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STATUTORY INSTRUMENTS

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**1994 No. 1516**

**The Insurance Companies Regulations 1994**

**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.