
STATUTORY INSTRUMENTS

1994 No. 1981

The Friendly Societies (Insurance Business) Regulations 1994

PART IV

VALUATION OF ASSETS

Interpretation: Part IV

19.—(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⁽¹⁾; or
- (c) a person who is an authorised person within the meaning of section 207(1) of the Financial Services Act 1986 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⁽²⁾;

“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⁽³⁾;

⁽¹⁾ 1986 c. 60.

⁽²⁾ O.J. No. L386, 31.12.89, p.1.

⁽³⁾ O.J. No. L141, 11.6.93, p.27.

“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 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⁽⁴⁾; and
- (b) any loan to, or deposit with, an approved financial institution;

“asset” includes part of an asset;

“assignment” includes an assignment;

“building society” means a building society within the meaning of the Building Societies Act 1986⁽⁵⁾;

“company” includes any body corporate;

“contract for differences” means a contract which falls within paragraph 9 of Part I of Schedule 1 to the Financial Services Act 1986⁽⁶⁾;

“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”, in relation to a company, means 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 1 to the Financial Services Act 1986;

“general business amount” has the meaning assigned to it in regulation 32(9) below;

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

“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 business; and
- (b) determined by reference to fluctuations in any index of the value of property (whether specified in the contract or not);

⁽⁴⁾ O.J. No. L386, 30.12.89, p.14.

⁽⁵⁾ 1986 c. 53.

⁽⁶⁾ 1986 c. 60.

“industrial and provident society” means any society registered (or deemed to be registered) under the Industrial and Provident Societies Act 1965(7) or the Industrial and Provident Societies Act (Northern Ireland) 1969(8);

“insurance liabilities” means, in relation to a society any debt due from, or other liabilities of the society, under any contract of insurance to which it is 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 a society, 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 a society, long term business assets of the society which are, for the time being, identified in the records of the society 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 32(9) below;

“long term business assets” and “long term business liabilities” mean respectively assets of a society or insurance company which are, for the time being, identified as representing the long term business fund or funds maintained by that body in respect of its long term business and liabilities of the body 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 the 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(9) 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;

(7) 1965 c. 12.
(8) 1969 c. 24 (N.I.).
(9) 1986 c. 60.

“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 business; and
- (b) determined by reference to the value of, or 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 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—

- (a) has knowledge of and experience in the valuation of that particular type of land in that particular area; or
- (b) 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;

“regulated institution” means any of the following—

- (a) an EC company, a UK company or an EFTA company within the meaning of the 1982 Act;
- (b) an approved credit institution;
- (c) a friendly society 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—
- (c) 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 the Council Directive [93/22/EEC](#) of 10 May 1993 on investment services in the securities field⁽¹⁰⁾; and
- (f) 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;

“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;

“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;

(10) O.J. No. L141, 11.6.93, p.27.

“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 has 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 body is a dependant of a society if it is—

- (a) a subsidiary of that society; or
- (b) a body jointly controlled by that society and another person, within the meaning of section 13 of the 1992 Act.

(3) For the purposes of these Regulations, a debt owed to a society 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
- (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 32(3)) to assets of the same descriptions does not exceed the maximum admissible value (as defined in regulation 32(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 condition set out in subparagraph (3)(d)(ii) above is not satisfied if the total value of the assets providing security for the debt is not dependent on fluctuations in the value of any individual asset.

Application: Part IV

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

- (a) section 48 of the 1992 Act;
- (b) any actuarial investigation carried out pursuant to section 46 or 47 of the 1992 Act; and
- (c) such other actuarial investigation in relation to the financial condition of an authorised society which carries on insurance business as may be required by the Commission in the exercise of its powers under Part V of the 1992 Act.

(2) Where a society has entered into any contracts for the payment of property linked benefits, regulations 21 to 32 of these Regulations shall not apply, and where the requirements of

section 49A(2) and (3) of the 1992 Act have been met in respect of liabilities under such contracts, the value of any linked asset by reference to the value of which those benefits are to be determined shall be the value of that asset as determined in accordance with generally accepted accounting concepts, bases and policies or other generally accepted methods appropriate for insurance business.

(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 shall be 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 the Council Directive [89/647/EEC](#) of 18th December 1989 on a solvency ratio for credit institutions⁽¹¹⁾ 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) and in relation to an actuarial investigation of its long term business only, a society may elect to assign to any of its assets the value given to the asset in question in the books or other records of the society.

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

- (a) that the election shall not enable the society 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 21 to 32 of these Regulations.

Shares in and debts due or to become due from dependants

21.—(1) The value of any share in a dependant of a society 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 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 22 below, exceeds the amount of its liabilities as determined in the case of a dependant which is an insurance company, in accordance with regulation 22.

(3) The value of any debt due, or to become due, to a society from a dependant (other than a debt to which regulation 23(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 22 below; and

(11) O.J. No. L386, 30.12.89, p.14.

- (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 regulation 22.

(4) Any share in a dependant—

- (a) in which there is no excess of assets over liabilities as is mentioned in paragraph (2) above; or
- (b) in relation to which a society cannot reasonably ascertain the amount of the liabilities of the dependant for the purposes of paragraph (2),

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

(5) Where a society is unable to determine the value of any debt due or to become due to the society from a dependant because the society 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 (3) 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 21

22.—(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 21 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 1982 Act applies—

- (a) subject to paragraph (4) below and paragraph 3 of Schedule 4, the value of its assets shall be determined in accordance with Part VIII of the 1994 Regulations;
- (b) subject to subparagraphs (c), (d), (e) and (f) below, the amount of its liabilities shall be determined in accordance with Part IX of the 1994 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 ECU 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 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 of the 1994 Regulations;
 - (ii) an amount which is six times the first amount, reduced by the implicit figure within the meaning of subparagraph (e) below;
 - (iii) 800,000 ECU;
- (e) for the purposes of subparagraph (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 1982 Act of the kind mentioned in regulation 23(5) of the 1994 Regulations and the application of regulations 23(5), 24, 25 and 26 of those Regulations; 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 1982 Act of

the kind mentioned in regulation 23(5) of the 1994 Regulations and the application of regulations 23(5), 24 and 25 of those Regulations accordingly;

- (f) in any case where the dependant is required to establish a long term business fund or funds under section 28 of the 1982 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 Part VIII of the 1994 Regulations, subject to the provisions of and the modifications provided for in paragraphs 3 and 4 of Schedule 4 to these Regulations;
 - (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 the society of which it is a dependant, or any other dependant of that society, shall be valued as a debt for the purposes of Part VIII of the 1994 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 society 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 society 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 subparagraph (a) above an amount equal to the supplementary amount determined in accordance with Part I of Schedule 4.

- (5) In this regulation and Schedule 4—

“assets of a relevant description” means assets of a description specified in Part I of Schedule 12 of the 1994 Regulations 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;

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

- (a) in the case of the society, 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 32 below;
- (b) in the case of 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 of the 1994 Regulations as applied pursuant to paragraph (2) above; and
- (c) in the case of a dependant which is not an insurance company, an amount equal to the percentage specified in Schedule 12 of the 1994 Regulations, with respect to assets of that description, of the liabilities of the dependant, other than liabilities to the society or to any other dependant of the society;

and references to assets held by any society 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 of the 1994 Regulations, any interest of that society in that land,

- (ii) in relation to assets of the dependant of a description specified in paragraphs 2 to 17 of Schedule 12 of the 1994 Regulations, assets of the society which, if held by the dependant, would be assets of that description.
- (6) Save as otherwise provided in paragraph 3(5) of Schedule 4, references in this regulation and in Schedule 4 to assets of the society being of a relevant class mean—
 - (a) where this regulation and Schedule 4 are being applied for the purpose of determining the value of a long term business asset of the society, assets of the society which are long term business assets, and
 - (b) in any other case, assets of the society which are general business assets.
- (7) Where the society 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

- 23.**—(1) The value of any secured debt due, or to become due, to a society, other than a debt to which regulation 21(3) above, 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 a society 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 society, the value of any debt due, or to become due, to the society which is secured on a policy of insurance issued by the society 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 a society, other than a debt to which regulation 21(3) above, paragraph (5) or (6) of this regulation or regulation 28 or 32 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 society 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 society under any contract of reinsurance to which the society is a party (other than a debt to which regulation 21(3) 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 society—
 - (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) 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 society'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 30(3) does not apply.

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

Land

24.—(1) The value of any land of a society (other than land held by the society as security for a debt or to which paragraph (2) of this regulation or regulation 29 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 society 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 property 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

25.—(1) The value of any computer equipment of a society—

- (a) in the financial year of the society in which it is purchased, shall not be greater than three-quarters of the cost thereof to the society;
- (b) in the first financial year thereafter, shall not be 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 a society, shall be, in the financial year of the society 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

26.—(1) This regulation does not apply to the valuation of shares in a dependant of a society.

(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 not be 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 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 years 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;
(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

27. 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(12) 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

28.—(1) The value of any listed debenture which is not a debenture issued by a dependant of a society, and of any listed share, which is not a share in such a dependant nor a share in any body specified in regulation 31(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

29. The value of any long term business asset of a society consisting of an interest in property which is a remainder, reversionary interest, right of fee subject to a life interest 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

30.—(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 society—
 - (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 society 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 society 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 contract entered into by a society to which section 37(2) or (3) of the 1992 Act applies and which is—
- (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 which provision is made in this Part of these Regulations.

Other assets

- 31.—**(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

- 32.—**(1) The extent to which assets of a society shall be taken into account shall be determined on the basis of the society’s aggregate exposure to such assets.
- (2) Where the aggregate exposure of the society 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 society (if any) adjusted—

- (a) to take account of the value of assets of that description which the society 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 society under a stock lending transaction.
- (4) In this regulation, the “maximum admissible value” means—
- (a) for a society 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 5, an amount equal to the percentage of the general business amount specified in Schedule 5 for assets of that description;
 - (b) for a society carrying on only long term business, for all assets of a description specified in Part I of Schedule 5, an amount equal to the percentage of the long term business amount specified in Schedule 5 for assets of that description;
 - (c) for a society 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 5, an amount equal to the percentage of the long term business amount specified in Schedule 5 for assets of that description;
 - (d) for any society, 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 5, 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 society 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 society; or
 - (b) is listed and provides for the disposal of assets by the society; or
 - (c) is not listed but provides for the disposal of assets by the society to an approved counterparty within one year of the relevant date,
- for the purposes of calculating its aggregate exposure the society shall be deemed at the relevant date to have acquired or disposed of such assets.
- (7) Where the society is a party to a contract which is (wholly or in part) an option which—
- (a) provides for the acquisition of assets by the society; or
 - (b) is listed and provides for the disposal of assets by the society; or
 - (c) is not listed but provides for the disposal of assets by the society to an approved counterparty 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 society shall be deemed to have acquired or disposed of such assets at that date.
- (8) Where the society 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 society 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 society’s general business liabilities and in the case of a society which carries on general business an amount equal to whichever is the

greater of 225,000 ECU 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 society’s long term business liabilities and whichever is the greater of—

- (a) one-sixth of the margin of solvency which the society is required to maintain and
- (b) 600,000 ECU

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

(11) Where an asset (or group of assets) of a society carrying on only long term business is attributed by the society 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 a society shall be determined in accordance with Part V of these Regulations.

(13) Until 1st January 1995, paragraphs 12 and 14 of Schedule 5 shall have effect as if the words “any of its connected companies (not being a dependant of the society)” were omitted.

(14) Where a society 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 5 to the extent that they are held in compliance with section 49A of the 1992 Act 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 23(5); or
- (c) debts in respect of premiums; or
- (d) moneys due from the Crown or any public body;

(16) This regulation shall not apply to a registered friendly society to which neither section 37(2) nor (3) of the 1992 Act applies.