which is a stock exchange within the meaning of the law of that member State and that dealings in the investment are effected regularly on such stock exchange; or
- (b) that dealings in that investment are effected regularly on a regulated market;

and “unlisted” shall be construed accordingly;

“long term business amount” has the meaning assigned to it in regulation 57(9) below;

“long term business assets” and “long term business liabilities” mean respectively assets of an insurance company which are, for the time being, identified as representing the long term fund or funds maintained by the company in respect of its long term business and liabilities of the company which are attributable to its long term business;

“middle market quotation” means—

- (a) in relation to an investment for which two prices are quoted in the official list published for the relevant market, the average of the two prices so quoted for the relevant date or, if no official list has been published for that day, for the most recent day prior to that day for which the official list has been published; and
- (b) in relation to an investment for which one price is quoted in the official list published for the relevant market, the price so quoted for the relevant date or, if no official list has been published for that day, for the most recent day prior to that day for which the official list has been published; and
- (c) in any other case, the nearest equivalent to the average referred to in paragraph (a) above which is published or can be reasonably ascertained from information which is published;

“option” means an option which falls within paragraph 7 of Part I of Schedule 1 to the Financial Services Act 1986(29) or a warrant;

“price earnings ratio” means the price earnings ratio (net) estimated in respect of the non-financial index of the Financial Times-Stock Exchange-Actuaries Share Indices jointly compiled by the Financial Times, the Stock Exchange, the Institute of Actuaries and the Faculty of Actuaries;

“proper valuation” means, in relation to land, a valuation made by a qualified valuer not more than three years before the relevant date which determined the amount which would be realised at the time of the valuation on an open market sale of the land free from any mortgage or charge;

“property linked benefits” means benefits other than index linked benefits—

- (a) provided for under any contract the effecting of which constitutes the carrying on of ordinary long-term insurance business, and

(29) Paragraph 7 of Part I of Schedule 1 was amended by S.I. 1988/496, art. 2.

- (b) determined by reference to the value of, or the income from, property of any description (whether specified in the contract or not);

“qualified valuer”, in relation to any particular type of land in any particular area, means—

- (a) a person who is a fellow or professional associate of the Royal Institution of Chartered Surveyors or a fellow or associate of the Incorporated Society of Valuers and Auctioneers or a fellow or associate of the Rating and Valuation Association and either—
 - (i) has knowledge of and experience in the valuation of that particular type of land in that particular area, or
 - (ii) has knowledge of and experience in the valuation of land and has taken advice from a valuer who he is satisfied has knowledge of and experience in the valuation of that particular type of land in that particular area, or
- (b) a person who conforms with paragraph (a)(i) or (ii) above and immediately before 15th June 1981 was recognised as a qualified valuer by virtue of an approval by the Secretary of State under the Insurance Companies (Valuation of Assets) Regulations 1976⁽³⁰⁾ (and for these purposes an approval given under the Insurance Companies (Valuation of Assets) Regulations 1974⁽³¹⁾ shall be deemed to have been given under the said Regulations of 1976);

“regulated institution” means any of the following—

- (a) an EC company, a UK company or an EFTA company;
- (b) an approved credit institution;
- (c) a body which is registered under the enactments relating to friendly societies and which is authorised to carry on insurance business; and
- (d) an approved investment firm;

“regulated market” means a market which is characterised by—

- (a) regular operation;
- (b) the fact that regulations issued or approved by the appropriate authority of the state where the market is situated—
 - (i) define the conditions for the operation of and access to the market;
 - (ii) define the conditions to be satisfied by a financial instrument in order for it to be effectively dealt in on the market; and
 - (iii) require compliance with reporting and transparency requirements comparable to those laid down in articles 20 and 21 of Council Directive [93/22/EEC](#) of 10 May 1993 on investment services in the securities field; and
- (c) in the case of a market situated outside the European Community, the fact that the financial instruments dealt in are of a quality comparable to those in a regulated market in the United Kingdom;

“regulated subordinated debt” means any debt which is due or to become due from a regulated institution and which satisfies the following conditions—

- (a) in the event of liquidation of the regulated institution the debt ranks after all claims of all other creditors and is not to be repaid until all other debts outstanding at the time have been settled;
- (b) for debts with a fixed maturity date the original term is at least five years;

⁽³⁰⁾ S.I. 1976/87; revoked by S.I. 1981/1654.

⁽³¹⁾ S.I. 1974/2203; revoked by S.I. 1976/87.

- (c) subject to sub-paragraph (d) below, the terms for repayment of the debt are such that the debt will not become repayable before the agreed payment date in any circumstances other than the bankruptcy or winding up of the debtor;
- (d) early repayment of the debt may only be made with the prior consent of the supervisory authority for the relevant regulated institution; and
- (e) the terms of the debt may only be amended with the prior consent of the supervisory authority for the relevant regulated institution;

“related company” means, in relation to an insurance company—

- (a) a dependant of the insurance company, or
- (b) a company of which the insurance company is a dependant, or
- (c) a dependant of a company of which the insurance company is a dependant;

“relevant date” means, in relation to the valuation of any asset for any purpose for which this Part of these Regulations applies, the date when the asset falls to be valued for that purpose;

“salvage right” means any right of an insurance company under a contract of insurance to take possession of and to dispose of property by virtue of the fact that the company has made a payment or has become liable to make a payment in respect of a loss thereof;

“securities” includes shares, debentures, Treasury Bills, Tax Reserve Certificates and Certificates of Tax Deposit;

“settlement date” means any date on which the fulfilment of an obligation under a derivative contract is or may be required;

“share” includes stock;

“stock lending transaction” means an agreement under which title to securities is transferred from one party to the agreement, described in the agreement as the lender, to another, described as the borrower, on terms which provide for redelivery of identical securities from the borrower to the lender on demand or at an agreed date;

“Talisman short term certificate” means a short term certificate provided by the Stock Exchange to Talisman trading account holders which have been endorsed by such account holders and passed to lenders as security under stock lending transactions;

“Treasury Bills” includes bills issued by Her Majesty’s Government in the United Kingdom and Northern Ireland Treasury Bills;

“warrant” means an instrument which falls within paragraph 4 of Part I of Schedule 1 to the Financial Services Act 1986.

(2) For the purposes of these Regulations, a company is a dependant of another company if it is a subsidiary undertaking of that other company and “subsidiary undertaking” shall be construed in accordance with section 258 of the Companies Act 1985⁽³²⁾ or Article 266 of the Companies (Northern Ireland) Order 1986⁽³³⁾.

(3) For the purposes of these Regulations, a debt owed to an insurance company shall be regarded as being secured only to the extent that—

- (a) it is a debt in respect of the full amount of which a letter of credit has been established with an approved credit institution; or
- (b) it is a debt the payment in full of which is guaranteed by an approved credit institution; or
- (c) it is fully secured by a Talisman short term certificate; or

⁽³²⁾ Section 258 was substituted by the Companies Act 1989, c. 40, reg. 21.

⁽³³⁾ S.I. 1986/1032 (N.I. 6), Art. 266 was substituted by Companies (N.I.) Order 1990 (N.I. 15), Art. 3(a), 23(1).

- (d) it is fully secured on an asset or assets for the valuation of which provision is made in this Part of these Regulations; and—
- (i) the value of the asset or assets providing the security (after deducting reasonable expenses of sale) is sufficient to enable the debt to be discharged in full; and
 - (ii) subject to paragraph (4) below, the value of the asset or assets providing the security for the debt when added to the aggregate exposure (as defined in regulation 57(3)) to assets of the same description does not exceed the maximum admissible value (as defined in regulation 57(4)) for assets of that description; and
 - (iii) there is no other obligation secured on the asset or assets which has priority to or ranks equally with the debt.

(4) A debt arising under a stock lending transaction shall not be deemed to be unsecured by reason only that the conditions set out in sub-paragraph (3)(d)(ii) above is not satisfied if the total value of the assets providing security for the debt is not dependant on fluctuations in the value of any individual asset.

Application: Part VIII

45.—(1) Subject to paragraph (2) below, this Part of these Regulations applies with respect to the determination of the value of assets of insurance companies for the purposes of—

- (a) sections 29(7), 31, 32, 34, 35, 38, 39 and 45 of the Act⁽³⁴⁾,
- (b) any investigation to which section 18 of the Act applies, and
- (c) any investigation made in pursuance of a requirement under section 42 of the Act.

(2) Where an insurance company has entered into any contracts providing for the payment of property linked benefits, this Part of these Regulations shall not apply with respect to the determination of the value of the linked assets to the extent that they are held in compliance with section 35A of the Act⁽³⁵⁾ to match liabilities in respect of such benefits.

(3) Any asset to which this Part of these Regulations applies (other than cash) for the valuation of which no provision is made in this Part of these Regulations shall be left out of account for the purposes specified in paragraph (1) above.

(4) Where in accordance with this Part of these Regulations the value of any asset is to be not greater than any specified amount and, in all the circumstances of the case, it appears that the asset is of a lesser value than that amount, such lesser value shall be the value of the asset.

(5) For the purposes of paragraph (4) above, in determining whether it appears that an asset is of a lesser value than a specified amount, regard shall be had to the underlying security and, in the case of bonds, debt securities and other money and capital market instruments, the credit rating of the issuer, including whether the issuer belongs to Zone A as defined in Council Directive [89/647/EEC](#) of 18 December 1989 on a solvency ratio for credit institutions and, where the issuer is an international organisation, whether it includes at least one EEA State among its members.

(6) Notwithstanding paragraph (1) above (but subject to the conditions set out in paragraph (7) below), an insurance company may, for the purposes of an investigation to which section 18 of the Act applies or an investigation made in pursuance of a requirement under section 42 of the Act, elect to assign to any of its assets the value given to the asset in question in the books or other records of the company.

(34) Section 32 was amended by [S.I. 1993/3127](#), reg. 3(3) and further amended by [S.I. 1994/1696](#), reg. 14; section 34 was amended by [S.I. 1993/3127](#), reg. 3(4) and further amended by [S.I. 1994/1696](#), reg. 15; section 35 was amended by [S.I. 1993/3127](#), reg. 3(5) and further amended by [S.I. 1994/1696](#), reg. 16; section 38 was amended by [S.I. 1993/3127](#), reg. 3(7) and further amended by [S.I. 1994/1696](#), reg. 20; section 39 was amended by [S.I. 1994/1696](#), reg. 21; section 45 was amended by [S.I. 1994/1696](#), reg. 25.

(35) Section 35A was inserted by [S.I. 1994/1696](#), reg. 17.

- (7) The conditions referred to in paragraph (6) above are—
- (a) that the election shall not enable the company to bring into account any asset for the valuation of which no provision is made in this Part of these Regulations;
 - (b) that the value assigned to the aggregate of the assets shall not be higher than the aggregate of the value of those assets as determined in accordance with regulations 46 to 57 of these Regulations.

Shares in and debts due or to become due from dependants

46.—(1) Subject to paragraph (2) below, the value of any share in a dependant of an insurance company shall be not greater than that part of the net asset value of the dependant which would be payable in respect of the share if the dependant were in liquidation and the net asset value were the amount distributable to the shareholders in the winding up.

(2) In valuing an asset of an insurance company which consists of shares in another company which is a dependant, any part of that value which arises from an interest by that other company, direct or indirect, in the shares of the insurance company shall be left out of account.

(3) In this regulation, “net asset value” means, in relation to a dependant, the amount by which the value of its assets, as determined in accordance with regulation 47 below, exceeds the amount of its liabilities as determined in the case of a dependant which is an insurance company, in accordance with the said regulation 47.

(4) The value of any debt due, or to become due, to an insurance company from a dependant (other than a debt to which regulation 48(2), (3) or (6) below applies) shall be the amount which would reasonably be expected to be recovered in respect of that debt (due account being taken of any security held in respect thereof and of the terms and conditions for payment) if the dependant were in liquidation and—

- (a) in the case of a dependant which is an insurance company, the amount realised from its assets and the amount of its liabilities in the liquidation were equal to the value of those assets and the amount of those liabilities, as determined in accordance with regulation 47 below, and
- (b) in the case of a dependant which is not an insurance company, the amount realised from its assets in the liquidation were equal to the value of those assets, as determined in accordance with the said regulation 47.

(5) Any share in a dependant—

- (a) in which there is no excess of assets over liabilities as is mentioned in paragraph (3) above, or
- (b) in relation to which an insurance company cannot reasonably ascertain the amount of the liabilities of the dependant for the purposes of the said paragraph (3),

shall be left out of account for the purposes for which this Part of these Regulations applies.

(6) Where an insurance company is unable to determine the value of any debt due, or to become due, to the company from a dependant because it cannot reasonably ascertain the amount of the liabilities of the dependant for the purpose of ascertaining what would reasonably be expected to be recovered in respect of that debt in accordance with paragraph (4) above, the debt shall be left out of account for the purposes for which this Part of these Regulations applies.

Valuation of assets and liabilities of dependants for the purposes of regulation 46

47.—(1) This regulation shall apply with respect to the determination of the value of the assets and the amount of the liabilities of a dependant for the purposes of regulation 46 above.

- (2) In the case of a dependant which is an insurance company, whether or not it is a company to which Part II of the Act applies—
- (a) subject to paragraph (4) below and paragraph 3 of Schedule 11, the value of its assets shall be determined in accordance with this Part of these Regulations;
 - (b) subject to paragraphs (c), (d), (e) and (f) below, the amount of its liabilities shall be determined in accordance with Part IX of these Regulations;
 - (c) where the dependant carries on general business, its general business liabilities shall be deemed to include an amount equal to whichever is the greater of 400,000 units of account or 20 per cent. of the general premium income;
 - (d) where the dependant carries on long term business, its long term business liabilities shall be deemed to include whichever is the greatest of the following three amounts—
 - (i) an amount (“the first amount”) which is one-sixth of the required margin of solvency that would be arrived at by regarding the dependant as having its head office in the United Kingdom (whether it has or not) and applying regulations 18 to 21 above;
 - (ii) an amount which is six times the first amount, reduced by the implicit figure within the meaning of sub-paragraph (e) below;
 - (iii) 800,000 units of account or, in the case described in paragraph 1(a) of Schedule 5, 200,000 units of account;
 - (e) for the purposes of sub-paragraph (d)(ii) above the implicit figure is—
 - (i) in the case of a dependant having its head office in the United Kingdom, the amount of any implicit items relating to future profits, zillmerising or hidden reserves which the dependant is permitted to count by virtue of an order under section 68 of the Act of the kind mentioned in regulation 23(5) above and the application of regulations 23(5), 24, 25 and 26 above, and
 - (ii) in the case of a dependant having its head office elsewhere than in the United Kingdom, the amount of any implicit items relating to future profits or zillmerising which would be arrived at by regarding the dependant as having its head office in the United Kingdom and as having received an order under section 68 of the Act of the kind mentioned in regulation 23(5) above and by applying regulations 23(5), 24 and 25 above accordingly;
 - (f) in any case where the dependant is required to establish a long term business fund or funds under section 28 of the Act, its long term business liabilities shall be deemed to be not less than the value of the assets representing that fund or funds.
- (3) In the case of a dependant which is not an insurance company—
- (a) the value of its assets shall be determined in accordance with this Part of these Regulations, subject to the provisions of and the modifications provided for in paragraphs 3 and 4 of Schedule 11;
 - (b) subject to paragraph (4) below, assets of the dependant which are of a relevant description shall be taken into account only to the extent that their value does not exceed the permitted limit applicable to the dependant in relation to those assets; and
 - (c) any equipment leased by the dependant exclusively to any person other than its subsidiary or holding company or a subsidiary of its holding company shall be valued as a debt for the purposes of this Part of these Regulations.
- (4) Where—
- (a) the dependant is an insurance company and has general business assets of a relevant description or is not an insurance company and has assets of a relevant description,

- (b) the value of such assets exceeds the permitted limit applicable to the dependant in relation to those assets, and
- (c) the insurance company has no assets of the same description of the relevant class, or has assets of the same description of the relevant class and their value is less than the permitted limit applicable to the insurance company in relation to those assets,

then, for the purpose of determining the value of the assets of the dependant, there shall be added to the permitted limit applicable to the dependant in relation to the assets referred to in sub-paragraph (a) above an amount equal to the supplementary amount determined in accordance with Part I of Schedule 11.

(5) In this regulation and Schedule 11—

“assets of a relevant description” means assets of a description specified in Part I of Schedule 12 or, in the case of a dependant which is not an insurance company, assets which would be of such a description if it were an insurance company;

“the insurance company” means the company the value of whose shares in or debt due or to become due from the dependant is being determined in accordance with regulation 46 above;

“permitted limit” means, in relation to assets of a relevant description—

- (a) in the case of the insurance company, or a dependant which is an insurance company, an amount equal to the percentage of the general business amount or, as the case may be, the long term business amount applicable in relation to assets of that description in accordance with regulation 57 below (as applied in the case of a dependant pursuant to paragraph (2) above); and
- (b) in the case of a dependant which is not an insurance company, an amount equal to the percentage specified in Schedule 12, with respect to assets of that description, of the liabilities of the dependant, other than liabilities to the insurance company or any other related company of the insurance company;

and references to assets held by any company being of the same description as assets held by a dependant mean—

- (i) in relation to land of the dependant of a description specified in paragraph 1 of Schedule 12, any interest of that other company in that land, and
- (ii) in relation to assets of the dependant of a description specified in paragraphs 2 to 17 of Schedule 12, assets of that other company which, if held by the dependant, would be assets of that description.

(6) Save as otherwise provided in paragraph 3(5) of Schedule 11, references in this regulation and in Schedule 11 to assets of the insurance company being of a relevant class mean—

- (a) where this regulation and Schedule 11 are being applied for the purpose of determining the value of a long term business asset of the insurance company, assets of the insurance company which are long term business assets, and
- (b) in any other case, assets of the insurance company which are general business assets.

(7) Where the insurance company cannot reasonably ascertain in accordance with the provisions of this regulation—

- (a) the value of any asset of the dependant, or
- (b) the amount of the permitted limit applicable in relation to any asset of the dependant,

that asset shall be left out of account in determining the value of the assets of the dependant under this regulation.

Debts and other rights

48.—(1) The value of any secured debt due, or to become due, to an insurance company, other than a debt to which regulation 46(4) above or paragraph (2), (3) or (6) of this regulation applies, shall be the amount which can reasonably be expected to be recovered in respect of that debt (due account being taken of the nature and quality of the security).

(2) Any debt due, or to become due, to an insurance company under a letter of credit shall be left out of account for the purposes of this Part of these Regulations.

(3) In the case of long term business carried on by a company, the value of any debt due, or to become due, to the company which is secured on a policy of insurance issued by the company and which (together with any other debt secured on that policy) does not exceed the amount payable on a surrender of that policy at the relevant date shall be the amount of that debt.

(4) The value of any unsecured debt due, or to become due, to an insurance company, other than a debt to which regulation 46(4) above, paragraph (5) or (6) of this regulation or regulation 53 or 56 applies, shall be—

- (a) in the case of any such debt which is due, or will become due, within twelve months of the relevant date (including any debt which would become due within that period if the company were to exercise any right to which it is entitled to require payment of the same), the amount which can reasonably be expected to be recovered in respect of that debt (due account being taken of the terms and conditions for payment thereof); and
- (b) in the case of any other such debt, the amount which would reasonably be paid by way of consideration for an immediate assignment of the debt (due account being taken of the terms and conditions for payment thereof).

(5) The value of any debt due to, or other rights of, the company under any contract of reinsurance to which the company is a party (other than a debt to which regulation 46(4) above applies) shall be the amount which can reasonably be expected to be recovered in respect of that debt or right.

(6) Any debt due, or to become due, to the company—

- (a) from an intermediary in respect of money advanced on account of commission to which that intermediary is not absolutely entitled at the relevant date, or
- (b) in respect of unpaid share capital of the company, or
- (c) from its holding company where such debt is regulated subordinated debt, or
- (d) which is a debt to which paragraph (7) or (8) below applies,

shall be left out of account for the purposes for which this Part of these Regulations applies.

(7) This paragraph shall apply to a debt which is a debt owed in respect of premiums (due account being taken of rebates, refunds and commissions payable) which is recorded in the company's accounting records as due and payable and has been outstanding for more than three months.

(8) This paragraph shall apply to a debt arising under a contract which, wholly or in part, has the equivalent effect to a derivative contract to which regulation 55(3) does not apply.

(9) In the case of general business carried on by a company, the value of any salvage right of the company shall be the amount which can reasonably be expected to be recovered by virtue of the exercise of that right.

(10) The value of any right of an insurance company to have identical securities transferred to it under to a stock lending transaction shall be calculated as if the right was a debt owed to the insurance company in respect of the value of the securities to be transferred to it.

Land

49.—(1) The value of any land of an insurance company (other than land held by the company as security for a debt or to which paragraph (2) of this regulation or regulation 54 below applies) shall be not greater than the amount which (after deduction of the reasonable expenses of sale) would be realised if the land were sold at a price equal to the most recent proper valuation of that land which has been provided to the company and any such land of which there is no proper valuation shall be left out of account for the purposes for which this Part of these Regulations applies.

(2) The value of any interest in land which is determinable upon the death of any person or upon the happening of some other future event or at some future time shall be the amount which would reasonably be paid by way of consideration for an immediate transfer thereof.

Equipment

50.—(1) The value of any computer equipment of an insurance company—

- (a) in the financial year of the company in which it is purchased, shall be not greater than three-quarters of the cost thereof to the company;
- (b) in the first financial year thereafter, shall be not greater than one-half of that cost;
- (c) in the second financial year thereafter, shall be not greater than one-quarter of that cost; and
- (d) in any subsequent financial year, shall be left out of account for the purposes for which this Part of these Regulations applies.

(2) The value of any office machinery (other than computer equipment), furniture, motor vehicles and other equipment of an insurance company, shall be, in the financial year of the company in which it is purchased, not greater than one-half of the cost thereof and shall be, in any subsequent financial year, left out of account for the purposes for which this Part of these Regulations applies.

Unlisted securities

51.—(1) This regulation does not apply to the valuation of shares in a dependant of an insurance company.

(2) The value of any unlisted security which is dealt in on a regulated market shall be an amount not greater than the middle market quotation.

(3) The value of any unlisted equity share, other than a share to which paragraph (2) above applies, shall be not greater than—

- (a) where the company in which the share is held has been carrying on business for more than three financial years, the multiple of the price earnings ratio for the relevant date (or, if no price earnings ratio has been published for that date, for the most recent date prior to that date for which a price earnings ratio has been published) and the proportionate amount attributable to that share of the average amount of the profits of the company for the last three financial years; and
- (b) where the company has been carrying on business for less than three but more than one financial year, the multiple of such price earnings ratio and the proportionate amount attributable to that share of the average amount of the profits of the company for its two financial years or the profits of the company in its only financial year (as the case may be).

(4) For the purposes of this regulation, the average amount of the profits of a company for any specified years shall be the amount represented by the formula—

$$\frac{P-L}{Y}$$

where—

- (a) P is the aggregate amount of the profits of the company after provision for taxation in each of the specified years,
 - (b) L is the aggregate amount of any losses made by the company after provision for taxation in any of the specified years in which there were no profits, and
 - (c) Y is the number of years specified,
- no account being taken of any profit or loss brought forward from any year preceding the specified years.

(5) In this regulation, the proportionate amount attributable to any share of the average amount or the amount of any profits of the company in which the share is held for any specified years shall be the amount which could reasonably be expected to be received in respect of that share if the average amount or the amount (as the case may be) of the profits in question were available for distribution by the company among its shareholders.

(6) Where the value of any share would otherwise be determined in accordance with the provisions of paragraph (3) above but cannot be so determined because the amount of the profits of, or the amount of losses incurred by, the company in the last financial year cannot be reasonably ascertained, then the value of that share shall be determined—

- (a) in the case of a company which has been carrying on business for not less than four financial years, by reference to the average amount of the profits of the company for the three financial years preceding the last financial year; and
- (b) in the case of a company which has been carrying on business for less than four but more than two financial years, by reference to the average amount or the amount (as the case may be) of the profits of the company in any specified years other than the last financial year.

(7) Any share to be valued in accordance with paragraphs (3) to (6) above shall be left out of account for the purposes for which this Part of these Regulations applies if—

- (a) no amount is attributable thereto in accordance with paragraph (3) above; or
- (b) the company in which the share is held has been carrying on business for less than one financial year; or
- (c) the value of the share cannot be ascertained in accordance with paragraphs (3) to (6) above because the amount of the profits of, or the amount of the losses incurred by, the company in any of the specified years cannot reasonably be ascertained and no provision is made for its valuation in paragraph (6) above; or
- (d) no amount is realisable in the short term.

(8) The value of any unlisted share other than one to which paragraph (2) or (3) above applies shall be the amount which would reasonably be paid by way of consideration for an immediate transfer of that share.

Unit trusts

52. The value of any holding of units, or other beneficial interest, under an authorised unit trust scheme or a recognised scheme within the meaning of the Financial Services Act 1986 shall be the price at which the managers under the scheme would purchase the holding of units or other beneficial interest if required to do so.

Listed investments

53.—(1) The value of any listed debenture which is not a debenture issued by a dependant of the insurance company, and of any listed share which is not a share in such a dependant nor a share in any body specified in regulation 56(2) below, shall be the middle market quotation.

(2) Where the listing of any listed debenture or listed share, the value of which falls to be determined in accordance with this regulation, was suspended at a relevant date, then for the purpose or purposes for which that date was the relevant date—

- (a) if that suspension was in force for a period in excess of ten days, that debenture or share shall be left out of account, and
- (b) if that suspension was in force for a period not exceeding ten days, the value of that debenture or share shall be the lower of—
 - (i) the middle market quotation on the day before the day the suspension came into force, and
 - (ii) the middle market quotation on the day after the day the suspension was terminated.

(3) For the purposes of paragraph (2) above, a day which is a Saturday or a Sunday or a bank holiday in any part of the United Kingdom shall be disregarded.

Reversionary interests etc.

54. The value of any long term business asset of a company consisting of an interest in property which is a remainder, reversionary interest, right of fee subject to a liferent or other future interest, whether vested or contingent, shall be the amount which would reasonably be paid by way of consideration for an immediate transfer or assignment thereof.

Derivative contracts

55.—(1) Subject to paragraph (2) below, the value of rights under a derivative contract to which this regulation applies shall be—

- (a) in the case of a listed derivative contract, the amount which would reasonably be paid by way of consideration for an immediate transfer or assignment thereof; or
- (b) in the case of an unlisted derivative contract which the insurance company—
 - (i) has entered into with an approved counterparty, and
 - (ii) reasonably believes may be readily closed out by entering into a further approved derivative contract with an approved counterparty,

the amount which would reasonably be paid by way of consideration for closing out that contract.

(2) There shall be deducted from the amount calculated in accordance with paragraph (1) above the amount of any cash or other assets as shall at the relevant date have been paid or transferred to the company in respect of that contract.

(3) This regulation applies to an approved derivative contract—

- (a) which is held for the purposes of reduction of investment risks or efficient portfolio management, and which—
 - (i) is held in connection with assets to which this Part of these Regulations applies for such purposes; or
 - (ii) has the equivalent effect to such a contract held in connection with such assets for such purposes; and
- (b) in respect of which, having regard to its assets and liabilities, the insurance company will have, so far as can reasonably be foreseen and (if applicable) in the appropriate fund maintained by it, assets at the settlement date which match its obligations under that contract and from which it will fulfil those obligations.

(4) In this regulation “approved derivative contract” means—

- (a) a contract for differences under which the amount payable by either party is calculated by reference to fluctuations in the value of—
 - (i) an asset for the valuation of which provision is made in this Part of these Regulations;
or
 - (ii) income from such an asset; or
 - (iii) an index of such assets, or income therefrom, the value of which is determined on the basis of an arithmetic average of the value of the assets which comprise the index; or
 - (iv) an index in respect of which a derivative contract is listed; or
- (b) a futures contract or an option, in each case providing for the acquisition or disposal of assets for the valuation of all of which provision is made in this Part of these Regulations.

Other assets

56.—(1) The value of any approved securities shall be—

- (a) in the case of listed securities, the middle market quotation;
- (b) in the case of securities which are not transferable, the amount payable on a surrender or redemption of such securities at the relevant date; and
- (c) in any other case, the amount which would reasonably be paid by way of consideration for an immediate transfer or assignment thereof.

(2) The value of shares in any building society or industrial and provident society shall be the amount which would reasonably be paid by way of consideration for an immediate transfer or assignment thereof.

Assets to be taken into account only to a specified extent

57.—(1) The extent to which assets of an insurance company shall be taken into account shall be determined on the basis of the company's aggregate exposure to such assets.

(2) Where the aggregate exposure of the company to assets of any one description exceeds the maximum admissible value for assets of that description, there shall be left out of account assets equal in value to the excess comprising—

- (a) assets of that description; and
- (b) where there are insufficient assets of that description held, any other assets.

(3) In this regulation, "aggregate exposure" means the value of such assets held by the company (if any) adjusted—

- (a) to take account of the value of assets of that description which the company is deemed to have acquired or disposed of by the application of paragraphs (6) to (8) below; and
- (b) to include the value of assets of that description which have been transferred to another party by the company under a stock lending transaction.

(4) In this regulation, the "maximum admissible value" means—

- (a) for a company carrying on general business, whether or not also carrying on long term business, in the case of general business assets of a description specified in Part I of Schedule 12, an amount equal to the percentage of the general business amount specified in Schedule 12 for assets of that description;
- (b) for a company carrying on only long term business, for all assets of a description specified in Part I of Schedule 12, an amount equal to the percentage of the long term business amount specified in Schedule 12 for assets of that description; and

(c) for a company carrying on general business and long term business, in the case of long term business assets of a description specified in Part I of Schedule 12, an amount equal to the percentage of the long term business amount specified in Schedule 12 for assets of that description; and

(d) for any company, in the case of assets of any other description, no value.

(5) For the purposes of determining whether, in pursuance of paragraphs 6, 8, 9, 10, 12, 13 and 14 of Schedule 12, assets should be left out of account by reason that the aggregate exposure exceeds the maximum admissible value, account may be taken of any amount which has already been left out of account in respect of assets of any of the descriptions in those paragraphs.

(6) Where the company is a party to a contract which is (wholly or in part) a futures contract which—

(a) provides for the acquisition of assets by the company; or

(b) is listed and provides for the disposal of assets by the company; or

(c) is not listed but provides for the disposal of assets by the company to an approved counterparty within one year of the relevant date,

for the purposes of calculating its aggregate exposure the company shall be deemed at the relevant date to have acquired or disposed of such assets.

(7) Where the company is a party to a contract which is (wholly or in part) an option which—

(a) provides for the acquisition of assets by the company; or

(b) is listed and provides for the disposal of assets by the company; or

(c) is not listed but provides for the disposal of assets by the company to an approved counterparty within one year of the relevant date,

and it is prudent at the relevant date to assume that such option will be exercised, for the purposes of calculating its aggregate exposure to such assets, the company shall be deemed to have acquired or disposed of such assets at that date.

(8) Where the company is a party to a contract which (wholly or in part) is or has the equivalent effect to a contract for differences, the value of which depends to a significant extent upon fluctuations in the value of, or income from, particular assets, for the purposes of calculating its aggregate exposure the company shall be deemed to have achieved the effect of such contract for differences by entering into appropriate options or futures contracts in respect of those assets, and such options or futures contracts shall be dealt with in accordance with paragraphs (6) and (7) above.

(9) In this regulation—

“general business amount” means the aggregate of the company’s general business liabilities and in the case of a company which carries on general business an amount equal to whichever is the greater of 400,000 units of account or 20 per cent. of the general premium income less the amount of the deduction specified in paragraph (10) below;

“long term business amount” means the aggregate of the company’s long term business liabilities and whichever is the greater of—

(a) one-sixth of the margin of solvency which the company—

(i) if its head office is in the United Kingdom, is required to maintain, or

(ii) if its head office is elsewhere, would be required to maintain if its head office were in the United Kingdom, and

(b) 800,000 units of account or, in the case described in paragraph 1(a) of Schedule 5, 200,000 units of account,

less the amount of the deduction specified in paragraph (10) below.

(10) The deduction to be made in determining the general business amount or the long term business amount in accordance with paragraph (9) above shall be the aggregate of the following—

- (a) the amount of any general business or, as the case may be, long term business liabilities of the company to related companies, other than insurance liabilities, and
- (b) the value of the debts due, or to become due, to and other rights of the company under contracts of reinsurance ceded by it (but excluding any rights of recovery in respect of insurance liabilities already discharged by the company) which are general business or, as the case may be, long term business assets of the company, and
- (c) in the case of the long term business amount, the amount of any liabilities of the company in respect of property linked benefits.

(11) Where an asset (or a group of assets) of a company carrying on only long term business is attributed by the company partly to its long term business assets and partly to its other assets, any asset or assets required to be left out of account shall be left out of account in the same proportion as such attribution.

(12) For the purposes of this regulation, the amount of the liabilities of an insurance company shall be determined in accordance with Part IX of these Regulations.

(13) Until 1st January 1995, paragraphs 12 and 14 of Schedule 12 shall have effect as if the words “and any of its connected companies (not being a dependant of the insurance company)” were omitted.

(14) Where a company has entered into any contracts providing for the payment of index linked benefits, this regulation shall not apply to assets of any of the descriptions specified in paragraphs 1 to 11 and 15 to 17 of Schedule 12 to the extent that they are held in compliance with section 35A of the Act⁽³⁶⁾ to match liabilities in respect of such benefits.

(15) This regulation shall not apply to—

- (a) any approved securities or to any interest accrued thereon; or
- (b) debts of the descriptions specified in regulation 48(5) or (9); or
- (c) debts in respect of premiums; or
- (d) moneys due from the Crown or any public body.

PART IX

DETERMINATION OF LIABILITIES

Interpretation: Part IX

58. In this Part of these Regulations—

“derivative contract” has the meaning given in regulation 44(1) of these Regulations;

“general business liabilities” means liabilities of an insurance company arising under or in connection with contracts for general business;

“long term liabilities” means liabilities of an insurance company arising under or in connection with contracts for long term business, including liabilities arising from deposit back arrangements;

“the valuation date”, in relation to an actuarial investigation, means the date to which the investigation relates.

(36) Section 35A was inserted by [S.I. 1994/1696](#), reg. 17.

Application: Part IX

59. This Part of these Regulations applies with respect to the determination of the amount of liabilities of insurance companies for the purposes of—

- (a) sections 29(7), 31, 32, 34, 35, 37(3), 38, 39 and 45 of the Act;
- (b) an investigation to which section 18 of the Act applies; and
- (c) any investigation made in pursuance of a requirement under section 42 of the Act.

Long term and general business

60.—(1) Subject to this Part of these Regulations, the amount of liabilities of an insurance company in respect of long term and general business shall be determined in accordance with generally accepted accounting concepts, bases and policies or other generally accepted methods appropriate for insurance companies.

(2) In determining under paragraph (1) above the amount of liabilities of an insurance company, all contingent and prospective liabilities shall be taken into account but save as provided in regulation 23(3) of these Regulations not liabilities in respect of share capital.

Provision for adverse changes

61.—(1) An insurance company which has or may have (following the exercise of any right by a third party) an obligation under a derivative contract or a contract to which regulation 48(8) applies shall make such provision as shall be sufficient, on prudent assumptions, to allow for the effect of possible adverse changes in—

- (a) the current value of the assets or indices of assets to which that contract relates; and
- (b) the current value of any assets held by the company,

on the ability of the company to meet its obligations under that contract.

(2) For the purposes of paragraph (1) above, the company shall have regard to—

- (a) past volatility in the value of such assets or indices of assets (and in the value of assets or indices of a similar nature); and
- (b) the possibility of adverse changes in the volatility of the value of such assets or indices in the future.

General business liabilities

62. The amount of the general business liabilities shall be determined in compliance with the rules laid down in Section D of Schedule 9A to the Companies Act 1985(37).

Relevant co-insurance operations: general business

63.—(1) Where a relevant company determines the amount of a liability in order to make provision for outstanding claims arising under a relevant co-insurance operation, then, if the leading insurer has informed the company of the amount of the provision made by the leading insurer for such claims, the amount determined by the company—

- (a) shall be at least as great as the amount of the provision made by the leading insurer, or
- (b) in a case where it is not the practice in the United Kingdom to make such provision separately, shall be sufficient, when all liabilities are taken into account, to include provision at least as great as that made by the leading insurer for such claims,

(37) 1985 c. 6; Schedule 9A was substituted by S.I. 1993/3246, reg. 4.

due regard being had in either case to the proportion of the risk covered by the company and by the leading insurer respectively.

(2) In paragraph (1) above—

“leading insurer”, in relation to a relevant co-insurance operation, means an insurer who—

- (a) is recognised as the leading insurer by the other insurers involved in the operation, and
- (b) determines the terms and conditions of insurance for the operation;

“relevant co-insurance operation” has the meaning given by Schedule 13;

“relevant company”, in relation to a relevant co-insurance operation, means an insurance company which is concerned in the operation but is not the leading insurer.

Long term liabilities

64.—(1) The determination of the amount of long term liabilities (other than liabilities which have fallen due for payment before the valuation date) shall be made on actuarial principles which have due regard to the reasonable expectations of policy holders and shall make proper provision for all liabilities on prudent assumptions that shall include appropriate margins for adverse deviation of the relevant factors.

(2) The determination shall take account of all prospective liabilities as determined by the policy conditions for each existing contract, taking credit for premiums payable after the valuation date.

(3) Without prejudice to the generality of paragraph (1) above, the amount of the long term liabilities shall be determined in compliance with each of regulations 65 to 75 below and shall take into account, inter alia, the following factors:

- (a) all guaranteed benefits, including guaranteed surrender values;
- (b) vested, declared or allotted bonuses to which policy holders are already either collectively or individually contractually entitled;
- (c) all options available to the policy holder under the terms of the contract;
- (d) expenses, including commissions.

Method of calculation

65.—(1) Subject to paragraphs (2), (3) and (4) below, the amount of the long term liabilities shall be determined separately for each contract by a prospective calculation.

(2) A retrospective calculation may be applied to determine the liabilities where a prospective method cannot be applied to a particular type of contract or benefit, or where it can be demonstrated that the resulting amount of the liabilities would be no lower than would be required by a prudent prospective calculation.

(3) Appropriate approximations or generalisations may be made where they are likely to provide the same, or a higher, result than individual calculations of the same amount of the liabilities in respect of each contract.

(4) Where necessary, additional amounts shall be set aside on an aggregated basis for general risks which are not individualised.

(5) The method of calculation of the amount of the liabilities and the assumptions used shall not be subject to discontinuities from year to year arising from arbitrary changes and shall be such as to recognise the distribution of profits in an appropriate way over the duration of each policy.

(6) The liabilities for contracts under which the policy holder is eligible to participate in any established surplus as defined in section 30(4) of the Act shall have regard to the level of the premiums under the contracts, to the assets held in respect of those liabilities, and to the custom and

practice of the company in the manner and timing of the distribution of profits or the granting of discretionary additions, as the case may be.

Avoidance of future valuation strain

66. The amount of the liability determined in respect of a group of contracts shall not be less than such amount as, if the assumptions adopted for the valuation were to remain unaltered and were fulfilled in practice, would enable liabilities similarly determined at all times in the future to be covered from resources arising solely from the contracts and the assets covering the amount of the liability determined at the current valuation.

Valuation of future premiums

67.—(1) Where further specified premiums are payable by the policy holder under a contract (not being a linked long term contract) under which benefits (other than benefits arising from a distribution of profits) are determined from the outset in relation to the total premiums payable thereunder, then, subject to paragraph (4) and regulation 68 below—

- (a) where the premiums under the contract are at a uniform rate throughout the period for which they are payable, the premiums to be valued shall be not greater than such level premiums as, if payable for the same period as the actual premiums under the contract and calculated according to the rates of interest and rates of mortality or disability which are to be employed in calculating the liability under the contract, would have been sufficient at the outset to provide for the benefits under the contract according to the contingencies upon which they are payable, exclusive of any additions for profits, expenses or other charges;
- (b) where the premiums under the contract are not at a uniform rate throughout the period for which they are payable, the premiums to be valued shall be not greater than such premiums as would be determined on the principles set out in sub-paragraph (a) above modified as appropriate to take account of the variations in the premiums payable by the policy holder in each year;

save that a premium to be valued shall in no year be greater than the amount of the premium payable by the policy holder.

(2) Where the terms of the contract have changed since the contract was first made (the terms of the contract being taken to change for the purposes of this paragraph if the change is indicated in an endorsement on the policy but not if a new policy is issued), then, for the purposes of paragraph (1) above it shall be assumed that those changes from the time they occurred were provided for in the contract at the time it was made.

(3) Where under a contract (not being a linked long term contract)—

- (a) each premium paid increases the benefits (other than benefits arising from a distribution of profits) provided under the contract, or
- (b) the amount of a premium payable in future is not determinable until it comes to be paid,

future premiums and the corresponding liability may be left out of account so long as adequate provision is made against any risk that the increase in the liabilities of the company resulting from the payment of future premiums might exceed the amount of the premiums.

(4) An alternative valuation method to that described in paragraphs (1) to (3) above may be used where it can be demonstrated that the alternative method results in reserves no less, in aggregate, than would result from the use of the method described in those paragraphs.

Acquisition expenses

68.—(1) In order to take account of acquisition expenses, the maximum annual premium to be valued under regulation 67 above may (subject to paragraph (2) below) be increased by an amount not greater than the equivalent, taken over the whole period of premium payments and calculated according to the rates of interest and rates of mortality or disability employed in valuing the contract, of 3.5 per cent. (or the defined percentage, if it is lower than 3.5 per cent.) of the relevant capital sum under the contract.

(2) For the purposes of paragraph (1) above “the defined percentage” is the percentage arrived at by taking (for all contracts of the same type as the contract in question for which an adjustment is made) the average of the percentages of the relevant capital sum under each such contract that represent the acquisition costs incurred which, after allowing for the effects of taxation, might reasonably be expected to be recovered from the premiums payable under the contract.

(3) The increase permitted by paragraph (1) above shall be subject to the limitation that the amount of a future premium valued shall not in any event be greater than the amount of the premium actually payable by the policy holder.

(4) For the purposes of this regulation—

- (a) for contracts other than temporary assurances, the relevant capital sum under a contract shall be arrived at in accordance with regulation 25(4) above, and
- (b) for temporary assurances, the relevant capital sum shall be the sum assured on the valuation date.

Rates of interest

69.—(1) The rates of interest to be used in calculating the present value of future payments by or to an insurance company shall be no greater than the rates of interest determined from a prudent assessment of the yields on existing assets attributed to the long term business and, to the extent appropriate, the yields which it is expected will be obtained on sums to be invested in the future.

(2) For the purposes of paragraph (1) above, the assumed yield on an asset attributed to the long term business, before any adjustment to take account of the effect of taxation, shall not exceed the yield on that asset calculated in accordance with paragraphs (3) to (7) below, reduced by 2.5 per cent. of that yield.

(3) For the purpose of calculating the yield on an asset—

- (a) the asset shall be valued in accordance with Part VIII of these Regulations, excluding any provision under which assets may be taken at lower book values for the purposes of any investigation to which section 18 of the Act applies or any investigation made in pursuance of a requirement under section 42 of the Act, and
- (b) where a particular asset is required to be taken into account only to a specified extent by the operation of regulation 57 above, the future income to be taken into account (whether interest, dividends or repayments of capital) shall be correspondingly reduced.

(4) For fixed interest investments (that is to say, investments which are fixed interest securities as defined in regulation 44(1) above) the yield on an asset, subject to paragraph (7) below, shall be that annual rate of interest which, if used to calculate the present value of future payments of interest before the deduction of tax and the present value of repayments of capital, would result in the sum of those amounts being equal to the value of the asset.

(5) For variable interest investments (that is to say, investments which are not fixed interest securities as defined in regulation 44(1) above) that are equity shares or land, the yield on an asset, subject to paragraph (7) below, shall be the ratio to the value of the asset of the income before deduction of tax which would be received in the period of twelve months following the valuation date on the assumption that the asset will be held throughout that period and that the factors which

affect income will remain unchanged, so however that account shall be taken of any changes in those factors known to have occurred by the valuation date and in particular, without prejudice to the generality of the foregoing, of—

- (a) any known changes in the rental income from property or in dividends on equity shares,
- (b) any forecast changes in dividends which have been publicly announced by the valuation date,
- (c) the effect of any alterations in capital structure, and
- (d) the value (at the most recent date for which it is known at the valuation date) of any determinant of the amount of any future interest payment, the said value being deemed to remain unaltered for all subsequent dates.

(6) For variable interest investments (that is to say, investments which are not fixed interest securities as defined in regulation 44(1) above) other than equity shares or land, the yield on an asset, subject to paragraph (7) below, shall be that annual rate of interest which, if used to calculate the present value of future payments of interest, before deduction of tax, and the present value of repayments of capital, where applicable, would result in the sum of these amounts being equal to the value of the asset, on the assumption that—

- (a) the value of any determinant of the amount of the next interest rate payment and capital repayment made during the following twelve months will be the value of that determinant at the most recent date for which it is known at the valuation date;
- (b) the amount of future interest payments and capital repayments will take account, where appropriate, of—
 - (i) the right of either party to have the investment repaid, and
 - (ii) an assumed yield on other comparable investments made in the future not exceeding an amount determined in accordance with paragraphs (8) to (10) below; and
- (c) indices and all other factors which affect future income payments or capital repayments will remain unchanged after the valuation date.

(7) In calculating the yield on an asset under this regulation—

- (a) if the asset does not consist of equity shares or land—
 - (i) a prudent adjustment shall be made to exclude that part of the yield estimated to represent compensation for the risk that the income from the asset might not be maintained or that capital repayments might not be received as they fall due, and
 - (ii) in making that adjustment, regard shall be had wherever possible to the yields on risk-free investments of a similar term in the same currency;
- (b) for assets which are equity shares or land, adjustments to yields shall be made as appropriate to exclude that part, if any, of the yield from each category of asset that is needed to compensate for the risk that the aggregate income from that category of asset, taking one year with another, might not be maintained: for the purposes of this subparagraph, a “category of asset” comprises assets of a similar nature, type and degree of risk.

(8) To the extent that it is necessary to make an assumption about the yields which will be obtained on sums to be invested in future, the yield shall be determined in accordance with paragraphs (9) and (10) below.

(9) Where the liabilities are denominated in sterling, the yield assumed, before any adjustment to take account of the effect of taxation—

- (a) on any investment to be made more than three years after the valuation date shall not exceed the lowest of—

- (i) the long term gilt yield current on the valuation date; or
- (ii) 6 per cent. per annum, increased by one quarter of the excess, if any, of the long term gilt yield current on the valuation date over 6 per cent. per annum; or
- (iii) 7.5 per cent. per annum,

where “the long term gilt yield” means the annualised equivalent of the 15 year medium coupon yield for United Kingdom Government fixed-interest securities jointly compiled by the Financial Times, the Institute of Actuaries and the Faculty of Actuaries;

- (b) on any investment to be made at any time not more than three years after the valuation date shall not exceed the assumed yield determined under paragraph (2) above adjusted linearly over the said three years to the yield determined in accordance with sub-paragraph (a) above.

(10) Where the liabilities are denominated in currencies other than sterling, the yield shall be determined on assumptions that are as prudent as those made under paragraph (9) above.

(11) In no case shall a rate of interest determined for the purposes of paragraph (1) above exceed the adjusted overall yield on assets calculated as the weighted average of the reduced yields on the individual assets arrived at under paragraph (2) above; and when that weighted average is calculated—

- (a) the weight given to each investment shall be its value as an asset determined in accordance with Part VIII of these Regulations, excluding any provision under which assets may be taken at lower book values for the purposes of any investigation to which section 18 of the Act applies or any investigation made in pursuance of a requirement under section 42 of the Act, and
- (b) except in relation to the rate of interest used in valuing payments of property linked benefits (as defined in regulation 44(1) above), both the yield and the value of any linked assets (as so defined) shall be omitted from the calculation.

(12) For the purpose of determining the rates of interest to be used in valuing a particular category of contracts the assets may, where appropriate, be notionally apportioned between different categories of contracts.

Rates of mortality and disability

70. The amount of the liability in respect of any category of contract shall, where relevant, be determined on the basis of prudent rates of mortality and disability that have regard to the State of the commitment.

Expenses

71.—(1) Provision for expenses, whether implicit or explicit, shall be not less than the amount required, on prudent assumptions, to meet the total net cost, after taking account of the effect of taxation, that would be likely to be incurred in fulfilling existing contracts if the company were to cease to transact new business twelve months after the valuation date.

(2) The provision mentioned in paragraph (1) above shall have regard to, among other things, the company’s actual expenses in the last twelve months before the valuation date and to the effects of inflation on future expenses on prudent assumptions as to the future rates of increase in prices and earnings.

Options

72.—(1) Provision shall be made on prudent assumptions to cover any increase in liabilities caused by policy holders exercising options under their contracts.

(2) Where a contract includes an option whereby the policy holder could secure a guaranteed cash payment within twelve months following the valuation date, the provision for that option shall be such as to ensure that the value placed on the contract is not less than the amount required to provide for the payments that would have to be made if the option were exercised.

Contracts not to be treated as assets

73. No contract for long term business shall be treated as an asset.

No credit for profits from voluntary discontinuance

74. Allowance shall not be made in the valuation for the voluntary discontinuance of any contract if the amount of the liability so determined would thereby be reduced.

Nature and term of assets

75. The determination of the amount of long term liabilities shall take into account the nature and term of the assets representing those liabilities and the value placed upon them and shall include prudent provision against the effects of possible future changes in the value of the assets on—

- (a) the ability of the company to meet its obligations arising under contracts for long term business as they arise, and
- (b) the adequacy of the assets to meet the liabilities as determined in accordance with regulations 65 to 74 above.

PART X

CREDIT INSURANCE BUSINESS

Credit insurance business: equalisation reserve

76.—(1) Subject to regulation 77 below—

- (a) every UK company which carries on credit insurance business; and
- (b) every non-EC company which carries on credit insurance business in the United Kingdom,

shall maintain a reserve (in these Regulations referred to as an “equalisation reserve”) in respect of that business, determined (at the option of the company) in accordance with one of the four methods set out in Schedule 14.

(2) In applying section 32(5) of the Act(38) the value of the company’s liabilities shall be treated as being increased by the amount of the equalisation reserve.

Exemption from regulation 76

77.—(1) Regulation 76 shall not apply—

- (a) in the case of a UK company, where the premiums or contributions receivable in any financial year in respect of its credit insurance business are less than 4 per cent. of the total premiums or contributions receivable by it in that financial year and less than 2,500,000 units of account; and
- (b) in the case of a non-EC company, where the premiums or contributions receivable in any financial year in respect of its credit insurance business carried on through a branch in the

(38) Section 32(5) was amended by [S.I. 1994/1696](#), reg. 14(2).

United Kingdom are less than 4 per cent. of the total premiums or contributions receivable by it in that financial year in respect of business carried on through that branch and less than 2,500,000 units of account.

(2) For the purposes of paragraph (1) above “premiums or contributions receivable” in any financial year in respect of any business means the premiums or contributions recorded in the company’s books as due to it in respect of contracts relating to that 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.

Default in complying with regulation 76(1)

78. A UK or non-EC company commits an offence if it makes default in complying with regulation 76(1) above and is liable, on summary conviction in England and Wales and Scotland, to a fine not exceeding level 5 on the standard scale and, on summary conviction in Northern Ireland, to a fine not exceeding £2,000.

PART XI

STATISTICAL INFORMATION

Interpretation : Part XI

79. In this Part of these Regulations—

- (a) references to insurance business, general business and long term business do not include reinsurance business;
- (b) “gross premiums” means premiums after deduction of discounts, refunds, rebates of premium and any taxes or levies that are related to those premiums but before deduction of premiums for reinsurance ceded and before deduction of commission payable by the company;
- (c) other expressions which are also used in the Insurance Companies (Accounts and Statements) Regulations 1983(39) have the same meanings as in those Regulations.

Insurance statistics: EFTA States and EFTA companies

80.—(1) Every company which—

- (a) being a UK company, in any calendar year provides general insurance in an EFTA State through an establishment in the United Kingdom; or
- (b) being an EFTA company, in any calendar year provides general insurance in an EEA State through an establishment in the United Kingdom,

shall prepare in respect of general insurance so provided by it a statement in Form 82 (analysis of gross premiums receivable by groups of classes) in accordance with the requirements of Schedule 15.

(2) Where in any calendar year the gross premiums so earned in any one State by an establishment in the United Kingdom exceed 2,500,000 ECU, the company shall also prepare an underwriting account in Form 83 or Form 84 as set out in Schedule 15 (or both if appropriate).

(3) Every company which—

- (a) being a UK company, in any calendar year provides long term insurance in an EFTA State through an establishment in the United Kingdom; or
- (b) being an EFTA company, in any calendar year provides long term insurance in an EEA State through an establishment in the United Kingdom,

shall prepare in respect of long term insurance so provided by it a statement in Form 85 (analysis of gross premiums receivable by each of classes I to VI) in accordance with the requirements of Schedule 15.

(4) The forms mentioned in paragraphs (1), (2) and (3) above shall be prepared separately in respect of each State in which the company provides the insurance.

(5) Where paragraph (1) applies and the conditions specified in paragraph (6) below are met in respect of the provision of general insurance in any one State, the Secretary of State may by notice in writing direct the company in future to prepare an underwriting account in Form 83 or Form 84 as set out in Schedule 15 (or both if appropriate) in respect of the provision of general insurance in that State through its establishment in the United Kingdom.

(6) The conditions referred to in paragraph (5) above are that—

- (a) in that calendar year the company earned through all its establishments (in the United Kingdom and elsewhere) gross premiums in excess of 2,500,000 ECU in respect of the provision of general insurance in the State concerned, and
- (b) the supervisory authorities of the State in which insurance is provided or, if the head office of the company is situated in an EFTA State, the supervisory authorities of that EFTA State, ask the Secretary of State that an underwriting account be kept by the company's establishment in the United Kingdom for the operations effected in the State where the insurance is provided.

(7) The statements and any underwriting account required by this regulation shall be printed, and three copies shall be deposited with the Secretary of State within nine months after the end of the calendar year to which they relate; but if in any case it is made to appear to the Secretary of State that the circumstances are such that a longer period than nine months should be allowed, the Secretary of State may extend that period by such period not exceeding three months as he thinks fit.

(8) One of the copies of any document deposited under paragraph (7) above shall be a copy signed by a director, a chief executive or the secretary of the company.

(9) Subject to paragraph 10 below, where—

- (a) a UK company which has notified the Secretary of State, in accordance with paragraph 9 of Schedule 2G to the Act(40), of its intention to provide insurance in an EEA State through an establishment in the United Kingdom; or
- (b) an EFTA company which has notified the Secretary of State, in accordance with paragraph 23 of Schedule 2F to the Act(41), of its intention to provide insurance in an EEA State through an establishment in the United Kingdom,

does not in any calendar year provide insurance in that State, it shall send to the Secretary of State a notification of that fact within nine months after the end of the calendar year to which the notification relates, signed by a director, a chief executive or the secretary of the company.

(10) Paragraph (9) above shall not apply if the company has, before the beginning of the calendar year, informed the Secretary of State that it no longer intends to provide insurance in the State in question.

(40) Schedule 2G was inserted by S.I. 1994/1696, reg. 46 and Schedule 7.

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

(11) The Secretary of State shall consider the documents deposited under paragraph (7) above or the notification given under paragraph (9) and, if any such document or notification appears to him to be inaccurate or incomplete in any respect, he shall communicate with the company with a view to the correction of any such inaccuracies and the supply of deficiencies.

Insurance statistics: other member States

81.—(1) Every UK company which in any calendar year—

- (a) carries on general business in a member State other than the United Kingdom through a branch in that State; or
- (b) provides general insurance in such a State through an establishment in the United Kingdom or another member State,

shall prepare in respect of general business so carried on by it a statement in Form 91 (analysis of financial particulars - branches), or general insurance so provided by it a statement in Form 92 (analysis of financial particulars - provision of insurance), in accordance with the requirements of Schedule 16.

(2) Every UK company which in any calendar year—

- (a) carries on long term business in a member State other than the United Kingdom through a branch in that State; or
- (b) provides long term insurance in such a State through an establishment in the United Kingdom or another member State,

shall prepare in respect of long term business so carried on by it a statement in Form 93 (analysis of financial particulars - branches), or long term insurance so provided by it a statement in Form 94 (analysis of financial particulars - provision of insurance), in accordance with the requirements of Schedule 16.

(3) The forms mentioned in paragraphs (1) and (2) above shall be prepared separately in respect of each member State in which the company carries on the insurance business or provides the insurance.

(4) The statements required by this regulation shall be printed, and three copies shall be deposited with the Secretary of State within nine months after the end of the calendar year to which they relate; but if in any case it is made to appear to the Secretary of State that the circumstances are such that a longer period than nine months should be allowed, the Secretary of State may extend that period by such period not exceeding three months as he thinks fit.

(5) One of the copies of any statement deposited under paragraph (4) above shall be a copy signed by a director, a chief executive or the secretary of the company.

(6) Subject to paragraph (7) below, where a UK company which has notified the Secretary of State—

- (a) in accordance with paragraph 1 of Schedule 2G to the Act, of its intention to establish a branch in a member State other than the United Kingdom; or
- (b) in accordance with paragraph 5 of that Schedule, of its intention to provide insurance in such a State,

does not in any calendar year carry on insurance business or, as the case may be, provide insurance in that State, it shall send to the Secretary of State a notification of that fact within nine months after the end of the calendar year to which the notification relates, signed by a director, a chief executive or the secretary of the company.

(7) Paragraph (6) above shall not apply if the company has, before the beginning of the calendar year, informed the Secretary of State, in accordance with paragraph 8 of Schedule 2G to the Act, that it has ceased to carry on insurance business or, as the case may be, to provide insurance in the member State in question.

(8) The Secretary of State shall consider any statements deposited under paragraph (4) above and any notification given under paragraph (6) above and, if any such statement or notification appears to him to be inaccurate or incomplete in any respect, he shall communicate with the company with a view to the correction of any such inaccuracies and the supply of deficiencies.

Default in complying with regulation 80 or 81

82.—(1) A UK company commits an offence if it makes default in complying with regulation 80 or 81 above.

(2) An EFTA company commits an offence if it makes default in complying with regulation 80 above.

(3) A person commits an offence if he causes or permits to be included in a form required by regulation 80 or 81 above to be deposited with the Secretary of State a statement which he knows to be false in a material particular or recklessly causes or permits to be so included a statement which is false in a material particular.

(4) A person committing an offence under this regulation is liable, on summary conviction in England and Wales and Scotland, to a fine not exceeding level 5 on the standard scale and, on summary conviction in Northern Ireland, to a fine not exceeding £2,000.

Application of regulations 80 to 82 to Lloyd's

83.—(1) Subject to paragraphs (2) and (3) below, regulations 80 to 82 above apply in relation to Lloyd's as they apply in relation to a UK company.

(2) The information required in the case of Lloyd's to be included in—

- (a) the statements and underwriting account referred to in regulation 80(7) or the notification referred to in regulation 80(9); or
- (b) the statement referred to in regulation 81(4) or the notification referred to in regulation 81(6),

is that relating to the members of Lloyd's taken together.

(3) Any such statements, underwriting account or notification shall be signed by the Chairman or a Deputy Chairman, for and on behalf of the Council of Lloyd's.

PART XII

MISCELLANEOUS PROVISIONS

Transitory provision

84.—(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, these 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.

Consequential amendments

85.—(1) In paragraph 50 of Schedule 9A to the Companies Act 1985(**42**), for the words “the Insurance Companies (Credit Insurance) Regulations 1990” there shall be substituted the words “Part X of the Insurance Companies Regulations 1994”.

(2) In the Insurance (Lloyd's) Regulations 1983(**43**)—

- (a) in regulation 2(1), for the words “9(2) of the Insurance Companies Regulations 1981” substitute “22(2) of the Insurance Companies Regulations 1994” and for the words “Part II of the Insurance Companies Regulations 1981” substitute the words “Part IV of the Insurance Companies Regulations 1994”;
- (b) in regulation 2(2), for the words “Regulation 2(2) of the Insurance Companies Regulations 1981” substitute the words “Regulation 2(2) of the Insurance Companies Regulations 1994”;
- (c) in regulation 3(1)(a), for the words “regulation 53 of, and Schedule 9 to, the Insurance Companies Regulations 1981” substitute the words “regulation 63 of, and Schedule 13 to, the Insurance Companies Regulations 1994”;
- (d) in regulation 3(1)(b), replace the comma after the word “reserves” with a full stop;
- (e) in regulation 3(1) full out, omit the words from “and accordingly” to the end;
- (f) in regulation 3(2)(b), for the words “Schedules 1 and 2 to the Insurance Companies Regulations 1981” substitute the words “Schedules 3 and 4 to the Insurance Companies Regulations 1994”;
- (g) in Schedule 1, for the words “Schedule 1”, “Schedule 2”, “Schedules 1 and 2” and “Insurance Companies Regulations 1981” respectively, substitute the words “Schedule 3”, “Schedule 4”, “Schedules 3 and 4” and “the Insurance Companies Regulations 1994” wherever they occur;
- (h) in Schedule 3, paragraph 4, for the words “regulations 25 and 26 of the Insurance Companies Regulations 1981” substitute the words “regulations 27 to 31 of the Insurance Companies Regulations 1994” and after the words “Insurance (Lloyds) Regulations 1983” insert the words “as amended by the Insurance Companies Regulations 1994”;
- (i) in Schedule 3, paragraph 5, for the words “regulation 53 (which relates to co-insurance) of the Insurance Companies Regulations 1981” substitute the words “regulation 63 (which relates to co-insurance) of the Insurance Companies Regulations 1994”.

(3) In the Insurance Companies (Amendment) Regulations 1992(**44**) regulations 13 to 15 (which are superseded by regulations 79 to 83 above) shall cease to have effect.

Revocations

86. The regulations mentioned in Schedule 17 are hereby revoked.

(42) Parts I and II of Schedule 9 to the Companies Act 1985 were formed into a new Schedule 9A by the Companies Act 1985 (Bank Accounts) Regulations 1991 (S.I. 1991/2705), reg. 5(1); Schedule 9A was substituted by S.I. 1993/3246, reg. 4 and Schedule 1.

(43) S.I. 1983/224.

(44) S.I. 1992/2890; as amended by S.I. 1993/174, reg. 10.

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7th June 1994

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

SCHEDULE 1

Regulation 4

INFORMATION TO BE SUBMITTED: LONG TERM BUSINESS

Notes:

* This information is not required from applicants already authorised to carry on insurance business in the United Kingdom.

† This information is required only in respect of the classes of insurance business for which new authorisation is being sought.

§ This information shall be provided as if a notice relating to the person concerned were being served on the Secretary of State pursuant to section 60(1)(a) or 61(1)(a) of the Act.

PART I

COMPANIES WHOSE HEAD OFFICE IS IN THE UNITED KINGDOM

The company

1. * Date of incorporation, place of incorporation and registered number.
2. * Brief summary of the objects of the company.
3. * A statement showing the amount by which the assets are expected to exceed liabilities at the date of authorisation (after application of valuation regulations) and how calculated.
4. * Date on which the company's financial year will end.
5. * Name and address of the auditors of the company.
6. * Names and addresses of the company's principal bankers.
7. § Names of the persons who will be directors, controllers or managers of the company. The appropriate particulars specified in Schedule 6 to these Regulations shall be completed for each person listed.
8. Particulars of any association which exists or which is proposed to exist between the directors or controllers of the company and any person who acts or will act as an insurance broker, agent, loss adjuster or reinsurer for the company.

Authorisations to be continued

9. Particulars of classes of insurance business for which the company is already authorised in the United Kingdom and which it wishes to be included in the new authorisation.

Scheme of operations

10. † The sources of business (for example, insurance brokers, agents, own employees or direct selling), and the approximate percentage expected from each source.
11. † The nature of the commitments which the company proposes to cover.
12. † A statement showing for each of the first three financial years following authorisation for each type of contract or treaty, on both optimistic and pessimistic bases and broken down between the United Kingdom, other EEA States and elsewhere—
 - (a) the number of contracts or treaties expected to be issued,

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- (b) the total premium income both gross and net of reinsurance, and
- (c) the total sums assured or amounts of annuity per annum.

13. † The technical bases that the actuary who will be appointed for the purposes of section 19 of the Act proposes to employ for each class of business, including the bases needed for calculating premium rates and mathematical reserves.

14. † The guiding principles as to reinsurance including the company's maximum retention per risk or event after all reinsurance ceded and the names of the principal reinsurers.

15. * The assets which represent or will represent the minimum guarantee fund being assets admissible under and valued in accordance with Part VIII of these Regulations.

16. † The estimated costs of installing the administrative services and organisation for securing business, and the financial resources intended to cover those costs.

Projections

17. For each of the first three financial years following authorisation—

- (a) a forecast balance sheet (on both optimistic and pessimistic bases),
- (b) a plan (on both optimistic and pessimistic bases) setting out detailed estimates of income and expenditure in respect of direct business, reinsurance acceptances and reinsurance cessions, and
- (c) estimates relating to the financial resources intended to cover underwriting liabilities and the margin of solvency.

18. The technical bases used to calculate the forecast and estimates specified in paragraph 17 above and the factors used to determine the level of the required margin of solvency assumed for the purposes of paragraph 17(c) above.

Other information, agreements, treaties and certificates required

19. A statement showing the types of investments which are expected to represent the insurance funds and the estimated proportion which will be represented by each type of investment.

20. † Copies or drafts of reinsurance treaties.

21. † Copies or drafts of any standard agreements with brokers or agents.

22. † Copies or drafts of any agreements with persons (other than employees of the company) who will manage the business of the company.

23. † A certificate by the actuary who will be appointed for the purposes of section 19 of the Act that—

- (a) he considers the premium rates to be suitable,
- (b) he considers the financing of the company to be sufficient to cover both technical reserves and the required margin of solvency during the first three financial years following authorisation, and
- (c) he agrees with the information provided under paragraphs 11, 14 and 17 above.

PART II

COMPANIES OTHER THAN EC COMPANIES WHOSE HEAD OFFICE IS IN AN EEA STATE OTHER THAN THE UNITED KINGDOM (DIRECT BUSINESS OR BOTH DIRECT BUSINESS AND REINSURANCE)

The company

1. * Date of incorporation, place of incorporation and registered number.
2. * Copies of the memorandum and articles of association of the company (or their equivalent).
3. * Name and address of the auditors of the company in the United Kingdom.
4. * Names and addresses of the company's principal bankers in the United Kingdom.
5. Names of the directors and managers of the company.
6. § Names of the persons who will be the principal United Kingdom executive, the authorised United Kingdom representative or an employee within section 8(4)(c) of the Act. The appropriate particulars specified in Schedule 6 to these Regulations shall be completed for each person listed.
7. Particulars of any association which exists or which is proposed to exist between the directors or controllers of the company and any person who acts or will act as an insurance broker, agent, loss adjuster or reinsurer for the company in the United Kingdom.

Statement from head office supervisor

8. A statement from the supervisory authority of the EEA State in which the company has its head office stating the classes of insurance business which the company is authorised to carry on in that State, specifying the risks covered there, declaring that the company has the required margin of solvency or minimum guarantee fund and specifying the financial resources from which the costs referred to in paragraph 16 below will be met.

Authorisations to be continued

9. Particulars of classes of insurance business for which the company is already authorised in the United Kingdom and which it wishes to be included in the new authorisation.

Scheme of operations for the United Kingdom

10. † The sources of business in the United Kingdom (for example, insurance brokers, agents, own employees or direct selling) with the approximate percentage expected from each source.

11. † The nature of the commitments which the company proposes to cover in the United Kingdom and the general and special policy or treaty conditions which it proposes to use.

12. † A statement in respect of the United Kingdom business showing for each of the first three financial years following authorisation and for each type of contract or treaty, on both optimistic and pessimistic bases—

- (a) the number of contracts or treaties expected to be issued,
- (b) the total premium income both gross and net of reinsurance ceded, and
- (c) the total sums assured or amounts of annuity per annum.

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13. † The technical bases that the actuary who will be appointed for the purposes of section 19 of the Act proposes to employ for each class of business in the United Kingdom, including the bases needed for calculating premium rates and mathematical reserves.

14. † The guiding principles as to reinsurance of business written in the United Kingdom including the maximum retention per risk or event after all reinsurance ceded and the names of the principal reinsurers.

15. A statement showing the current margin of solvency of the company, the margin of solvency required and how both have been calculated.

16. † The estimated costs of installing the administrative services and organisation for securing business in the United Kingdom and the financial resources intended to cover those costs.

Projections for the United Kingdom

17. For each of the first three financial years following authorisation, on both optimistic and pessimistic bases—

- (a) a forecast balance sheet for the proposed branch, and
- (b) a plan setting out detailed estimates of income and expenditure in respect of direct business, reinsurance acceptances and reinsurance cessions of the proposed branch.

18. The technical bases used to calculate the forecast and estimates specified in paragraph 17 above.

Accounts, agreements, treaties and certificates required

19. * Balance sheets and profit and loss accounts of the company for each of the last three financial years or, if the company has not been in business for three financial years, for each of the financial years for which it has been in business.

20. A statement showing the types of investments which are expected to represent the insurance funds in the United Kingdom and the estimated proportion which will be represented by each type of investment.

21. † Copies or drafts of any separate reinsurance treaties covering business written in the United Kingdom.

22. † Copies or drafts of any standard agreements which the company will have with brokers or agents in the United Kingdom.

23. † Copies or drafts of any agreements which the company will have with persons (other than employees of the company) who will manage the business of the proposed branch.

24. † A certificate by the actuary who will be appointed for the purposes of section 19 of the Act indicating the sums he considers it will be necessary to transfer from the company's head office in each of the first three years after authorisation to provide adequate technical reserves in the United Kingdom and stating that—

- (a) he considers that the premium rates which will be used in the United Kingdom are suitable, and
- (b) he agrees with the information provided under paragraphs 11, 14 and 17 above.

PART III

COMPANIES WHOSE HEAD OFFICE IS NOT IN AN EEA STATE (DIRECT BUSINESS OR BOTH DIRECT BUSINESS AND REINSURANCE)

The company

1. * Date of incorporation, place of incorporation and registered number.
2. * Brief summary of the objects of the company.
3. A statement of the classes of insurance business which the company is authorised to carry on in the country in which its head office is situated.
4. The assets which represent or will represent the minimum guarantee fund in the United Kingdom being assets admissible under and valued in accordance with Part VIII of these Regulations.
5. * Name and address of the auditors of the company in the United Kingdom.
6. * Names and addresses of the company's principal bankers in the United Kingdom.
7. § Names of the persons who will be directors, controllers or managers of the company, its principal United Kingdom executive, or its authorised United Kingdom representative. The appropriate particulars specified in Schedule 6 to these Regulations shall be completed for each person listed.
8. Particulars of any association which exists or which is proposed to exist between the directors or controllers of the company and any person who acts or will act as an insurance broker, agent or loss adjuster for the company in the United Kingdom or a reinsurer of the company.

Authorisations to be continued

9. Particulars of classes of insurance business for which the company is already authorised in the United Kingdom and which it wishes to be included in the new authorisation.

Scheme of operations for the United Kingdom

10. † The sources of business in the United Kingdom (for example, insurance brokers, agents, own employees or direct selling) and the approximate percentage expected from each source.
11. † The nature of the commitments which the company proposes to cover in the United Kingdom and the general and special policy or treaty conditions which it proposes to use.
12. † A statement in respect of United Kingdom business showing for each of the first three financial years following authorisation and for each type of contract or treaty, on both optimistic and pessimistic bases—
 - (a) the number of contracts or treaties expected to be issued,
 - (b) the total premium income both gross and net of reinsurance ceded, and
 - (c) the total sums assured or amounts of annuity per annum.
13. † The technical bases that the actuary who will be appointed for the purposes of section 19 of the Act proposes to employ for each class of business carried on in the United Kingdom including the bases needed for calculating premium rates and mathematical reserves.
14. † The guiding principles as to reinsurance of business written in the United Kingdom including the company's maximum retention per risk or event after all reinsurance ceded and the names of the principal reinsurers.

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15. A statement showing the current margin of solvency of the company (after application of valuation regulations), the margin of solvency required and how both have been calculated.

16. † The estimated costs of installing the administrative services and organisation for securing business in the United Kingdom, and the financial resources intended to cover those costs.

Projections for the United Kingdom

17. For each of the first three financial years following authorisation, on both optimistic and pessimistic bases—

- (a) a forecast balance sheet for the proposed branch, and
- (b) a plan setting out detailed estimates of income and expenditure in respect of direct business, reinsurance acceptances and reinsurance cessions of the proposed branch.

18. The technical bases used to calculate the forecast and estimates specified in paragraph 17 above.

Other information, accounts, agreements, treaties and certificates required

19. Balance sheets and profit and loss accounts of the company for each of the last three financial years or, if the company has not been in business for three financial years, for each of the financial years for which it has been in business.

20. A statement showing the types of investments which are expected to represent the insurance funds in the United Kingdom and the estimated proportion which would be represented by each type of investment.

21. For each of the first three financial years following authorisation, the estimated world-wide premium income of the company both gross and net of reinsurance ceded and broken down between the United Kingdom, other EEA States and elsewhere.

22. A brief description of the risks the company will underwrite outside the United Kingdom.

23. A brief summary of the reinsurance arrangements for the business of the company outside the United Kingdom including the company's maximum retention per risk or event after all reinsurance ceded and the names of the principal reinsurers.

24. Estimated capital expenditure in respect of operations outside the United Kingdom during each of the first three financial years following authorisation.

25. † Copies or drafts of any separate reinsurance treaties covering business written in the United Kingdom.

26. † Copies or drafts of any standard agreements which the company will have with brokers or agents in the United Kingdom.

27. † Copies or drafts of any agreements which the company will have with persons (other than employees of the company) who will manage the business of the proposed branch.

28. † A certificate by the actuary who will be appointed for the purposes of section 19 of the Act stating that the premium rates which will be used in the United Kingdom are suitable and that he agrees with the information provided under paragraphs 11, 14 and 17 above.

29. † A certificate by the actuary of the company stating that he considers the finances of the company are sufficient—

- (a) to meet the required technical reserves for its total business on both optimistic and pessimistic bases in the first three financial years following authorisation, and
- (b) to provide the required margin of solvency.

PART IV

COMPANIES WHOSE HEAD OFFICE IS NOT IN THE UNITED KINGDOM (REINSURANCE ONLY)

The company

1. * Date of incorporation, place of incorporation and registered number.
2. * A brief summary of the objects of the company.
3. A statement showing the classes of insurance business which the company is authorised to carry on in the country in which its head office is situated and particulars of any limitations.
4. * Balance sheets and profit and loss accounts of the company for each of the last three financial years or, if the company has not been in business for three financial years, for each of the financial years for which it has been in business.
5. A statement showing the current margin of solvency of the company (after application of valuation regulations), the margin of solvency required and how both have been calculated.
6. * Name and address of the auditors of the company in the United Kingdom.
7. * Names and addresses of the company's principal bankers in the United Kingdom.
8. † Names of the persons who will be directors, controllers or managers of the company, its principal United Kingdom executive or its authorised United Kingdom representative. The appropriate particulars specified in Schedule 6 to these Regulations shall be completed for each person listed.
9. Particulars of any association which exists or which is proposed to exist between the directors or controllers of the company and any person who acts or will act as the company's insurance broker, agent or loss adjuster in the United Kingdom or a retrocessionaire of the company.

Authorisations to be continued

10. Particulars of classes of insurance business for which the company is already authorised in the United Kingdom and which it wishes to be included in the new authorisation.

Scheme of operations for the United Kingdom

11. * The sources of business in the United Kingdom (for example, insurance brokers or direct selling) and the approximate percentage expected from each source.
12. † The nature of the commitments which the company proposes to cover in the United Kingdom and the general and special contracts or treaties which it proposes to use.
13. † The technical bases which the actuary who will be appointed for the purposes of section 19 of the Act proposes to employ for each class of business carried on in the United Kingdom, including the bases needed for calculating premium rates and mathematical reserves.
14. † A statement in respect of the United Kingdom business showing for each of the first three financial years following authorisation and for each type of contract or treaty, on both optimistic and pessimistic bases—
 - (a) the number of contracts or treaties expected to be issued,
 - (b) the total premium income both gross and net of reinsurance, and
 - (c) total sums assured or amounts of annuity per annum.

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15. † The guiding principles as to reinsurance of business written in the United Kingdom including the company's maximum retention per risk or event after all retrocessions and the names of the principal retrocessionaires.

16. † The estimated costs of installing the administrative services and organisation for securing business in the United Kingdom and the financial resources intended to cover those costs.

Other information, agreements, treaties and certificates required

17. A brief description of the risks underwritten by the company outside the United Kingdom.

18. A brief summary of the retrocession arrangements for the business written outside the United Kingdom including the company's maximum retention per risk or event after all retrocessions and the names of the principal retrocessionaires.

19. For each of the first three financial years following authorisation, on both optimistic and pessimistic bases—

- (a) a forecast balance sheet, and
- (b) a plan setting out detailed estimates of income and expenditure in respect of business accepted and reinsurance cessions broken down between the United Kingdom, other EEA States and elsewhere.

20. The technical bases used to calculate the forecast and estimates specified in paragraph 19 above.

21. A statement of the types of investments which are expected to represent the insurance funds and the estimated proportion which will be represented by each type of investment.

22. † Copies or drafts of any separate reinsurance treaties covering business written in the United Kingdom.

23. † Copies or drafts of any agreements which the company will have with persons (other than employees of the company) who will manage the business of the proposed branch.

24. † Copies or drafts of any standard agreements which the company will have with reinsurance brokers or agents in the United Kingdom.

25. † A certificate by the actuary who will be appointed for the purposes of section 19 of the Act stating that the premium rates which will be used in the United Kingdom are suitable and that he agrees with the information provided under paragraphs 12, 15 and 19 above.

26. A certificate by the actuary of the company stating that he considers the finances of the company are sufficient—

- (a) to meet the required technical reserves for its total business on both optimistic and pessimistic bases in the first three financial years following authorisation, and
- (b) to provide the required margin of solvency.

SCHEDULE 2

Regulation 4

INFORMATION TO BE SUBMITTED: GENERAL BUSINESS

Notes:

* This information is not required from applicants already authorised to carry on insurance business in the United Kingdom.

† This information is required only in respect of the classes of insurance business for which new authorisation is being sought.

§ This information shall be provided as if a notice relating to the person concerned were being served on the Secretary of State pursuant to section 60(1)(a) or 61(1)(a) of the Act.

‡ Premiums, contributions and claims should be shown under the accounting classes specified in regulation 3(1) of the Insurance Companies (Accounts and Statements) Regulations 1983(45).

PART I

COMPANIES WHOSE HEAD OFFICE IS IN THE UNITED KINGDOM

The company

1. * Date of incorporation, place of incorporation and registered number.
2. * Brief summary of the objects of the company.
3. A statement showing the amount by which assets are expected to exceed liabilities at the date of authorisation (after application of valuation regulations) and how calculated.
4. * Date on which the company's financial year will end.
5. * Name and address of the auditors of the company.
6. * Names and addresses of the company's principal bankers.
7. § Names of the persons who will be directors, controllers or managers of the company. The appropriate particulars specified in Schedule 6 to these Regulations shall be completed for each person listed.
8. Names of main agents in the United Kingdom and other member States.
9. Particulars of any association which exists or which is proposed to exist between the directors and controllers of the company and any person who acts or will act as an insurance broker, agent, loss adjuster or reinsurer for the company.

Authorisations to be continued

10. Particulars of classes of insurance business for which the company is already authorised in the United Kingdom and which it wishes to be included in the new authorisation.

Scheme of operations

11. † The sources of business (for example, insurance brokers, agents, own employees or direct selling) and the approximate percentage expected from each source.
12. † The nature of the risks which the company proposes to cover.
13. † The guiding principles as to reinsurance including the company's maximum retention per risk or event after all reinsurance ceded and the names of the principal reinsurers.
14. † The assets which represent or will represent the minimum guarantee fund being assets admissible under and valued in accordance with Part VIII of the Regulations.

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15. † The estimated costs of installing the administrative services and organisation for securing business, and the financial resources intended to cover those costs and, in relation to general business class 18, the resources available for providing the assistance.

Projections

16. For each of the first three financial years following authorisation—
- (a) estimates relating to expenses of management (other than costs of installation) and in particular to current general expenses and commissions,
 - (b) ‡ estimates relating to premiums or contributions both gross and net of reinsurance and broken down between the United Kingdom, other EEA States and elsewhere and to claims (after all reinsurance recoveries),
 - (c) a forecast balance sheet, and
 - (d) estimates relating to the financial resources intended to cover underwriting liabilities and the margin of solvency.

Other information, agreements and treaties required

17. A statement showing the types of the investments which are expected to represent the insurance funds and the estimated proportion which will be represented by each type of investment.

18. † Copies or drafts of reinsurance treaties.

19. † Copies or drafts of any agreements which the company will have with persons (other than employees of the company) who will manage the business of the company.

20. † Copies or drafts of any standard agreements which the company will have with brokers or agents.

21. † Copies or drafts of agreements which the company will have with main agents.

Part II

SWISS GENERAL INSURANCE COMPANIES AND COMPANIES OTHER THAN EC COMPANIES WHOSE HEAD OFFICE IS IN AN EEA STATE OTHER THAN THE UNITED KINGDOM (DIRECT BUSINESS OR BOTH DIRECT BUSINESS AND REINSURANCE)

The company

1. * Date of incorporation, place of incorporation and registered number.
2. * Copies of the memorandum and articles of association of the company (or their equivalent).
3. * Name and address of the auditors of the company in the United Kingdom.
4. * Names and addresses of the company's principal bankers in the United Kingdom.
5. Names of the directors and managers of the company.
6. § Names of the persons who will be the principal United Kingdom executive, the authorised United Kingdom representative or an employee within section 8(4)(c) of the Act. The appropriate particulars specified in Schedule 6 to these Regulations shall be completed for each person listed.
7. Names of main agents in the United Kingdom.

8. Particulars of any association which exists or which is proposed to exist between the directors or controllers of the company and any person who acts or will act as an insurance broker, agent, loss adjuster or reinsurer for the company in the United Kingdom.

Statement from head office supervisor

9. A statement—

- (a) in the case of a company other than a Swiss general insurance company, from the supervisory authority in the State in which the company has its head office stating the classes of insurance business which the company is authorised to carry on in that State; or
- (b) in the case of a Swiss general insurance company, from the supervisory authority in Switzerland—
 - (i) stating the classes of insurance business which the company is authorised to carry on in Switzerland,
 - (ii) declaring that the company is constituted in Switzerland in a form permitted by Annex 3 to the Agreement signed on 10th October 1989 between the European Economic Community and the Swiss Confederation on direct insurance other than life assurance⁽⁴⁶⁾, and
 - (iii) confirming that the company limits its business to insurance and to operations arising directly therefrom to the exclusion of all other commercial business, and in each case specifying the risks covered there, declaring that the company has the required solvency margin or minimum guarantee fund and specifying the financial resources from which the costs referred to in paragraph 17 below will be met.

Authorisations to be continued

10. Particulars of classes of insurance business for which the company is already authorised in the United Kingdom and which it wishes to be included in the new authorisation.

Scheme of operations for the United Kingdom

11. † The sources of business in the United Kingdom (for example, insurance brokers, agents, own employees or direct selling) and the approximate percentage expected from each source.

12. † The nature of the risks which the company proposes to cover in the United Kingdom and the general and special policy or treaty conditions which it proposes to use.

13. † The tariffs which the company proposes to apply for each category of business.

14. Notwithstanding paragraph 12 or 13 above, the general and special policy or treaty conditions which the company proposes to use and the tariffs which it proposes to apply for each category of business may be omitted—

- (a) in the case of direct business, in relation to large risks, and
- (b) in the case of reinsurance, in relation to general business class 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15 or 16.

15. † The guiding principles as to reinsurance of business written in the United Kingdom including the company's maximum retention per risk or event after all reinsurance ceded and the names of the principal reinsurers.

16. A statement showing the current margin of solvency of the company, the margin of solvency required and how both have been calculated.

⁽⁴⁶⁾ O.J. No. L205, 27.7.91. p.3.

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17. † The estimated costs of installing the administrative services and organisation for securing business in the United Kingdom and the financial resources intended to cover those costs and, in relation to general business class 18, the resources available for providing the assistance.

Projections for the United Kingdom

18. For each of the first three financial years following authorisation, in relation to the business to be carried on in the United Kingdom—

- (a) estimates relating to expenses of management (other than costs of installation) and in particular to current general expenses and commissions,
- (b) ‡ estimates relating to premiums or contributions (both gross and net of all reinsurance ceded) and to claims (after all reinsurance recoveries),
- (c) a forecast balance sheet for the proposed branch, and
- (d) the source and nature of the assets which will be used to cover any deficit shown in the forecast balance sheet.

Other information, accounts, agreements and treaties required

19. * Balance sheets and profit and loss accounts of the company for each of the last three financial years or, if the company has not been in business for three financial years, for each of the financial years for which it has been in business.

20. A statement showing the types of investments which are expected to represent the insurance funds in the United Kingdom and the estimated proportion which will be represented by each type of investment.

21. † Copies or drafts of any separate reinsurance treaties covering business written in the United Kingdom.

22. † Copies or drafts of any standard agreements which the company will have with brokers or agents in the United Kingdom.

23. † Copies or drafts of any agreements which the company will have with persons (other than employees of the company) who will manage the business of the proposed branch.

24. † Copies or drafts of any agreements which the company will have with main agents in the United Kingdom.

PART III

COMPANIES WHOSE HEAD OFFICE IS NOT IN AN EEA STATE (DIRECT BUSINESS OR BOTH DIRECT BUSINESS AND REINSURANCE)

The company

1. * Date of incorporation, place of incorporation and registered number.
2. * Brief summary of the objects of the company.
3. A statement of the classes of insurance business which the company is authorised to carry on in the country in which its head office is situated.
4. The assets which represent or will represent the minimum guarantee fund in the United Kingdom being assets admissible under and valued in accordance with Part VIII of these Regulations.

5. * Name and address of the auditors of the company in the United Kingdom.
6. * Names and addresses of the company's principal bankers in the United Kingdom.
7. § Names of the persons who will be directors, controllers or managers of the company, its principal United Kingdom executive or its authorised United Kingdom representative. The appropriate particulars specified in Schedule 6 to these Regulations shall be completed for each person listed.
8. Particulars of any association which exists or which is proposed to exist between the directors or controllers of the company and any person who acts or will act as an insurance broker, agent, or loss adjuster for the company in the United Kingdom or a reinsurer of the company.
9. Names of main agents in the United Kingdom.

Authorisations to be continued

10. Particulars of classes of insurance business for which the company is already authorised in the United Kingdom and which it wishes to be included in the new authorisation.

Scheme of operations for the United Kingdom

11. † The sources of business in the United Kingdom (for example insurance brokers, agents, own employees or direct selling) and the approximate percentage expected from each source.
12. † The nature of the risks which the company proposes to cover in the United Kingdom and the general and special policy or treaty conditions which it proposes to use.
13. † The tariffs which the company proposes to apply for each category of business in the United Kingdom.
14. Notwithstanding paragraph 12 or 13 above, the general and special policy or treaty conditions which the company proposes to use and the tariffs which it proposes to apply for each category of business may be omitted—
 - (a) in the case of direct business, in relation to large risks, and
 - (b) in the case of reinsurance, in relation general business class 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15 or 16.
15. † The guiding principles as to reinsurance of business written in the United Kingdom including the company's maximum retention per risk or event after all reinsurance ceded and the names of the principal reinsurers.

Projections for the United Kingdom

16. For each of the first three financial years following authorisation, in relation to the business to be carried on in the United Kingdom—
 - (a) estimates relating to expenses of management (other than costs of installation) and in particular to current general expenses and commissions,
 - (b) ‡ estimates relating to premiums or contributions (both gross and net of all reinsurance ceded) and to claims (after all reinsurance recoveries), and
 - (c) a forecast balance sheet for the proposed branch.

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Other information, accounts, agreements and treaties required

17. ‡ Estimates of world-wide premium income both gross and net of reinsurance ceded in each of the first three financial years following authorisation and broken down between the United Kingdom, other EEA States and elsewhere.

18. Brief description of the risks the company will underwrite outside the United Kingdom.

19. Brief summary of the reinsurance arrangements for the business of the company written outside the United Kingdom including the company's maximum retention per risk or event after all reinsurance ceded and the names of the principal reinsurers.

20. Estimated capital expenditure in respect of operations outside the United Kingdom during each of the first three financial years after authorisation.

21. A statement showing the current margin of solvency of the company (after application of valuation regulations), the margin of solvency required and how both have been calculated.

22. † The estimated costs of installing the administrative services and organisation for securing business in the United Kingdom and the financial resources intended to cover those costs and, in relation to general business class 18, the resources available for providing the assistance.

23. * Balance sheets and profit and loss accounts of the company for each of the last three financial years or, if the company has not been in business for three financial years, for each of the financial years for which it has been in business.

24. A statement showing the types of the investments which are expected to represent the insurance funds in the United Kingdom and the estimated proportion which would be represented by each type of investment.

25. † Copies or drafts of any separate reinsurance treaties covering business written in the United Kingdom.

26. † Copies or drafts of any standard agreements which the company will have with brokers or agents in the United Kingdom.

27. † Copies or drafts of any agreements which the company will have with persons (other than employees of the company) who will manage the business of the proposed branch.

28. † Copies or drafts of any agreements which the company will have with main agents in the United Kingdom.

PART IV

COMPANIES WHOSE HEAD OFFICE IS NOT IN THE UNITED KINGDOM (REINSURANCE ONLY)

The company

1. * Date of incorporation, place of incorporation and registered number.

2. * A brief summary of the objects of the company.

3. A statement showing the classes of insurance business which the company is authorised to carry on in the country in which its head office is situated and particulars of any limitation.

4. * Balance sheets and profit and loss accounts of the company for each of the last three financial years or, if the company has not been in business for three financial years, for each of the financial years for which it has been in business.

5. A statement showing the current margin of solvency of the company (after application of valuation regulations), the margin of solvency required and how both have been calculated

6. * Name and address of the auditors of the company in the United Kingdom.

7. * Names and addresses of the company's principal bankers in the United Kingdom.

8. § Names of the persons who will be directors, controllers or managers of the company, its principal United Kingdom executive or its authorised United Kingdom representative. The appropriate particulars specified in Schedule 6 to these Regulations shall be completed for each person listed.

9. Names of main agents in the United Kingdom.

10. Particulars of any association which exists or which is proposed to exist between the directors or controllers of the company and any person who acts or will act as an insurance broker, agent or loss adjuster for the company in the United Kingdom or a retrocessionaire of the company.

Authorisations to be continued

11. Particulars of classes of insurance business for which the company is already authorised in the United Kingdom and which it wishes to be included in the new authorisation.

Scheme of operations for the United Kingdom

12. † The sources of business in the United Kingdom (for example, insurance brokers or direct selling) and the approximate percentage expected from each source.

13. † The nature of the risks which the company proposes to cover in the United Kingdom and the general and special contracts or treaties which it proposes to use.

14. † The guiding principles as to reinsurance of business written in the United Kingdom including the company's maximum retention per risk or event after all retrocessions and the names of the principal retrocessionaires.

15. †‡ Estimates of the premium income (both gross and net of reinsurance) in the United Kingdom in each of the first three financial years following authorisation.

16. The estimated costs of installing the administrative services and the organisation for securing business in the United Kingdom and the financial resources intended to cover those costs.

Other information, agreements and treaties required

17. Brief description of risks underwritten by the company outside the United Kingdom.

18. Brief summary of the retrocession arrangements for the business of the company written outside the United Kingdom including the company's maximum retention per risk or event after all retrocessions and the names of the principal retrocessionaires.

19. For each of the first three financial years following authorisation—

- (a) estimates relating to expenses of management (other than costs of installation) and in particular to current general expenses and commissions,
- (b) ‡ estimates relating to premiums or contributions (both gross and net of retrocessions) and broken down between the United Kingdom, other EEA States and elsewhere,
- (c) ‡ estimates relating to claims (after all reinsurance recoveries),
- (d) a forecast balance sheet, and

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- (e) estimates relating to the financial resources intended to cover underwriting liabilities and the margin of solvency.
20. A statement showing the types of investments which are expected to represent the insurance funds and the estimated proportion which will be represented by each type of investment.
21. † Copies or drafts of any separate reinsurance treaties covering business written in the United Kingdom.
22. † Copies or drafts of any standard agreements which the company will have with reinsurance brokers or agents in the United Kingdom.
23. † Copies or drafts of any agreements which the company will have with persons (other than employees of the company) who will manage the business of the proposed branch.
24. † Copies or drafts of any agreements which the company will have with main agents in the United Kingdom.

SCHEDULE 3

Regulation 17

GENERAL BUSINESS SOLVENCY MARGIN: FIRST METHOD OF CALCULATION (PREMIUM BASIS)

1. In this Schedule—
- “gross premiums”, in relation to an insurance company and a financial year—
- (a) means premiums after deduction of discounts, refunds and rebates of premium but before deduction of premiums for reinsurance ceded and before deduction of commission payable by the company, and
- (b) includes premiums receivable by the company under reinsurance contracts accepted by the company;
- “receivable”, in relation to an insurance company, a financial year and a premium, means recorded in the company’s books as due to the company in respect of—
- (a) a contract commencing in that year, or
- (b) a contract not accounted for in an annual revenue account of the company prior to that year, even though the contract commenced in an earlier financial year, whether or not the company has received the premium;
- “recoverable”, in relation to an insurance company and a financial year, means recorded in the company’s books as due in that year, whether or not the company has received any payment.
2. The gross premiums receivable in respect of the company’s entire general business for the last preceding financial year shall be aggregated.
3. From the aggregate arrived at under paragraph 2 above there shall be deducted—
- (a) any taxes included in the premiums mentioned in paragraph 2 above, and
- (b) any levies that are related to premiums and are recorded in the company’s books as payable in the last preceding financial year in respect of general business.
4. The amount arrived at under paragraph 3 above shall be multiplied by twelve and divided by the number of months in the financial year.

5. If the amount arrived at under paragraph 4 above is more than 10 million units of account, it shall be divided into two portions, the former consisting of 10 million units of account and the latter comprising the excess.

6. Where there has been a division into two portions pursuant to paragraph 5 above, there shall be calculated and added together 18 per cent. and 16 per cent. of the two portions respectively; and where there has been no such division, there shall be calculated 18 per cent. of the amount arrived at under paragraph 4 above.

7. In the case of general business consisting of health insurance based on actuarial principles, paragraph 6 above shall apply with the substitution of “6 per cent.” for “18 per cent.” and “5 1/3 per cent.” for “16 per cent.”, but only if all the necessary conditions are satisfied.

8. For the purposes of paragraph 7 above, the necessary conditions are as follows, that is to say—
- (a) the gross premiums receivable shall be calculated on the basis of sickness tables appropriate to insurance business;
 - (b) the reserves shall include provision for increasing age;
 - (c) an additional premium shall be collected in order to set up a safety margin of an appropriate amount;
 - (d) it shall not be possible for the insurer to cancel the contract after the end of the third year of insurance;
 - (e) the contract shall provide for the possibility of increasing premiums or reducing payments during its currency.

9. Where paragraph 7 above applies to a company whose general business consists partly of health insurance based on actuarial principles and partly of other business, the procedure provided in paragraphs 2 to 7 above shall operate separately for each part of the general business, so as to produce a sum under paragraph 7 above for the health insurance and a sum under paragraph 6 above for the other business.

10.—(1) If the provision for claims outstanding at the end of the last preceding financial year exceeds the provision for claims outstanding at the beginning of that year, the amount of the excess shall be added to the amount of claims paid in the last preceding financial year.

(2) If the provision for claims outstanding at the beginning of the last preceding financial year exceeds the provision for claims outstanding at the end of that year, the amount of the excess shall be deducted from the amount of claims paid in the last preceding financial year.

11.—(1) For the purposes of paragraph 10 above, the amount of claims paid, in relation to an insurance company and a financial year, is the amount that is recorded in the company’s books as at the end of the financial year—

- (a) in relation to general business classes 1 to 17, as paid by it (whether or not payment has been effected in that year) in full or partial settlement of the claims described in sub-paragraph (2) below and the expenses described in sub-paragraph (3) below, or,
- (b) in relation to general business class 18, as being the costs borne by the insurance company (whether or not borne in that year) in respect of the assistance given,

less (in either case) any recoverable amounts within the meaning of sub-paragraph (4) below.

(2) The claims mentioned in sub-paragraph (1) above are claims under contracts of insurance (and under contracts of reinsurance accepted by the company) including claims relating to business accounted for over a longer period than a financial year.

(3) The expenses mentioned in sub-paragraph (1) above are expenses (such as, for example, legal, medical, surveying or engineering costs) which are incurred by the company, whether through the

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employment of its own staff or otherwise, and are directly attributable to the settlement of individual claims, whether or not the individual claims in question are those mentioned in sub-paragraph (1) above.

(4) Recoverable amounts for the purposes of sub-paragraph (1) above are amounts recoverable by the company in respect of the claims mentioned in that sub-paragraph or other claims, including amounts recoverable by way of salvage, amounts recoverable from third parties and amounts recoverable from other insurers but excluding amounts recoverable in respect of reinsurance ceded by the company.

12.—(1) For the purposes of paragraph 10 above, the provision for claims outstanding, in relation to an insurance company and a financial year, is (subject to any applicable valuation regulations) the amount set aside by the company as at the beginning or end of the financial year as being an amount likely to be sufficient to meet—

- (a) the claims described in sub-paragraph (2) below, and
- (b) the expenses described in sub-paragraph (3) below,

less any recoverable amounts within the meaning of sub-paragraph (4) below.

(2) The claims mentioned in sub-paragraph (1) above are claims under contracts of insurance (and under contracts of reinsurance accepted by the company) in respect of incidents occurring—

- (a) in the case of an amount set aside as at the beginning of the financial year, before the beginning of that year, and
- (b) in the case of an amount set aside as at the end of a financial year, before the end of that year.

being claims which have not been treated as claims paid and including claims relating to business accounted for over a longer period than a financial year, claims the amounts of which have not been determined and claims arising out of incidents that have not been notified to the company.

(3) The expenses mentioned in sub-paragraph (1) above are expenses (such as, for example, legal, medical, surveying or engineering costs) which are likely to be incurred by the company, whether through the employment of its own staff or otherwise, and are directly attributable to the settlement of individual claims, whether or not the individual claims in question are those mentioned in sub-paragraph (1) above.

(4) Recoverable amounts for the purposes of sub-paragraph (1) above are amounts estimated by the company to be recoverable by it in respect of the claims mentioned in that sub-paragraph, including amounts recoverable by way of salvage, amounts recoverable from third parties and amounts recoverable from other insurers but excluding amounts recoverable in respect of reinsurance ceded by the company.

13. From the amount determined under paragraph 10(1) or (2) above there shall be deducted the total sum recoverable in respect of that amount under reinsurance contracts ceded.

14. The amount determined under paragraph 13 above shall be expressed as a percentage of the amount determined under paragraph 10(1) or (2) above.

15. The sum arrived at under paragraph 6 or 7 above or the aggregate of the sums arrived at under those paragraphs, as the case may be, shall be multiplied—

- (a) where the percentage arrived at under paragraph 14 above is greater than 50 per cent. but not greater than 100 per cent., by the percentage so arrived at,
- (b) where the percentage so arrived at is greater than 100 per cent., by 100 per cent., and
- (c) in any other case, by 50 per cent.

SCHEDULE 4

Regulation 17

GENERAL BUSINESS SOLVENCY MARGIN: SECOND METHOD OF CALCULATION (CLAIMS BASIS)

1. In this Schedule “reference period”, in relation to an insurance company, means either—
 - (a) the three last preceding financial years, or
 - (b) the seven last preceding financial years if more than one-half of the gross premiums receivable (as defined in Schedule 3) in that period were in respect of all or any of the following, namely, storm (as included in general business class 8), hail (as included in general business class 9), frost (as included in general business class 9) and credit (as included in general business class 14).
2. If a company has not been in existence long enough to acquire a reference period, this Schedule shall be deemed to give a lower result than that given by Schedule 3 and shall otherwise not apply to the company.
- 3.—(1) If the provision for claims outstanding at the end of the reference period exceeds the provision for claims outstanding at the beginning of the reference period, the amount of the excess shall be added to the amount of claims paid in the reference period.
 - (1) If the provision for claims outstanding at the beginning of the reference period exceeds the provision for claims outstanding at the end of the reference period, the amount of the excess shall be deducted from the amount of claims paid in the reference period.
 - (3) For the purposes of this paragraph, the expressions “amount of claims paid” and “provision for claims outstanding” have, in relation to a reference period, the same meaning as they have in paragraph 10 of Schedule 3 in relation to a financial year.
4. The aggregate obtained under paragraph 3(1) or (2) above shall be divided by the number of months in the reference period and multiplied by twelve.
5. If the amount arrived at under paragraph 4 above is more than 7 million units of account, it shall be divided into two portions, the former consisting of 7 million units of account and the latter comprising the excess.
6. Where there has been a division into two portions pursuant to paragraph 5 above, there shall be calculated and added together 26 per cent. and 23 per cent. of the two portions respectively; and where there has been no such division, there shall be calculated 26 per cent. of the amount arrived at under paragraph 4 above.
7. In the case of general business consisting of health insurance based on actuarial principles, paragraph 6 above shall apply with the substitution of “ $8\frac{2}{3}$ per cent.” for “26 per cent.” and “ $7\frac{2}{3}$ per cent.” for “23 per cent.”, but only if all the necessary conditions are satisfied.
8. The necessary conditions for the purposes of paragraph 7 above are the same as those set out in paragraph 8 of Schedule 3.
9. In a case of the kind mentioned in paragraph 9 of Schedule 3, that paragraph shall apply (with the necessary modifications) so as to produce separate sums under paragraphs 6 and 7 above.
10. The sum arrived at under paragraph 6 or 7 above or the aggregate of the sums arrived at under those paragraphs, as the case may be, shall be multiplied by the same percentage as is applicable for the purposes of paragraph 15 of Schedule 3.

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SCHEDULE 5

Regulation 22

MINIMUM GUARANTEE FUND

Long term business

1. Subject to paragraph 7 below, the minimum guarantee fund for long term business shall be—
 - (a) in the case of a pure reinsurer which—
 - (i) is the wholly-owned subsidiary of an insurance company carrying on long term business, and
 - (ii) carries on only such reinsurance business as is ceded to it by that company, 200,000 units of account,
 - (b) in the case of a mutual, 600,000 units of account, and
 - (c) in any other case, 800,000 units of account.

General business

2. Subject to paragraphs 3 to 7 below, the minimum guarantee fund for general business shall be the amount shown in the table below as applicable to the general business class for which the relevant company is authorised (or the highest such amount if the company is authorised for more than one class).

GENERAL BUSINESS CLASS	AMOUNT
Class 10, 11, 12, 13, 14 or 15	400,000 units of account
Class 1, 2, 3, 4, 5, 6, 7, 8, 16 or 18	300,000 units of account
Class 9 or 17	200,000 units of account

3. In the case where the risks covered fall within class 14 of Part I of Schedule 2 to the 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 2 above there shall be substituted the amount of 1,400,000 units of account.

4. Where a company carrying on credit insurance business is required to increase the amount of units of account pursuant to paragraph 3 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 3 are fulfilled.

5. A company authorised for part of a class shall, for the purposes of paragraph 2 above, be regarded as authorised for the whole of the class.

6. In the case of a mutual, the minimum guarantee fund required by paragraphs 2 to 5 above shall be reduced by 25 per cent.

Long term and general business

7. In relation to a United Kingdom or EEA margin of solvency maintained under section 32(2) (b) or (3)(b) of the Act, the minimum guarantee fund for long term business or general business shall be one-half of the amount arrived at by applying the foregoing provisions of this Schedule.

SCHEDULE 6

Regulation 34

CHANGE OF CONTROL ETC.

PART I

INTERPRETATION

For the purposes of this Schedule—

“authority” means a licence or equivalent authorisation which may only be granted if the applicant fulfils criteria specified in legislation or by a supervisory or judicial authority or by a self-regulating organisation or professional body to carry on any business activity;

“court” means any court wheresoever in the world;

“group of companies” means a holding company and subsidiary within the meaning of section 736 of the Companies Act 1985⁽⁴⁷⁾;

“position holder” includes a proposed position holder.

PART II

SPECIFIED PARTICULARS AND NOTICES

1. In the case of an authorised insurance company notifying the Secretary of State pursuant to section 60(1) of the Act of an individual who is the company’s proposed managing director, chief executive or principal United Kingdom executive the particulars to be provided are those set out in A to G of Part III of this Schedule together with Notice 1 in Part III of this Schedule.

2. In the case of an individual notifying the Secretary of State pursuant to section 61(1) of the Act that he is a proposed controller (other than a managing director of either the authorised insurance company or a parent company of it or chief executive of either the authorised insurance company or a parent of it which is an insurance company), the particulars to be provided are those set out in A to G of Part III of this Schedule and those set out in F2, F3 and H in Part IV of this Schedule together with Notice 2 in Part III of this Schedule.

3. In the case of an individual notifying the Secretary of State pursuant to section 61(1) of the Act that he is the proposed managing director of a parent company of the authorised insurance company or chief executive of a parent company which is an insurance company, the particulars to be provided are those set out in A to G of Part III of this Schedule and those set out in H2 to H6 of Part IV of this Schedule together with Notice 2 in Part III of this Schedule.

4. In the case of an individual who is a newly appointed director, manager, authorised United Kingdom representative or employee within section 8(4)(c) of the Act, the particulars to be provided,

⁽⁴⁷⁾ Section 736 was substituted by the Companies Act 1989 (c. 40), section 144(1).

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pursuant to section 62(1) of the Act, are those set out in A to G of Part III of this Schedule together with Notice 3 in Part III of this Schedule.

5. In the case of an authorised insurance company notifying the Secretary of State pursuant to section 60(1) of the Act that it proposes to appoint a body corporate who is the company's proposed managing director, chief executive or principal United Kingdom executive the particulars to be provided are those set out in A to E, F1 and G of Part IV of this Schedule together with Notice 1 in Part IV of this Schedule.

6.—(1) In the case of a body corporate notifying the Secretary of State pursuant to section 61(1) of the Act that it is a proposed controller (other than a managing director or chief executive of the authorised insurance company), the particulars to be provided are those set out in A to I of Part IV of this Schedule together with Notice 2 in Part IV of this Schedule.

(2) Where several of the same group of companies are serving notice pursuant to section 61(1) of the Act—

- (a) the particulars set out in A to F of Part IV of this Schedule may be provided by one member company only;
- (b) that member company should be the one likely to be most active in exercising control of the authorised insurance company;
- (c) the company providing these particulars shall give the required particulars in respect of all companies in the group other than existing controllers of the authorised insurance company (whether proposed corporate controllers or not);
- (d) where historical information is sought, the member company shall give it in respect of companies which are currently part of the group whether or not they were part of the group at the relevant time;
- (e) every proposed corporate controller shall provide Notice 2 in Part IV of this Schedule.

(3) Where the company in respect of which the notification is made is proposed as a controller of more than one authorised insurance company, the particulars set out in A to E, F1 and G of Part IV of this Schedule need be provided only once.

7. In the case of a body corporate which is a newly appointed director, manager, authorised United Kingdom representative or employee within section 8(4)(c) of the Act, the particulars to be provided, pursuant to section 62(1) of the Act, are those set out in A to E, F1 and G of Part IV of this Schedule together with Notice 3 in Part IV of this Schedule.

8. In the case of a person notifying an authorised insurance company pursuant to section 62(1) of the Act that he has become a controller, or a shareholder controller of any description, the particulars to be provided are those set out in Part V of this Schedule.

9. In the case of a person notifying an authorised insurance company pursuant to Section 62(1) of the Act that he has ceased to be a controller, or a shareholder controller of any description, the particulars to be provided are those set out in Part VI of this Schedule.

10. Where pursuant to section 60(1), 61(1) or section 62(1) of the Act, notification is to be given, or particulars are to be provided, to an authorised insurance company or to the Secretary of State by or in respect of a partnership, the particulars to be provided by or on behalf of the partnership shall be those of each individual partner or body corporate partner as if such partner was the position holder.

PART III

APPOINTMENT OF INDIVIDUAL PARTICULARS TO BE PROVIDED

A: Particulars of authorised insurance company

- A1.** Name of authorised insurance company in respect of which the notification is being given.
- A2.** The proposed or assumed position to which the notification relates.
- A3.** If the proposed position is that of controller, the provision of section 96C of the Act by virtue of which the individual serving notice would become a controller.

B: Partnerships

- B1.** If the notification is being given because the individual is a member of a partnership, the name of the partnership.

C: Personal details of individual

- C1.** Full name (which shall be given in the order surname/forenames and including title and any name by which commonly known).
- C2.** Any previous names by which known (including name before marriage).
- C3.** Any trading names used as a sole trader in the last ten years.
- C4.** Date of birth (which shall be given in the order day/month/year).
- C5.** Place of birth (including town and where appropriate the London borough).
- C6.** Private address or addresses.
- C7.** If other than the particulars specified in response to C6 above, the address or addresses of any residence outside the United Kingdom in the last five years and the dates of such residence.
- C8.** Nationality, including a statement as to whether it was acquired by birth or naturalisation, and if by naturalisation a statement when so acquired. In the case of dual nationality, the details of each nationality.

D: Experience

- D1.** Relevant United Kingdom and overseas qualifications.
- D2.** Details of all employment or occupation over the last ten years, including names and addresses of employers, dates of employment or occupation (months and years), positions held, summary of responsibilities and reasons for leaving. Any intervals between employment or occupation shall be explained.

E: Other business interests

- E1.** Details of all directorships currently held.
- E2.** Details of all other directorships held during the last ten years.

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E3. Details of all bodies corporate in which the individual or a partnership in which the individual is a partner is entitled to exercise, or control the exercise of, 10 per cent. or more of the voting power at any general meeting, together with a brief description of his activities.

F: Reputation and Character

Notes:

Information shall be provided in this section in respect of events whether they occurred in the United Kingdom or elsewhere.

* This information is required only in respect of events which occurred within the ten years immediately prior to the notification.

F1. Details of any authority (as defined) held from any supervisory body as an individual to carry on business.

F2. Details of any draft or formal application made for an authority from a supervisory body to carry on business other than an authority already mentioned in response to F1 above. If any application was, for any reason, refused or withdrawn, particulars of the refusal or withdrawal.

F3. Details of any conviction for any offence involving fraud or other dishonesty or under legislation relating to companies, building societies, industrial and provident societies, credit unions, friendly societies, insurance, banking or other financial services, consumer credit or consumer protection. Details shall include the court where the conviction took place, the offence, the penalty imposed and the date of the conviction. By virtue of article 3(a)(iii) of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975(48), spent convictions shall be disclosed.

F4. Details of other convictions, including full particulars of the court where the conviction took place, the offence, the penalty imposed and the date of the conviction.

F5. * Details of any case of failure to satisfy a judgment debt under a court order within a year of the making of the order.

F6. * Details of any compromise or arrangement with creditors or other failure to satisfy creditors in full.

F7. * Details of the presentation of any petition for the bankruptcy of the individual and the appointment of any receiver, or any administrator of the individual's estate or of any person performing a similar function.

F8. * Details of the winding up of any company, or the subsidiary of any company, of which the individual is or was a controller within 5 years of the commencement of the winding up.

F9. Details of any adjudication by a court making the individual liable for any fraud, misfeasance or wrongful trading or other misconduct in respect of the formation or management of any company, partnership or unincorporated association.

F10. Details of any dismissal from any office or employment or from any fiduciary office or position of trust whether or not remunerated (unless already notified in response to D2 above).

F11. * Details of any refusal of entry to any professional body or trade association or any case where an application was not made following an initial approach to any professional association or trade association.

F12. * Details of any disqualification by a court from acting as a director or being concerned in the management of a company.

(48) [S.I. 1975/1023](#).

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F13. * Details of any case of warning, censure, prosecution, criticism or court order made at the instigation of any regulatory body.

G: Other details

G1. Any other details relevant to the Secretary of State’s consideration of the notification.

NOTICES

Notes:

* Insert name of individual

** Insert name of authorised insurance company

... .. Insert name of partnership

† Delete as appropriate

§ Insert date of appointment (in the order day/month/year)

Notice 1

**** proposes to appoint*/a partnership named of which * is a partner, as its managing director†/chief executive†/principal United Kingdom executive†.**

Signed (Director†/Secretary†
of the insurance company)

Date

The particulars provided in this notice are complete and true to the best of my knowledge, information and belief. This notice is served with my knowledge and consent.

Signed (the proposed)

Date

Notice 2

I propose†/A partnership named of which I am a partner proposes† to become a controller (other than as its managing director or chief executive) of.**

The particulars provided in this notice are complete and true to the best of my knowledge, information and belief.

Signed (the proposed)

Date

Notice 3

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

The particulars provided in this notice are complete and true to the best of my knowledge, information and belief. If/ A partnership named of which I am a partner† was appointed on §.

Signed (the appointee)

Date

PART IV

APPOINTMENT OF BODY CORPORATE

PARTICULARS TO BE PROVIDED

A: Particulars of authorised insurance company

A1. Name or names of the authorised insurance company or companies in respect of which notice is being given.

A2. The proposed or assumed position to which the notification relates.

A3. Provision of section 96C of the 1982 Act by virtue of which the body corporate serving notice would become a position holder.

B: Partnerships

B1. If the notification is being given because the body corporate is a partner in a partnership, the name of the partnership.

C: Corporate particulars of the position holder

C1. Name.

C2. Any other corporate or trading name used in the past ten years.

C3. Date of incorporation; the date shall be given in the order day/month/year.

C4. Country of incorporation.

C5. Where the company is an overseas company within the meaning of Part XXIII of the Companies Act 1985 or Part XXIII of the Companies (Northern Ireland) Order 1986, the company's United Kingdom registered number and the date of registration.

C6. Registered number.

C7. Address of registered office.

C8. Address of principal place of business in the United Kingdom.

C9. Where the company is an overseas company within the meaning of Part XXIII of the Companies Act 1985 or Part XXIII of the Companies (Northern Ireland) Order 1986, the name and address of the person authorised to accept service of documents.

C10. Summary of the share ownership identifying those owning more than 10 per cent. of the shares, a group structure chart, identifying the principal companies in the group, and details of any proposed changes in the share ownership.

C11. Any reports, resolutions and other circulars issued to shareholders during the last four years.

D: Management details of the position holder

The full names (including titles and names by which commonly known) and addresses of—

D1. the directors, together with details of the positions within the company held by each director;

D2. the secretary (if any);

D3. the chief executive (if any).

E: Professional support of position holder

E1. Name and address of principal banker.

E2. Name and address of auditor.

F: Financial aspects of the position holder

F1. Audited accounts (and, where appropriate, audited group accounts) should be provided for the last three financial years (if available). If the most recent audited accounts are more than six months out of date, management accounts or interim accounts (neither of which need be audited) shall be provided showing the current financial position and the current results.

F2. Terms on which the position of controller is to be acquired.

F3. Full details of all financial transactions which have been, or will be, entered into to enable the proposed controller to attain control.

G: Conduct of business by the position holder

Note:

* This information shall be provided in respect of any such events within the last ten years both in the United Kingdom and elsewhere.

G1. Nature of the position holder's business.

G2. * Details of any authority (as defined) held from a supervisory body to carry on business.

G3. * Details of any draft or formal application made for an authority from a supervisory body to carry on business other than an authority already mentioned in response to F2 above. If any such application was, for any reason, refused or withdrawn, particulars of the refusal or withdrawal.

G4. * Details of any case of failure to satisfy a judgement debt under a court order within a year of the making of the order.

G5. * Details of any compromise or arrangement with creditors or other failure to satisfy creditors in full.

G6. * Details of the appointment of any receiver or administrative receiver or the substantial equivalent of any such person including whether that person is still acting under the appointment.

G7. * Details of any petition served on the position holder for an administration order or the substantial equivalent.

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G8. * Details of any case of warning, censure, prosecution, criticism, or court order made at the instigation of any regulatory body.

G9. * Details of any refusal of entry to any professional body or trade association or of any case where an application was not made following an initial approach to any professional body or trade association.

G10. Details of any current, pending or proposed litigation, which is likely to proceed, whether in the United Kingdom or elsewhere, and which may have a material effect on the position holder.

H: Exercise of controllership

Notes:

These particulars shall not apply if the notification is made as part of an application for authorisation.

* These particulars are required only if the information is known when this notice is served.

H1. Reasons for seeking to become a controller of the authorised insurance company.

H2. Intended changes (if any) to the business strategy of the authorised insurance company; a proposed business plan if there are intended changes.

H3. * Any intended appointments of, removals of, or changes in the responsibilities of, the directors, the chief executive, managers and main agent (as defined in section 96E of the Act) of the authorised insurance company.

H4. * Intended changes (if any) to the sources of business of the authorised insurance company (insurance brokers, agents, own employees or direct selling).

H5. * Intended changes (if any) to the authorised insurance company's guiding principles concerning reinsurance.

H6. * Details of any transactions or arrangements in which the proposed controller is engaged or expects to engage with the authorised insurance company (excluding receipt of dividends).

I. Other details

I1. Any other details relevant to the Secretary of State's consideration of this notification.

Notices

Notes:

* Insert name of body named at C1 above

** Insert name of the authorised insurance company

... .. Insert name of partnership

† Delete as appropriate

§ Insert date of appointment (in the order **day/month/year**)

Notice 1

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

****** proposes to appoint ***†**/ a partnership named.....of which ***** is a partner†, as its managing director†/chief executive†/principal United Kingdom executive†.

Signed (Director†/Secretary† of the insurance company)

Date

The particulars provided in this notice are complete and true to the best of my knowledge, information and belief. This notice is served with my knowledge and consent.

Signed (Director†/Secretary† of*)

Date

Notice 2

†**/the partnership namedof which ** is a partner, proposes to become a controller (other than managing director or chief executive) of ******.

The particulars provided in this notice are complete and true to the best of my knowledge, information and belief.

Signed (Director†/Secretary† of*)

Date

Notice 3

The particulars provided in this notice are complete and true to the best of my knowledge, information and belief. ***†**/ A partnership namedof which ***** is a partner† was appointed on §.

Signed (Director†/Secretary† of*)

Date

PART V

PERSON BECOMING CONTROLLER OR SHAREHOLDER CONTROLLER OF ANY DESCRIPTION

PARTICULARS TO BE PROVIDED AND NOTICE

1. Name of authorised insurance company.
2. Name of person in respect of which notification is being given.
3. Position assumed and details of the circumstances by which that position was assumed.

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4. In the case of a United Kingdom company, if the position assumed is that of shareholder controller of any description provided for by section 96C(3) of the Act—

- (a) the appropriate shareholder controller description; and
- (b) the percentage of shares or voting power which he or it (alone or with any associate or associates) holds or is entitled to exercise or control.

5. Date of original notification of details of proposed appointment or intention to become a controller: the date shall be given in the order **day/month/year**.

6. Date position assumed: the date shall be given in the order **day/month/year**.

The provisions of sections 60 and 61 of the Act have been complied with and no notice of objection was served.

Signed (either by an individual becoming a controller or shareholder controller of any description or by a director/secretary of the body corporate becoming a controller or shareholder controller of any description)

Date

PART VI

PERSON CEASING TO BE CONTROLLER OR SHAREHOLDER CONTROLLER OF ANY DESCRIPTION

PARTICULARS TO BE PROVIDED AND NOTICE

1. Name of insurance company.
2. Name of person ceasing to be a controller or (if a United Kingdom company) a shareholder controller of any description.
3. Date person ceased to be a controller or a shareholder controller of any description: the date shall be given in the order **day/month/year**.
4. Reason for ceasing to be a controller or a shareholder controller of any description.
5. If the person remains a shareholder controller of any description provided for by section 96C(3) of the Act, the percentage of the shares or voting power which he will (alone or with any associate or associates) be entitled to exercise or control.

Signed (either by an individual ceasing to be a controller or shareholder controller of any description or by a director/secretary of the body corporate ceasing to be a controller or shareholder controller of any description)

Date

SCHEDULE 7

Regulation 41

STATUTORY NOTICE: NON-INVESTMENT CONTRACTS

[Insert the name and address of the person to whom this Notice is sent]

IMPORTANT! YOU SHOULD READ THIS CAREFULLY

STATUTORY NOTICE† RELATING TO LONG-TERM INSURANCE CONTRACT

YOUR RIGHT TO CHANGE YOUR MIND

[Identify the contract to which the notice relates or state how it may be identified, e.g. by reference to an accompanying contract note]

You {**have entered into/have applied to enter**} the above contract with [insert name or otherwise identify insurer with whom the contract is being entered into].

You have a legal right to consider the matter again and change your mind if you wish.

Points you should consider

Before you decide whether you want to change your mind, ask yourself:

- If you received personal advice on your policy, are you clear whether that advice was given by an independent adviser working on your behalf or by someone representing the insurer?
- Have you received all the information you want in order to understand your policy?
- Are you satisfied that the policy is suitable for your needs?

If the answer to any of these questions is NO, you should consult your adviser {**or the insurer**} as quickly as possible. There is no extension to the cancellation period if you ask for further information or if the reply is delayed.

Your right to withdraw from the transaction

If you wish to go ahead with the transaction you should do nothing with the attached notice of cancellation.

{If the contract is an EC contract insert:**

If you wish to withdraw, you should send the notice of cancellation to [insert the name and address of the person to whom the notice of cancellation should be sent] and you must post it on or before {**if the contract is already in force insert: the 14th day after the day on which you received this notice**} {**if the contract is not yet in force insert: the 14th day after the date upon which you receive written notification informing you that the contract has become binding on you**}.

{If the contract is a non-EC contract insert:**

If you wish to withdraw, you should send the notice of cancellation to [insert the name and address of the person to whom the notice of cancellation should be sent] and you must post it before the end of—

- the tenth day after the day on which you received this notice; or
- the earliest day on which you know both that the contract has been entered into and that the first premium has been paid,

whichever is the later.**}

{**This notice deals with your statutory right to cancel and does not affect your common law right to withdraw an order, application or proposal before it has been accepted**}.

Financial consequences of withdrawal

If you withdraw, you are entitled to have repaid to you any money you have paid the insurer, and you will have to repay any amounts already paid to you by the insurer under the contract.

† This notice is issued in compliance with the requirements of regulations made under section 75 of the Insurance Companies Act 1982.

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SCHEDULE 8

Regulation 41

STATUTORY NOTICE: INVESTMENT CONTRACTS

[Insert the name and address of the person to whom this Notice is sent]

IMPORTANT! YOU SHOULD READ THIS CAREFULLY
STATUTORY NOTICE† RELATING TO LONG-TERM INSURANCE CONTRACT

YOUR RIGHT TO CHANGE YOUR MIND

[Identify the contract to which the notice relates or state how it may be identified, e.g. by reference to an accompanying contract note]

You {**have entered into/have applied to enter into**} the above contract with [insert name or otherwise identify insurer with whom the contract is being entered into].

You have a legal right to consider the matter again and change your mind if you wish.

Points you should consider

Before you decide whether you want to change your mind, ask yourself:

- If you received personal advice on your policy, are you clear whether that advice was given by an independent adviser working on your behalf or by someone representing the insurer?
- Have you received all the information you want in order to understand your policy?
- Are you satisfied that the policy is suitable for your needs?
- Do you, for example:
 - Understand how much you will pay now and in the future?
 - Understand what benefits will be paid under the policy — either at the end of the policy term or if you die before the end of the policy term? Do you also understand to what extent the benefits are guaranteed and to what extent they depend on how well the investment performs?
 - Understand that if you stop the policy in the early years you could lose money?
 - Understand the effect that any {**expenses/charges**} will have on your investment?

If the answer to any of these questions is NO, you should consult your adviser or the insurer as quickly as possible. There is no extension to the cancellation period if you ask for further information or if the reply is delayed.

Your right to withdraw from the transaction

If you wish to go ahead with the transaction you should do nothing with the attached notice of cancellation.

If you wish to withdraw you should send the notice of cancellation to [insert the name and address of the person to whom the notice of cancellation should be sent] and you must post it on or before {**if the contract is already in force insert: the 14th day after the day on which you received this notice**} {**if the contract is not yet in force insert: the 14th day after the date upon which you receive written notification informing you that the contract has become binding on you**}.

{**This notice deals with your statutory right to cancel and does not affect your common law right to withdraw an order, application or proposal before it has been accepted.**}

Financial consequences of withdrawal

If you withdraw, you are entitled to have repaid to you any money you have paid the insurer and you will have to repay any amounts already paid to you by the insurer under the contract.

†This notice is issued in compliance with the requirements of regulations made under section 75 of the Insurance Companies Act 1982.

{** **} Delete as appropriate.

SCHEDULE 9

Regulation 41

NOTICE OF CANCELLATION

NOTICE OF CANCELLATION

(To be returned only if you wish to cancel the contract)

To [name of insurer]

I hereby give notice that I have decided not to proceed with this insurance contract; and I require the return of any money paid to you or your agent in connection with it.

Signed

Date

[Name and address of the person to whom the Statutory Notice is being sent]

This notice relates to insurance contract reference [contract reference number or code].

SCHEDULE 10

Regulation 43

PERMITTED LINKS

PART I

DESCRIPTIONS OF PROPERTY BY REFERENCE
TO WHICH BENEFITS MAY BE DETERMINED

1. Securities (other than derivative contracts) which are listed.
2. Unlisted securities (other than derivative contracts) in aggregate up to a maximum of 10 per cent. of the property linked benefits.
3. Land (including any interest in land) in an EEA State, Australia, Canada, the Channel Islands, Gibraltar, Hong Kong, the Isle of Man, New Zealand, the Republic of South Africa, Singapore and the United States of America.
4. Loans—
 - (a) which are fully secured by mortgage or charge on land (or any interest in land) which—
 - (i) is situated in any of the countries specified in paragraph 3 above, and
 - (ii) in the case of a loan made to a person other than a body corporate, is not used wholly or mainly for domestic purposes, and

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- (b) of which the rate of interest and the due dates for the payment of interest and the repayment of principal can be fully ascertained from the terms of any agreement relating to the loan.
- 5. Units in—
 - (a) a unit trust scheme falling within Council Directive [85/611/EEC](#) of 20 December 1985 on the co-ordination of laws, regulations and administrative provisions relating to undertakings for collective investments in transferable securities;
 - (b) an authorised unit trust scheme other than authorised unit trust schemes falling within sub-paragraph (a) above;
 - (c) a recognised scheme within the meaning of sections 86, 87 and 88 of the Financial Services Act 1986⁽⁴⁹⁾ other than recognised schemes falling within sub-paragraph (a) above.
- 6. Approved securities.
- 7. Loans to or deposits with an approved credit institution, an approved financial institution or an approved investment firm.
- 8. Income due or to become due in respect of property of any of the descriptions specified in the foregoing paragraphs of this Schedule.
- 9. Permitted derivative contracts.
- 10. Cash.
- 11. Units, by whatever name called, in a real or notional fund (not being a scheme or undertaking of a kind mentioned in paragraph 5 above) which is limited to the descriptions of property mentioned above and which under the contract is to be managed either—
 - (a) wholly by the insurer; or
 - (b) wholly or to any extent by another person being a person for whose acts and omissions in managing the fund the insurer assumes responsibility towards the policy holder as if they were the acts or omissions of the insurer, and otherwise (if at all) by the insurer.

PART II

INDICES BY REFERENCES TO WHICH BENEFITS MAY BE DETERMINED

- 12. An approved index.

PART III

INTERPRETATION

- 13. Unless the context otherwise requires, words or expressions contained in this Schedule bear the same meaning as in Part VIII of these Regulations.
- 14. For the purposes of this Schedule, “approved index” means either—
 - (a) an index which is—
 - (i) calculated independently;
 - (ii) published at least once every week;
 - (iii) based on constituents, each of which is property falling within paragraphs 1 to 8 or 10 above; and

⁽⁴⁹⁾ 1986 c. 60.

- (iv) calculated on a basis which is made available to the public and which includes both the rules for including and excluding constituents and the rules for valuation which must use an arithmetic average of the value of the constituents; or
- (b) an index in respect of which a derivative contract is listed.

15.—(1) For the purposes of this Schedule, “permitted derivative contract” means a derivative contract to which sub-paragraph (2) below applies—

- (a) which is held for the purposes of reduction of investment risks or efficient portfolio management, and which—
 - (i) is held in connection with property falling within paragraphs 1 to 8 or 10 above for such purposes; or
 - (ii) has the equivalent effect to such a contract held in connection with such assets for such purposes;
- (b) in respect of which, having regard to its assets and liabilities, the insurer will have, so far as can reasonably be foreseen, and in the appropriate fund maintained by it, assets at the settlement date which match its obligations under that contract and from which it will fulfil those obligations; and
- (c) which—
 - (i) is listed; or
 - (ii) the insurer has entered into with an approved counterparty and which it reasonably believes may be readily closed out by entering into a further permitted derivative contract with an approved counterparty.

(2) This sub-paragraph applies to—

- (a) a contract for differences under which the amount payable by either party is calculated by reference to fluctuations in the value of any property falling within paragraphs 1 to 10 of Part I above or in an approved index; or
- (b) a futures contract or option, in each case providing for the acquisition or disposal of property, all of which is property falling within paragraphs 1 to 10 of Part I above.

16. Benefits payable under any contract to which regulation 43 applies shall not be determined by reference to—

- (a) property of any of the descriptions specified in paragraph 2, 5(b), 5(c) or 7 above if the value of such property is determined, either wholly or partly, by reference to the value of, or the income from, fluctuations in the value of property other than property of the descriptions in Part I of this Schedule;
- (b) property of the description in paragraph 2 above unless the securities are realisable in the short term without any diminution in value.

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SCHEDULE 11

Regulation 47

VALUE OF DEPENDANTS

PART I

THE SUPPLEMENTARY AMOUNT

1. Subject to paragraph 2(1) below, the supplementary amount in relation to assets of a relevant description held by a dependant of the insurance company shall be determined in accordance with the following formula—

$$A = \frac{B}{C} \times D$$

in which—

A is the supplementary amount;

B is the amount by which the value of assets of that description held by the dependant, excluding any long term business assets of the dependant if it is an insurance company, exceeds the permitted limit applicable to the dependant in relation to those assets;

C is the aggregate of the amount specified in B above and of the amounts by which the value of assets of the same description held by other relevant dependants, excluding any long term business assets of a dependant which is an insurance company, exceeds respectively the permitted limits applicable to such other relevant dependants in relation to those assets;

D is—

- (a) where the insurance company holds no assets of the same description of the relevant class, the amount of the permitted limit that would be applicable to the insurance company in relation to such assets were it to hold them; and
- (b) where the insurance company holds assets of the same description of the relevant class, the amount by which the permitted limit applicable to the insurance company in relation to those assets exceeds the value of those assets.

2.—(1) Where for the purpose of determining any supplementary amount in accordance with paragraph 1 above the insurance company cannot reasonably ascertain—

- (a) the value of any asset of a relevant dependant, or
- (b) the amount of the permitted limit applicable in relation to any asset of a relevant dependant,

the asset in question shall be left out of account for that purpose.

(2) In this Part of this Schedule—

“relevant dependant” means—

- (a) where this Schedule is being applied in relation to the determination of the value of a share in, or debt due or to become due from, a dependant of the insurance company which is a long term business asset of the insurance company, any dependant of the insurance company—
 - (i) a share in which, or in any company of which it is a dependant, is a long term business asset of the insurance company, or
 - (ii) from which a debt is due, or will become due, to the insurance company which is a long term business asset of that company; and
- (b) in any other case, any dependant of the insurance company—

- (i) a share in which, or in any company of which it is a dependant, is a general business asset of the insurance company, or
- (ii) from which a debt is due, or will become due, to the insurance company which is a general business asset of that company.

PART II

FURTHER PROVISIONS AND MODIFICATIONS OF THE REGULATIONS APPLICABLE WITH RESPECT TO THE DETERMINATION OF THE VALUE OF DEPENDANTS

3.—(1) This paragraph applies where, for the purpose of ascertaining the value of the assets of the subject company under regulation 47 above, any determination falls to be made in accordance with the said regulation 47 of the value of the assets of a dependant of the insurance company, a share in which, or a debt due or to become due from which, is an asset of the subject company; and references herein to a determination of the value of assets of a dependant to which this paragraph applies are references to any such determination.

(2) Regulation 47(4) shall not apply with respect to a determination of the value of assets of a dependant to which this paragraph applies.

(3) Where, in the case of a determination of the value of assets of a dependant to which this paragraph applies—

- (a) the dependant is an insurance company and has general business assets of a relevant description or is not an insurance company and has assets of a relevant description,
- (b) the value of such assets exceeds the permitted limit applicable to the dependant in relation to those assets, and
- (c) any controller of the dependant has no assets of the same description of the relevant class, or has assets of the same description of the relevant class and their value is less than the permitted limit applicable to that controller in relation to those assets;

then, for the purposes of such determination, there shall be added to the permitted limit applicable to the dependant in relation to the assets referred to in sub-paragraph (a) above an amount equal to the supplementary amount or, if there is more than one such controller, to the aggregate of the supplementary amounts, determined with respect to any such controller in accordance with Part I of this Schedule, subject, where the controller is not the insurance company, to the modifications specified in sub-paragraph (5) below.

(4) In this paragraph, “a controller” means, in relation to a dependant—

- (a) the insurance company,
- (b) the subject company, if it is an insurance company, and
- (c) a dependant of the insurance company which is an insurance company and of which the subject company is a dependant.

(5) Where sub-paragraph (3) above is being applied in relation to a controller, other than the insurance company—

- (a) Part I of this Schedule, as applied in accordance with the said sub-paragraph (3), shall have effect as if, for the reference to the insurance company, there were substituted references to the controller, and
- (b) the references to assets being of a relevant class in the said sub-paragraph (3) and in Part I of this Schedule, as so applied, shall be construed as referring to long term business

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assets of the controller, if the said sub-paragraph (3) is being applied in connection with the determination of the value of a long term business asset of the controller, and to general business assets of the controller, in any other case.

4. The modifications of these Regulations applicable (in addition to that specified in paragraph 3(2) above) with respect to the determination of the value of the assets of the subject company where it is not an insurance company are as follows—

- (a) these Regulations shall apply to the subject company as if it were an insurance company and its assets were being valued for the purpose specified in regulation 45(1);
- (b) regulation 45(2) shall not apply; and
- (c) regulation 57 shall not apply.

5. In this Schedule, “subject company” means the dependant of the insurance company the value of whose assets is being determined in accordance with regulation 47(2) or (3) (as the case may be).

SCHEDULE 12

Regulation 57

ASSETS TO BE TAKEN INTO ACCOUNT ONLY TO A SPECIFIED EXTENT

PART I

Descriptions of Asset	Percentage of general business or long term business amount
1. A piece of land or a number of pieces of such land to which in the most recent proper valuation of such pieces of land an aggregate value is ascribed which is greater than the aggregate of the value of each of such pieces of land valued separately	5%
2. Debts due, or which will become due, to the insurance company from an individual (other than an individual who is connected with the insurance company within the meaning of section 31(5) of the Act), being debts which are fully secured on any dwelling or any land appurtenant thereto owned or to be purchased by the individual and used or to be used by him for his own residence	1%
3. Unsecured debts, other than listed debentures or debts from an approved counterparty, which are debts due, or which will become due, (including debts which would become due if the company were to exercise any right to which it is entitled to require payment or repayment of the same) from a regulated institution and any of its connected companies (not being a dependant of the insurance company)	2½%

Descriptions of Asset	Percentage of general business or long term business amount
<p>4. Unsecured debts, other than listed debentures or debts from a regulated institution, which are debts due, or which will become due, to the insurance company (including debts which would become due if the company were to exercise any right to which it is entitled to require payment or repayment of the same) from—</p> <p style="padding-left: 40px;">(a) any one company and any of its connected companies (not being a dependant of the insurance company)</p> <p style="padding-left: 40px;">(b) any one unincorporated body of persons</p>	<p>1%</p> <p>1%</p>
<p>5. Debts due, or which will become due, to the insurance company from an individual (other than debts specified in regulation 48(3) above or paragraph 2 or 4 (b) above)</p>	<p>¼%</p>
<p>6. The aggregate of debts, other than debentures, of the description in paragraph (4) above</p>	<p>5%</p>
<p>7. Listed equity shares in any one company and any of its connected companies (not being a dependant of the insurance company)</p>	<p>2½%</p>
<p>8. Listed shares (including listed equity shares) and listed debentures in any one company and any of its connected companies (not being a dependant of the insurance company or an approved counterparty)</p>	<p>5%</p>
<p>9. Unlisted shares in and unlisted regulated subordinated debt due from any one company and any of its connected companies (not being a dependant of the insurance company)</p>	<p>1%</p>
<p>10. The aggregate of unlisted debentures of the descriptions in paragraphs 3 and 4 above and of unlisted shares and debt of the descriptions in paragraph 9 above</p>	<p>10%</p>
<p>11. Holdings in an authorised unit trust scheme or a recognised scheme (other than a scheme falling within Council Directive 85/611/EEC of 20 December 1985 on the co-ordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities(50))</p>	<p>5%</p>
<p>12. Subject to paragraph 13 below, shares held in or secured or unsecured debts (including</p>	<p>5%</p>

(50) O.J. No. L375, 31.12.85, p.3; Directive last amended by Directive [88/220/EEC](#) (O.J. No. L100, 19.4.88, p.31).

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Descriptions of Asset	Percentage of general business or long term business amount
debts which would become due if the company were to exercise any right to which it is entitled to require payment or repayment of the same) or the value of rights under derivative contracts due, or which will become due, from—	
(a) an individual, or	
(b) any one company and any of its connected companies (not being a dependant of the insurance company), or	
(c) any one unincorporated body of persons	
13. Shares, debts and rights under derivative contracts to which the limitations in paragraph 12 apply, the holdings of which exceed 5% but which in aggregate are taken into account for no more than 40% of the business amount	10%
14. Shares, debts and rights under derivative contracts to which the limitations in paragraph 12 and 13 apply which are issued by any one approved credit institution and any of its connected companies together with deposits held in that institution and any of its connected companies (not being a dependant of the insurance company)	20%
15. Cash	3%
16. Computer equipment	5%
17. Office machinery (other than computer equipment), furniture, motor vehicles and other equipment	2½%

PART II

- 18.** In this Schedule, a company is connected with another company if it is—
- (a) a subsidiary of that other company, or
 - (b) the holding company of that other company, or
 - (c) a subsidiary of the holding company of that other company.

SCHEDULE 13

Regulation 63

RELEVANT CO-INSURANCE OPERATIONS

- 1.** An insurance operation is a relevant co-insurance operation for the purposes of regulation 63 above if—

- (a) it is not a reinsurance acceptance, and
- (b) it relates to any of the classes specified in paragraph 2 below, and
- (c) it satisfies all the conditions specified in paragraph 3 below.

2. The classes referred to in paragraph 1(b) above are—

- class 3 (land vehicles),
- class 4 (railway rolling stock),
- class 5 (aircraft),
- class 6 (ships),
- class 7 (goods in transit),
- class 8 (fire and natural forces),
- class 9 (damage to property),
- class 10 (motor vehicle liability),
- class 11 (aircraft liability),
- class 12 (liability for ships),
- class 13 (general liability), excluding risks which concern damage arising from nuclear sources or from medicinal products,
- class 14 (credit),
- class 15 (suretyship), and
- class 16 (miscellaneous financial loss),

as specified in Part I of Schedule 2 to the Act.

3. The conditions referred to in paragraph 1(c) above are—

- (a) that the risk is covered by a single contract at an overall premium and for the same period by two or more insurers, each for his own part;
- (b) that the risk is situated (within the meaning of paragraph 4 below) within an EEA State;
- (c) that at least one of the insurers participating in the operation does so through a head office or branch established in an EEA State other than that in which the leading insurer's head office (or if the leading insurer is participating through a branch, that branch) is established.

4. For the purposes of paragraph 3(b) above, a risk is situated in an EEA State—

- (a) in the case of insurance relating to immovable property, if the property is situated in an EEA State,
- (b) in the case of insurance relating to a registered vessel, aircraft or vehicle (including railway rolling stock), if the vessel, aircraft or vehicle is registered in an EEA State, and
- (c) in any other case, if the policy holder is incorporated or has his habitual residence in an EEA State.

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SCHEDULE 14

Regulation 76

**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 per cent. of any technical surplus arising on credit insurance business, subject to a limit of 12 per cent. of the net premiums or contributions until the reserve has reached 150 per cent. 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 minimum amount of the equalisation reserve shall be 134 per cent. 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 per cent. 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 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. 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 per cent. 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.

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- (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.

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SCHEDULE 15

Regulation 80

INSURANCE STATISTICS: EFTA STATES AND EFTA COMPANIES

The statements and underwriting account to be provided under regulation 80 are to be given in the form set out in Forms 82 to 85.

Form 82

Returns under Insurance Companies Legislation

Rev 1

General Business: Analysis of gross premiums receivable for provision of direct insurance in other States

Name of Company

Financial year ended

State in which risk is situated

F82	Company registration number	Financial year ended			Units	State in which risk is situated	For official use
		day	month	year			
		18			£000		
Groups of Classes		Authorisation Classes		Gross Premiums Receivable			
Accident and Sickness		1,2		1			
Land vehicles, Goods in transit and Motor vehicle liability (carrier's liability only)		3,7,10		2			
Motor vehicle liability (excluding carrier's liability)		10		3			
Fire and other damage to property		8,9		4			
Aviation, Marine and Transport		4,5,6,7,11,12		5			
General Liability		13		8			
Credit and Suretyship		14,15		7			
Other classes		16,17,18		8			

Instructions for Completion of Form 82

The box described as 'State in which risk is situated' is to be completed by inserting the relevant code from the DTI list of 'Country Codes'.

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Form 83
Rev 1

Returns under Insurance Companies Legislation
General Business: Underwriting account for provision of direct insurances in other States

Name of Company

Financial year ended

State in which risk is situated

Company registration number	Financial year ended		State in which risk is situated	For official use
	day month	year		
183	18	2000		

Groups of Classes									
	1	2	3	4	5	6	7	8	9
	Accident and Sickness	Land vehicles, Goods in transit and Motor vehicle liability (carrier's liability only)	Motor vehicle liability (excluding carrier's liability)	Fire and other damage to property	Aviation, Marine and Transport	General Liability	Credit and Suretyship	Other classes	
Total gross premiums earned in the financial year	11								
Total cost of gross claims incurred in the financial year	12								
Total cost of gross commission attributable to premiums shown at line 11	13								
Gross underwriting result (11-12-13)	14								

Instructions for Completion of Form 83

The box described as "State in which risk is situated" is to be completed by inserting the relevant code from the DTI list of "Country Codes".

Notes

- (1) Gross premiums earned equals gross premiums written in the financial year plus gross premiums unearned brought forward less gross premiums unearned carried forward.
- (2) Gross claims incurred equals gross claims paid in the financial year plus gross claims outstanding carried forward less gross claims outstanding brought forward, and includes directly attributable expenses.
- (3) Gross commission attributable equals gross commission paid in the financial year plus gross commission brought forward less gross commission carried forward.

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Returns under Insurance Companies Legislation

Form 84
(Sheet 1)
Rev 1

General Business (three year accounting): Underwriting account for provision of direct insurance in other States

Name of Company

Financial year ended

State in which risk is situated

Groups of classes	Cumulative amounts receivable or payable in the financial year and earlier years	Company registration number	Financial year ended			State in which risk is situated	For official use
			day	month	year		
		F84			19	2000	
			Risks allocated to:				
			Second year preceding the financial year 1	First year preceding the financial year 2	The financial year 3		
Accident and Sickness	Gross premiums receivable	11					
	Gross claims paid plus fund carried forward	12					
	Gross commission payable relating to premiums shown at line 11	13					
	Gross underwriting result (11-12-13)	14					
Land vehicles, Goods in transit and Motor vehicle liability (carrier's liability only)	Gross premiums receivable	21					
	Gross claims paid plus fund carried forward	22					
	Gross commission payable relating to premiums shown at line 21	23					
	Gross underwriting result (21-22-23)	24					
Motor vehicle liability (excluding carrier's liability)	Gross premiums receivable	31					
	Gross claims paid plus fund carried forward	32					
	Gross commission payable relating to premiums shown at line 31	33					
	Gross underwriting result (31-32-33)	34					
Fire and other damage to property	Gross premiums receivable	41					
	Gross claims paid plus fund carried forward	42					
	Gross commission payable relating to premiums shown at line 41	43					
	Gross underwriting result (41-42-43)	44					

Instructions for Completion of Form 84

The box described as "State in which risk is situated" is to be completed by inserting the relevant code from the DTI list of "Country Codes"

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Returns under Insurance Companies Legislation

**Form 84
(Sheet 2)
Rev 1**

General Business (three year accounting): Underwriting account for provision of direct insurance in other States

Name of Company

Financial year ended

State in which risk is situated

Groups of classes	Cumulative amounts receivable or payable in the financial year and earlier years	Company registration number	Financial year ended				State in which risk is situated	For official use
			day	month	year	Units		
		F84			19	£000		
			Risks allocated to:					
			Second year preceding the financial year	First year preceding the financial year	The financial year			
			1	2	3			
Aviation, Marine and Transport	Gross premiums receivable	61						
	Gross claims paid plus fund carried forward	62						
	Gross commission payable relating to premiums shown at line 61	63						
	Gross underwriting result (61-62-63)	64						
General Liability	Gross premiums receivable	61						
	Gross claims paid plus fund carried forward	62						
	Gross commission payable relating to premiums shown at line 61	63						
	Gross underwriting result (61-62-63)	64						
Credit and Suretyship	Gross premiums receivable	71						
	Gross claims paid plus fund carried forward	72						
	Gross commission payable relating to premiums shown at line 71	73						
	Gross underwriting result (71-72-73)	74						
Other classes	Gross premiums receivable	61						
	Gross claims paid plus fund carried forward	62						
	Gross commission payable relating to premiums shown at line 61	63						
	Gross underwriting result (61-62-63)	64						

Instructions for Completion of Form 84

The box described as "State in which risk is situated" is to be completed by inserting the relevant code from the DTI list of "Country Codes".

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Returns under Insurance Companies Legislation

Form 85
Rev 1

Long term business: Analysis of gross premiums receivable for provision of direct insurance in other States

Name of Company

Financial year ended

State of commitment

Class description	Company registration number	Financial year ended			State ¹ of commitment	For official use
		day	month	year		
	F85			19	£000	
	Authorisation Class	Units		Gross Premiums Receivable		
				Article 12 ² business	Article 14 ³ business	
Life and annuity	I	1				
Marriage and birth	II	2				
Linked long term	III	3				
Permanent health	IV	4				
Tontines	V	5				
Capital redemption	VI	6				

Instructions:

- ¹ The box described as "State of commitment" is to be completed by inserting the appropriate Country Code
- ² Units are to be entered here in respect of business which is subject to supervision in the Member States of commitment under Article 12 of Council Directive 90/619/EEC
- ³ Units are to be entered here in respect of business which is subject to supervision only in the United Kingdom under Article 14 of Council Directive 90/619/EEC

SCHEDULE 16

Regulation 81

INSURANCE STATISTICS: OTHER MEMBER STATES

The statements to be provided under regulation 81 are to be given in the form set out in Forms 91 to 94.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Form 971

Returns under Insurance Companies Legislation

General business: Analysis of financial particulars—branches

Name of Insurer

Member State in which branch is situated

Company registration number	Calendar year ended			Member State in which branch is situated	For Official use
	day	month	year		
F91	31	12	19	£0000	

Groups of classes						Total (1+2+3+4+5+6+7+8)		
1	2	3	4	5	6		7	8
Accident and sickness	Land vehicles, goods in vans and motor vehicle liability (claims liability only)	Motor vehicle liability (excluding car hire liability)	Fire and other damage to property	Aviation, marine and transport	General liability	Credit and suretyship	Other classes	
								9

Income

Gross premiums written	11							
Other technical income (net of reinsurance)	12							
Total (11 + 12)	19							

Expenditure

Commission payable in calendar year	21							
Gross claims paid in calendar year	22							
Total (21 + 22)	29							

Note:

1 The box described as "Member State in which branch is situated" is to be completed by inserting the appropriate Code from the DTT list of "Country Codes"

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Form 92

Return under Insurance Companies Legislation

General business: Analysis of financial particulars—provision of services

Name of Insurer

Member State in which risk is situated

Company registration number	Calendar year ended			Member State in which risk is situated	For Official use
	day	month	year		
F92	31	12	19	£000	

Groups of classes						
1	2	3	4	5	6	7
Accident and sickness	Land vehicles, goods in transit and motor vehicles liability (carriage liability only)	Motor vehicle liability (excluding carriage liability)	Fire and other damage to property	Airship, marine and transport	General liability	Credit and suretyship

95

Gross premiums earned in calendar year	11					
Cost of gross claims incurred in calendar year	12					
Cost of gross commission attributable to premiums shown at line 11	13					

Note:

- 1 The box described as "Member State in which risk is situated" is to be completed by inserting the appropriate Code from the DTI list of "Country Codes"
- 2 Gross premiums earned in calendar year equals gross premiums written in calendar year plus gross premiums unearned brought forward less gross premiums unearned carried forward
- 3 Gross claims incurred equals gross claims paid in calendar year plus gross claims outstanding carried forward less gross claims outstanding brought forward, and includes directly attributable expenses
- 4 Gross commission attributable equals gross commission paid in calendar year plus gross commission brought forward less gross commission carried forward

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Form 93

Returns under Insurance Companies Legislation

Long Term business: Analysis of financial particulars—branches

Name of Insurer

Member State in which branch is situated

F83		Company registration number		Calendar year ended month day year		Units £000		Member State in which branch is situated		For Office use	
I		II		III		IV		V		VI	
Life and annuity		Marriage and birth		Linked long term		Permanent health		Term		Capital redemption	
1		2		3		4		5		6	
VII		VIII		IX		X		XI		XII	
Pension fund management		Collective Insurance etc.		Social Insurance		Total		1+2+3+4+5+6+7+8+9		10	
31		12		1		2		3		4	
day		month		year		Units		£000		Total	

Income

11	Gross premiums written	
12	Net income from investments	
13	Other technical income net of insurance	
19	Total (11 + 12 + 13)	

Expenditure

21	Claims paid, gross amount	
23	Change in provision for claims and maturational reserves, gross amount	
29	Expenses	
24	Acquisition costs, change in deferred acquisition costs and administrative expenses	
25	Commissions	
29	Total (21 + 22 + 23 + 24 + 25)	

Notes:

1. The box denoted as "Member State in which branch is situated" is to be completed by entering the appropriate Code from the DTI list of "Country Codes".
2. The heading used in this form also applies from the Companies Act 1985 (Insurance Companies Accounts) Regulations 1987 (S.I. 1987/3246).

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Form 94

Returns under Insurance Companies Legislation

Long Term business: Analysis of financial particulars—provision of services

Name of insurer

Member State of commitment

Company registration number	Calendar year ended			Units	Member State of commitment	For official use			
	day	month	year						
F84	31	12	19	£000					
Authorisation classes									
I	II	III	IV	V	VI	VII	VIII	IX	
Life and annuity	Marriage and birth	Linked long term	Permanent health	Tourism	Capital redemption	Pension fund management	Collective insurance etc.	Social insurance	
1	2	3	4	5	6	7	8	9	
Gross premiums receivable for service businesses in calendar year							11		

Note:

1 The box described as "Member State of commitment" is to be completed by inserting the appropriate Code from the DT1 list of "Country Codes"

SCHEDULE 17

Regulation 86

REVOCATIONS

Number	Title
S.I. 1981/1654	The Insurance Companies Regulations 1981
S.I. 1982/675	The Insurance Companies (Amendment) Regulations 1982
S.I. 1983/396	The Insurance Companies (Advertisements) (Amendment) (No. 2) Regulations 1983
S.I. 1985/1419	The Insurance Companies (Amendment) Regulations 1985
S.I. 1988/673	The Insurance Companies (Amendment) Regulations 1988
S.I. 1990/1160	The Insurance Companies (Legal Expenses Insurance) (Application for Authorisation) Regulations 1990
S.I. 1990/1181	The Insurance Companies (Credit Insurance) Regulations 1990
S.I. 1991/1999	The Insurance Companies Regulations 1981 (Amendment) Regulations 1991
S.I. 1991/2511	The Insurance Companies (Linked Contracts) (Amendment) Regulations 1991
S.I. 1992/445	The Insurance Companies (Amendment) Regulations 1992
S.I. 1993/1092	The Insurance Companies (Cancellation No. 2) Regulations 1993

EXPLANATORY NOTE

(This Note is not part of the Regulations)

The Insurance Companies Act 1982 (“the Act”), which consolidated the Insurance Companies Acts 1974 and 1981, contains provision for the regulation of insurance companies. The Act incorporates provisions which implemented Council Directives [73/239/EEC](#) (O.J. No. L228, 16.8.73, p.3) and [79/267/EEC](#) (O.J. No. L63, 13.3.79, p.1) relating to non-life and life insurance. It has been amended *inter alia* by regulations made under section 2(2) of, and paragraph 2(2) of Schedule 2 to, the European Communities Act 1972 (“the 1972 Act”) to implement the provisions of Council Directives [88/357/EEC](#) (O.J. No. L172, 4.7.88, p.1) and [90/619/EEC](#) (O.J. No. L330, 29.11.90, p.50).

The Act is to be further amended, with effect from 1st July 1994, by the Insurance Companies (Third Insurance Directives) Regulations 1994 (“the Third Directives Regulations”) to implement Council

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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 Insurance Companies Regulations 1994, which come into force on 1st July 1994, are made primarily under the Act and consolidate the Insurance Companies Regulations 1981 ([S.I. 1981/1654](#)) (“the 1981 Regulations”), as amended, with further amendments principally to implement the Third Directives. They also consolidate in part the Insurance Companies (Credit Insurance) Regulations 1990 ([S.I. 1990/1181](#)) and regulation 13 of the Insurance Companies (Amendment) Regulations 1992 ([S.I. 1992/2890](#)), as amended by [S.I. 1993/174](#), made under the 1972 Act pursuant to Council Directives [87/343/EEC](#) (O.J. No. L185, 4.7.87, p.72), [88/357/EEC](#) and [90/619/EEC](#).

Part I contains citation, commencement and interpretation provisions.

Part II consolidates regulations 23, 24, 29 and 30 of the 1981 Regulations, which related to matters concerned with authorisation. Regulation 3 (made under sections 2(5) and 15(6) of the Act) prescribes contracts under which the benefits are exclusively or primarily benefits in kind, the effecting and carrying out of which contracts is not subject to authorisation and regulation under the Act. Regulation 4 (made under section 5(1) of the Act), together with Schedules 1 and 2, covers the information to be submitted by an applicant for authorisation. In the case of an applicant whose head office is in the United Kingdom, information on policy conditions and, for general business, tariffs is no longer to be provided. The information to be provided in support of an application for authorisation by a non-EC company with its head office in an EEA State, or by a Swiss general insurance company, is revised. Regulation 5 (made under section 96E(1)(b) of the Act) prescribes certain agents who are excluded from the provisions of the Act which apply to main agents. Regulation 6 (made under section 9(1) of the Act) prescribes the assets which an applicant for authorisation must have in the United Kingdom if the applicant is a company whose head office is not in an EEA State or is not an applicant to which section 8 of the Act applies.

Part III (made under section 9(1) of the Act) reproduces the existing law in Part III (regulations 14 to 22) of the 1981 Regulations. It regulates the making of a deposit by a company whose head office is not in an EEA State or is not an applicant to which section 8 of the Act applies.

Part IV largely reproduces the existing law contained in Part II (regulations 3 to 13) of the 1981 Regulations and deals with the margin of solvency (that is, the excess of the value of a company’s assets over the amount of its liabilities) which an insurance company is required under the Act to maintain. The value and amount in question are to be determined in accordance with regulations made under section 90 of the Act and referred to as “valuation regulations”.

Regulations 17 to 21 are made under section 32 of the Act, which provides for the amount of the margin to be prescribed or determined in accordance with regulations. The required margin for various classes of long term business (principally life assurance and annuities) is to be determined in accordance with the detailed rules in regulations 18 to 21. Provision is newly made for long term classes VIII and IX. The required margin for general business (non-life business) is the higher of the results given by the methods of calculation set out in Schedules 3 and 4 (regulation 17). Regulation 22 (made under section 33 of the Act), together with Schedule 5, sets out the minimum level of the “guarantee fund” (generally one third of the required margin of solvency).

Regulations 23 to 26 in Part IV are valuation regulations made under section 90 of the Act. By virtue of regulation 23(1), these particular valuation regulations are not available for valuing the assets which cover the company’s liabilities; but if the liabilities are covered, they are available for valuing the amount by which the liabilities are exceeded. With that limitation, regulation 23(2) allows half the amount of unpaid capital to be valued so long as a quarter of the capital is paid up (with analogous provisions for a mutual) and regulation 23(3) allows a mutual carrying on general business to value uncalled contributions, subject to the restrictions in sub-paragraphs (a) and (b). With the same limitation, regulations 23(4), 24, 25 and 26 make provision for what are known as the implicit items in the margin of solvency for long term business. A new provision is made in regulation 23 for the valuation of liabilities in respect of cumulative preference shares.

Part V (made under section 35 of the Act) consolidates and amends regulations 25, 25A, 25B, 25C and 26 to 28 of the 1981 Regulations. Regulations 27 to 30 regulate matching (the extent to which an insurance company must hold its assets in a currency appropriate to its liabilities), while regulations 31 to 33 regulate localisation (the extent to which an insurance company must hold assets in specific places). The matching regulations are revised so that regulation 27 provides for the requirements which are common to both long term and general business, while regulations 28 to 30 deal with matching of particular liabilities and provide for certain exceptions. Regulation 31 amends the localisation requirements so that a company to which Part II of the Act applies will have freedom to localise anywhere in the European Community the assets it holds to cover liabilities. Regulation 32 provides for exclusions from regulation 31, while regulation 33 will maintain a requirement on certain non-EC companies to localise assets within the United Kingdom.

Part VI and Schedule 6 (made under sections 60(1), 61(1) and 62(1) of the Act) replace regulations 31 to 36 of the 1981 Regulations and specify the particulars which have to be notified in connection with a change of director, controller, manager, etc. The particulars to be notified in relation to particular changes are listed in Schedule 6 and the former Forms A to D in Schedule 6 to the 1981 Regulations are discontinued.

Part VII consolidates with amendments Part VII of the 1981 Regulations. Regulations 35 to 37 (made under section 72 of the Act) amend regulations 65, 65A, 65B, 65C and 66 of the 1981 Regulations and provide for certain matters and words to be included in insurance advertisements. The requirement to include a statement relating to protection under the Policyholders Protection Act 1975 is disapplied in the case of advertisements issued by insurance companies whose head office is in an EEA State, while other matters are simplified. Regulations 38 to 40 consolidate regulations 67 to 69 of the 1981 Regulations and provide for certain information to be given by an intermediary to a person whom he invites to enter into certain insurance contracts. The reference in former regulation 67 to a “significant interest in shares” is amended in regulation 38, while regulation 39(2) (formerly regulation 68(2)) is amended to exclude its application where an invitation is issued in relation to a contract with a permitted insurer. Regulations 41 and 42, together with Schedules 7 to 9, consolidate regulations 70 and 71 of, and Schedules 10 to 12, to the 1981 Regulations, which were amended by the Insurance Companies (Cancellation No. 2) Regulations 1993 (S.I. 1993/1092) *inter alia* to implement the Third Directives. Regulation 43, together with Schedule 10, consolidates and amends regulation 72 of and Schedule 13 to the 1981 Regulations and provides that benefits under a linked long term contract may only be linked to the investment performance of certain prescribed assets or indices (known as “permitted links”). The list of permitted links in Schedule 10 is amended principally to permit links in approved derivative contracts, to unlisted securities and unit trusts. Specified indices are also replaced by a definition of an approved index.

Parts VIII and IX are valuation regulations made under section 90 of the Act. They reproduce with amendments the law previously in force in Parts V and VI of the 1981 Regulations.

In Part VIII, a number of new definitions have been added, for example to allow for the valuation of assets in the context of derivative contracts or stock lending transactions, and for assets relating to a regulated financial institution. The definition of a secured debt is revised. The definition of a dependant has been amended in line with the definition of a subsidiary in the Companies Act 1985. Of the amendments to the kinds of assets that may be valued, regulation 48 (debt and other rights) is substantially revised. A new regulation (regulation 55) covering the valuation of rights under a derivative contract is added. Regulation 57 is, as a consequence of changes made to Part VIII, in particular in the case of derivative contracts and stock lending transactions, substantially revised to introduce the concept of aggregate exposure. The extent that assets held by a company may be taken into account to cover its liabilities is determined on the basis that if the company’s aggregate exposure to assets of any one description exceeds the maximum admissible value determined by reference to the limits in Schedule 12, assets of that description and, to the extent necessary, any other assets equal in value to the excess shall be left out of account. Schedule 11 reproduces existing law. Schedule 12 is amended principally to comply with the Third Directives.

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In Part IX, a new regulation (regulation 61) requires a company which has an obligation under a derivative contract to provide for the effect of possible adverse changes in the value of assets to which the contract relates. Regulation 62 is also new and provides for the determination of a company's general business liabilities in compliance with Council Directive [92/49/EEC](#). Another new regulation (regulation 65) implements the obligations under Council Directive [92/96/EEC](#) relating to the method of calculating a company's long term liabilities. Several amendments are made to the determination of the rates of interest to be used for calculating liabilities when assessing the assumed yield on existing assets and on sums to be invested in the future (regulation 69). Regulation 75 (nature and term of assets representing long term liabilities), formerly regulation 55, has been clarified, in particular by referring specifically to the adequacy of the assets to meet the liabilities as determined in accordance with regulations 65 to 74.

Part X and Schedule 14 (made under section 2(2) of the 1972 Act) consolidate with amendments regulations 3 and 4 of and Schedule 1 to [S.I. 1990/1181](#). These Regulations implement Council Directive [87/343/EEC](#) (O.J. No. L185,4.7.87, p.72) which amended, as regards credit insurance and suretyship insurance, Council Directive [73/239/EEC](#). They do so by imposing a general obligation 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 76 and Schedule 14). The provisions no longer apply to EC companies. Regulation 78 makes failure to comply with regulation 76 an offence.

Part XI (made under section 2(2) of the 1972 Act), together with Schedules 15 and 16, provide for the return of certain statistical information which is required to be furnished to other EEA supervisory authorities under Council Directives [88/357/EEC](#) and [90/619/EEC](#) and the Third Directives. Regulation 80 and Schedule 15 consolidate with amendments regulation 13 of, and Schedules 1 and 2 to, [S.I. 1992/2890](#) and requires a return to be made in relation to the provision of insurance by a UK company in an EFTA State and by an EFTA company in an EEA State through an establishment in the United Kingdom. Regulation 81 and Schedule 16 implement corresponding provisions of the Third Directives and requires a return to be made by a UK company which carries on insurance business through a branch in another member State or provides insurance in another member State. Regulation 82 makes failure to comply with regulation 80 or 81 an offence, and regulation 83 applies regulations 80 to 82 to Lloyd's.

In **Part XII**, regulation 84 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.