
STATUTORY INSTRUMENTS

1995 No. 3248

The Insurance Companies (Amendment) Regulations 1995

Citation and Commencement

1.—(1) These Regulations may be cited as the Insurance Companies (Amendment) Regulations 1995 and shall come into force on 31st December 1995.

(2) In these Regulations, “the 1994 Regulations” means the Insurance Companies Regulations 1994(1).

Interpretation: Part VIII

2.—(1) Paragraph (1) of regulation 44 of the 1994 Regulations (interpretation: Part VIII) shall be amended as follows.

(2) Before the definition of “approved counterparty” insert—

““amortised value” means the amortised value as determined in accordance with generally accepted accounting concepts, bases and policies or other generally accepted methods appropriate to insurance companies;”.

(3) In the definition of “approved counterparty”, delete “or” from the end of sub-paragraph (b) and at the end insert

“or

(d) in respect of a transaction involving a new issue of securities which are to be listed, the issuer or an approved investment firm acting on behalf of the issuer;”.

(4) After the definition of “building society” insert—

““collective investment scheme” has the meaning given in section 75 of the Financial Services Act 1986(2);”.

(5) After the definition of “contract for differences” insert—

““counterparty” has the meaning set out in Schedule 12 to these Regulations;”.

(6) Omit the definition of “debenture” and after the definition of “debt” insert—

““debt security” includes bonds, notes, debentures and debenture stock;

“deferred acquisition costs” means those items shown at GII under the heading “Assets” set out in paragraph 9 of Schedule 9A to the Companies Act 1985(3);”.

(7) At the end of the definition of “derivative contract” insert the words “and includes a contract under which the amount payable by either party is calculated by reference to the amortised value of any property”.

(8) After the definition of “equity share” insert—

““equivalent securities” means securities issued by the same issuer being of an identical type and having the same nominal value, description and amount;”.

(1) S.I.1994/1516; as amended by S.I. 1994/3133.

(2) 1986. c. 60.

(3) 1985 c. 6; Schedule 9A was substituted by S.I. 1993/3246, reg. 4.

(9) In the definition of “general business amount”, for the words “regulation 57(9) below” substitute “Schedule 12 to these Regulations”.

(10) Omit the definition of “insurance liabilities”.

(11) After the definition of “intermediary”, insert—

““issuer” in respect of a collective investment scheme, means the manager or operator of the scheme and in respect of an interest in a limited partnership, means the partnership;”.

(12) For the definition of “listed” substitute—

““listed”, in relation to an investment, means that—

(a) there has been granted and not withdrawn a listing in respect of that investment on any stock exchange in an EEA State which is a stock exchange within the law of that EEA State; or

(b) facilities for dealing in that investment have been granted on a regulated market;”.

(13) Omit the definition of “middle market quotation” and insert—

““market value” means the market value as determined in accordance with generally accepted accounting concepts, bases and policies or other generally accepted methods appropriate to insurance companies;”

(14) Omit the definition of “price earnings ratio”.

(15) In the definition of “regulated institution”, at the beginning of sub-paragraph (a) insert “an insurance company which is either;”.

(16) In the definition of “securities”, for the word “debentures” substitute the words “debt securities”.

(17) Omit the definition of “stock lending transaction”.

3. For paragraph (3) of regulation 44, substitute—

“(3) For the purposes of these Regulations, a debt owed to (or an obligation to be fulfilled for the benefit of) an insurance company shall be regarded as being secured only to the extent that it is—

(a) secured by—

(i) a letter of credit established with an approved credit institution; or

(ii) a guarantee provided by an approved credit institution,

and the lower of the amount of the letter of credit or guarantee and the amount of the debt (or the value of the obligation) when added to any other exposure of the insurance company to the approved credit institution does not exceed the permitted counterparty exposure limit (as determined by regulation 57 of, and Schedule 12 to, these Regulations); or—

(b) secured by assets for the valuation of which provision is made in this Part of these Regulations and—

(i) the value of such assets (after deducting reasonable expenses of sale and the amount of any other debt or obligation secured thereon having priority to or ranking equally with the debt or obligation) is sufficient to enable the debt or obligation to be discharged in full; and

(ii) the value of the assets when aggregated with the insurance company’s exposure to assets of the same description does not exceed the permitted exposure limit for assets of that description (as defined in regulation 57 of, and Schedule 12, to these Regulations).”

Application: Part VIII

4.—(1) Regulation 45 of the 1994 Regulations (application: Part VIII) shall be amended as follows.

(2) In paragraph (2), omit the words “in compliance with section 35A of the Act”.

(3) For paragraph (4), substitute—

“(4) Where in all the circumstances of the case it appears that the value of any asset is of a lesser value than the amount calculated in accordance with this Part of these Regulations, such lesser value shall be the value of the asset.”

(4) After paragraph (7), insert—

“(8) Where an insurance company has entered into a contract for the conversion of currency which satisfies the conditions set out in paragraph (9) below, then for any of the purposes for which this Part of these Regulations applies, the company shall treat the conversion as having been made on the relevant date.

(9) The conditions referred to in paragraph (8) above are that—

(a) either—

(i) the contract provides for the conversion into another currency of an amount representing the sale of an asset which has, on the relevant date, been sold but not delivered, or

(ii) the contract provides for the purchase of currency for the purpose of settling the purchase of an asset which has, on the relevant date, been purchased but not delivered;

(b) the conversion is to take place during a period which is—

(i) where the contract is in connection with the delivery of a listed security, a period commencing on the date of the contract and extending for the usual period of settlement as laid down by the rules of the relevant stock exchange or regulated market, or

(ii) where the contract is in connection with the delivery of any other asset, a period commencing on the date of the contract and extending for twenty working days thereafter; and

(c) the contract is listed or has been entered into with an approved counterparty.”

Assets sold to or purchased from an approved credit institution or an approved investment firm subject to an agreement for resale or repurchase

5. After regulation 47 of the 1994 Regulations, insert—

“Assets sold to or purchased from an approved credit institution or an approved investment firm subject to an agreement for resale or repurchase.

47A.—(1) Where an insurance company has sold securities to or purchased securities from an approved credit institution or an approved investment firm and such sale or purchase was made subject to an agreement that the approved credit institution or approved investment firm would, either on demand by the insurance company or within six months of such sale or purchase, subsequently sell to or purchase from the insurance company equivalent securities, then if at the relevant date such subsequent sale or purchase has not taken place and the conditions specified in paragraphs (2) and either (3) or (4) below as appropriate are satisfied, the insurance company—

(a) shall value—

- (i) securities sold by it under such agreement as if such securities had been retained by it; and
 - (ii) assets provided by it as consideration for the purchase of securities under such agreement as if such consideration had not been provided by it; and
- (b) not ascribe a value to—
- (i) any consideration received for the sale of securities under such agreement (or any assets purchased by it with such consideration) up to the limit of the value of the securities sold; or
 - (ii) any securities purchased by it under such agreement (or any assets purchased with the proceeds of the sale of any such securities) up to the limit of the consideration (valued in accordance with generally accepted accounting concepts, bases and policies or other generally accepted methods appropriate to insurance companies) provided by it.
- (2) The condition specified in this paragraph is that where at any time after the sale or purchase of securities by the insurance company under an agreement described in paragraph (1) above either—
- (a) the amount of the consideration received by the insurance company for the sale of the securities fell below the value of the securities sold by it; or
 - (b) the value of the securities purchased by the insurance company fell below the value of the consideration provided by it
- by more than 2½ per cent. of the value of the securities sold or purchased, as the case may be, then the insurance company demanded additional consideration whose amount was equal to the shortfall and such demand was complied with before the end of the working day next following the day on which such shortfall occurred.
- (3) The conditions specified in this paragraph are that if the insurance company purchases securities from an approved credit institution or an approved investment firm and the consideration provided by the insurance company is other than by way of sale of securities—
- (a) the securities purchased are—
 - (i) approved securities;
 - (ii) listed securities; or
 - (iii) securities issued by an approved credit institution; and
 - (b) the securities purchased do not include—
 - (i) listed securities issued by the same counterparty whose aggregate value amounts to more than 15 per cent of the value of the securities purchased; or
 - (ii) in the event that the condition in sub-paragraph (b)(i) above is not satisfied, securities whose value when aggregated with the insurance company's existing exposure to assets of the same description or to the same counterparty would cause the company to exceed the appropriate permitted asset exposure limit or permitted counterparty exposure limit as determined in accordance with regulation 57 of, and Schedule 12 to, these Regulations.
- (4) The conditions specified in this paragraph are that if the insurance company sells securities to an approved credit institution or an approved investment firm—
- (a) the consideration provided by the approved credit institution or approved investment firm is—
 - (i) cash;

- (ii) approved securities;
 - (iii) listed securities;
 - (iv) securities issued by an approved credit institution;
 - (v) a Talisman short term certificate;
 - (vi) a charge over assets set out in sub-paragraphs (i) to (iv) above;
 - (vii) a letter of credit established with an approved credit institution; or
 - (viii) a guarantee provided by an approved credit institution; and
- (b) the consideration does not include—
- (i) except to the extent that the condition in sub-paragraph (b)(ii) below is satisfied, consideration whose amount when aggregated with the insurance company's existing exposure to assets of the appropriate description or to the relevant counterparty would cause the company to exceed the appropriate permitted asset exposure limit or permitted counterparty exposure limit as determined in accordance with regulation 57 of, and Schedule 12 to, these Regulations; or
 - (ii) consideration, more than 15 per cent. of the aggregate amount of which takes the form of securities (other than approved securities) issued by, letters of credit established with, guarantees provided by, cash deposited with, a charge over cash deposited with or a charge over securities issued by, the same counterparty; and—
- (c) the consideration to be provided by the insurance company for the subsequent purchase of equivalent securities is—
- (i) where the consideration for the original purchase by the approved credit institution or approved investment firm was (wholly or in part) cash, cash denominated in the same currency, and
 - (ii) where the consideration was (wholly or in part) securities, securities equivalent to the securities provided by way of consideration.
- (5) For the purposes of paragraph (4) above, the amount of any consideration shall be—
- (a) where the consideration provided is a letter of credit established with an approved credit institution, the lower of the amount made available under the letter of credit and the value of the assets sold;
 - (b) where the consideration is a guarantee provided by an approved credit institution, the lower of the amount of the guarantee and the value of the assets sold;
 - (c) where the consideration takes the form of assets of the types mentioned in paragraph (4)(a)(i) to (iv) above, or a charge over such assets, the value of the assets as determined in accordance with this Part of these Regulations; or
 - (d) where the consideration takes the form of a Talisman short term certificate, the value of the securities represented by that certificate.
- (6) Where an insurance company has entered into a number of agreements described in paragraph (1) above, for the purposes of paragraphs (3) and (4) of this regulation—
- (a) any or all agreements under which the subsequent sale or purchase has not taken place at the relevant date may be treated as one agreement; and
 - (b) in such case, the 15 per cent. limits in paragraphs (3)(b)(i) above and (4)(b)(ii) above shall be calculated by reference to the aggregate of the value of the securities purchased under paragraph (3) above and the amount of any consideration under paragraph (4) above.”

Debts and other rights

6.—(1) Regulation 48 of the 1994 Regulations (debts and other rights) shall be amended as follows.

(2) For paragraph (5), substitute—

“(5) Subject to paragraph 5A below, the value of any rights of the company under a contract of reinsurance to which it is a party shall be the amount which can reasonably be expected to be recovered in respect of those rights.”

(3) After that paragraph insert—

“(5A) Paragraph (5) above shall not apply to—

- (a) rights under a contract of reinsurance in respect of long term business except to the extent that debts are due under such contracts; or
- (b) debts to which regulation 46(4) applies which are due or to become due.”

(4) In paragraph (6)(d), omit the words “or (8) below”.

(5) For paragraph (8), substitute—

“(8) In the case of general business carried on by a company, the value of any subrogation rights of the company shall be the amount which can reasonably be expected to be recovered by virtue of the exercise of those rights.”

(6) For paragraph (10), substitute—

“(10) This regulation shall not apply to—

- (a) any rights arising in respect of a derivative contract or a contract or asset having the effect of a derivative contract; or
- (b) rights in respect of investments falling within regulation 47 above or 51 or 52 below

save for an unconditional right to receive a specified amount.”

(7) Omit paragraph (11).

Securities and beneficial interests in limited partnerships (substitution for regulation concerning unlisted securities)

7. For regulation 51 of the 1994 Regulations (unlisted securities), substitute—

“Securities and beneficial interests in limited partnerships

51.—(1) This regulation shall apply to the valuation of investments comprising securities other than securities for the valuation of which provision is made in regulation 47 above or 52 below and beneficial interests in a limited partnership, and for the purposes of paragraph (5) below investments includes loans.

(2) Subject to paragraphs (4) and (5) below and regulation 56 below, the value of an investment to which this regulation applies shall be—

- (a) where the investment is transferable and paragraph (3) below does not apply, the market value; and
- (b) where the investment is transferable and paragraph (3) below applies, the lower of—
 - (i) the market value, and
 - (ii) the amount which would reasonably be expected to be received by way of consideration for an assignment or transfer of the investment at a date

not later than twelve months after the relevant date, it being assumed that negotiations for the assignment or transfer commenced on the relevant date and the assignment or transfer was made other than to the issuer or to an associate or an associated company of the issuer or of the insurance company; and

- (c) where the investment is not transferable—
 - (i) the amount payable on redemption on the relevant date or the most recent date before the relevant date on which the issuer of the investment could have been required to redeem the investment; or
 - (ii) where the investment cannot be redeemed, the amount which would reasonably be paid by way of compensation for the surrender of the interest in the investment.

(3) This paragraph applies where it is not reasonable to assume that, had negotiations for the assignment or transfer of the investment commenced not more than seven working days before the relevant date, the investment could have been assigned or transferred on the relevant date for an amount not less than 97½ per cent. of the market value other than to the issuer or to an associate or associated company of the issuer or of the insurance company.

(4) Paragraph (3) above shall be taken not to apply if it applies by reason only that—

- (a) the listing of the investment has been temporarily suspended following receipt of price sensitive information by the stock exchange on which the investment is listed or the regulated market on which facilities for dealing have been granted; or
- (b) the extent of the holding would prevent an orderly disposal of the investment for an amount not greater than 97½ per cent. of the market value.

(5) Where an insurance company has made more than one unlisted investment (other than a number of investments exclusively comprising loans) and the value of such investments when taken together is greater than the aggregate of the values of each investment valued separately, then such higher value may be ascribed to the investments if it is reasonable to assume that none of the investments would be assigned or transferred separately.”

Beneficial interests in collective investment schemes (substitution for regulation concerning unit trusts)

8. For regulation 52 of the 1994 Regulations (unit trusts), substitute—

“Beneficial interests in collective investment schemes

52. The value of any holding of units, or other beneficial interest, in a collective investment scheme shall be, in the case of—

- (a) a scheme falling within Council Directive [85/611/EEC](#) of 20 December 1985⁽⁴⁾ 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 or a recognised scheme within the meaning of the Financial Services Act 1986 (not falling within sub-paragraph (a) above); or
- (c) any other collective investment scheme where—
 - (i) the scheme does not employ derivative contracts unless they are contracts to which regulation 55 below applies; and

(4) O.J. No. L375, p3 Directive last amended by Directive [88/220/EEC](#) (O.J. No. L100. 19.4 88, p.31).

- (ii) the scheme does not employ contracts or assets having the effect of derivative contracts unless they have the effect of derivative contracts to which regulation 55 below applies; and
- (iii) the property of the scheme does not include assets other than those for the valuation of which provision is made in this Part of these Regulations; and
- (iv) the issuer could have been required to purchase the units or other beneficial interest not more than one month before the relevant date,
the price at which the issuer would have purchased the holding of units or other beneficial interest on the relevant date or the most recent date before the relevant date on which it could have been required to make such a purchase.”

Deferred acquisition costs (substitution for regulation concerning listed investments)

9. For regulation 53 of the 1994 Regulations (listed investments), substitute—

“Deferred acquisition costs

53. In the case of general business, the value of deferred acquisition costs shall be the value as determined in accordance with generally accepted accounting concepts, bases and policies or other generally accepted methods appropriate to insurance companies.”

Derivative contracts

10. For regulation 55 of the 1994 Regulations, substitute—

“Derivative contracts

55.—(1) 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 market value; and
- (b) in the case of an unlisted derivative contract, the amount which would reasonably be paid by way of consideration for closing out that contract

in either case taking into account the market value of any assets which at the relevant date have been transferred to or for the benefit of the company in pursuance of a condition in that contract or a related contract.

- (2) This regulation applies to an approved derivative contract which is covered and—
 - (a) which is held in connection with a contract or asset of the type described in paragraph (3) below for the purposes of reduction of investment risks or efficient portfolio management; or
 - (b) which has the effect of an approved derivative contract held in connection with a contract or asset of the type mentioned in paragraph (3) below for such purposes.
- (3) The contract or asset described in this paragraph shall be either—
 - (a) an approved derivative contract or a contract or asset having the effect of an approved derivative contract either of which, when taken together with the approved derivative contract the rights under which are being valued in accordance with this regulation, would have the effect that the company either holds an asset for the valuation of which provision is made in this Part of these Regulations or holds an approved derivative contract in connection with such an asset; or

- (b) an asset for the valuation of which provision is made in this Part of these Regulations, being neither a derivative contract nor a contract or asset having the effect of a derivative contract.
- (4) For the purposes of this regulation an approved derivative contract is covered if it does not require a significant provision to be made in respect of it pursuant to regulation 61 below.
- (5) For the purposes of determining in accordance with paragraph (4) above whether a required provision is significant, regard shall be had to the obligations of the company under the contract and the volatility of the assets identified by the company as being suitable to cover such obligations, and the required provision in respect of any one derivative contract shall be deemed to be significant if—
 - (a) the aggregate provision required in respect of all contracts having a similar effect is significant; or
 - (b) the aggregate provision required in respect of all contracts with which it is connected is significant.
- (6) In this regulation “approved derivative contract” means a derivative contract which—
 - (a) either is listed or has been entered into with an approved counterparty; and
 - (b) the insurance company reasonably believes may be readily closed out; and
 - (c) is either a contract for differences to which paragraph (7) below applies or a futures contract or an option to either of which paragraph (8) below applies.
- (7) This paragraph applies to—
 - (a) a contract for differences under which the amount payable by either party is calculated solely by reference to fluctuations in any of the following, namely—
 - (i) the value of an asset for the valuation of which provision is made in this Part of these Regulations; or
 - (ii) the amount of income from such an asset over a defined period; or
 - (iii) an index of such assets, being an index in respect of which a derivative contract is listed; or
 - (iv) a national index of retail prices published by or under the authority of a government of a state belonging to Zone A as defined in Council Directive [89/647/EEC](#) of 18 December 1989⁽⁵⁾ on a solvency ratio for credit institutions; or an arithmetic average thereof, and—
 - (b) a contract under which the amount payable by either party is calculated by reference to the difference between the market value and the amortised value of any asset for the valuation of which provision is made in this Part of these Regulations.
- (8) This paragraph applies to a futures contract or an option which in either case provides for the acquisition or disposal of assets for the valuation of all of which provision is made in this Part of these Regulations at a price which is determined by one or more of the following methods—
 - (a) for each date on which the contract may be completed or the option exercised, the price is a fixed amount under the terms of the contract or option;

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

- (b) it is determined by reference to the market value or the amortised value of an asset for the valuation of which provision is made in this Part of these Regulations or the amount of income over a defined period from such an asset;
- (c) it is determined by reference to an index of the kind mentioned in paragraph 7(iii) or (iv) above.”

Contracts and assets having the effect of derivative contracts (substitution for regulation concerning other assets)

11. For regulation 56 of the 1994 Regulations (other assets), substitute—

“Contracts and assets having the effect of derivative contracts

56.—(1) Subject to paragraph (3) below, for the purposes of this Part of these Regulations, a contract has the effect of a derivative contract if it is a contract (other than a derivative contract) which provides whether upon the exercise of a right by the insurance company or otherwise—

- (a) for payment (at any time) of amounts which are determined by fluctuations in the value of property of any description or fluctuations in an index of the value of property of any description;
- (b) for delivery of an asset other than an asset for the valuation of which provision is made in regulation 50 of these Regulations to or by the insurance company; or
- (c) for the conversion of an asset held by the insurance company or another party to—
 - (i) an asset of a different type; or
 - (ii) a different asset of the same type.

(2) Subject to paragraph (3) below, for the purposes of this Part of these Regulations an asset has the effect of a derivative contract if the asset is an asset (other than an approved security or an asset falling within paragraph (a) of regulation 52 above) and the holding of the asset confers contractual rights or imposes contractual obligations to make or accept payment, delivery or conversion as set out in sub-paragraphs (a) to (c) of paragraph (1) above.

(3) A contract or asset does not have the effect of a derivative contract by reason only that—

- (a) it provides for the unconditional delivery of assets, or for the payment for unconditional delivery of assets, such delivery or payment to be made within a period commencing at the date of the contract and extending—
 - (i) in the case of a listed security, for the usual period for delivery or payment as determined by the rules of the stock exchange or regulated market on which the securities are listed or facilities for dealing have been granted;
 - (ii) in any other case, for twenty working days;
- (b) it is a contract of the type described in regulation 45(8) above in respect of which the conditions set out in regulation 45(9) above have been satisfied; or
- (c) it is a transaction to which regulation 47A(1) above applies.

(4) Rights in respect of a contract or asset which has the effect of a derivative contract shall—

- (a) in the case of a contract or asset having the effect of a derivative contract to which regulation 55 above applies, be valued in accordance with regulation 55(1) above; and

- (b) in the case of a contract or asset having the effect of a derivative contract to which regulation 55 above does not apply, have a value not exceeding an amount calculated in accordance with regulation 48 above.

(5) For the purposes of paragraph (4) above, a contract or an asset has the effect of a derivative contract which is listed or transacted with an approved counterparty if it is itself so listed or transacted.”

Assets to be taken into account only to a specified extent

12. For regulation 57 of the 1994 Regulations (assets to be taken into account only to a specified extent), substitute—

“Assets to be taken into account only to a specified extent

57.—(1) Subject to paragraphs (5) and (6) below the aggregate value of the assets of an insurance company as determined in accordance with this Part of these Regulations shall, for any of the purposes for which this Part of these Regulations apply, be reduced by an amount representing the aggregate of—

- (a) the amount by which the company is exposed to assets of any description in excess of the permitted asset exposure limit for assets of that description;
- (b) the amount by which the company is exposed to a counterparty in excess of the permitted counterparty exposure limit for such counterparty;
- (c) the amount by which the company has an excess concentration with a number of counterparties;
- (d) the value of any assets transferred to or for the benefit of the company in pursuance of a condition in a derivative contract to which regulation 55(2) above does not apply or a related contract; and
- (e) the value of any assets transferred to or for the benefit of the company in pursuance of a contract having the effect of a derivative contract to which regulation 55(2) above does not apply or a related contract,

as determined in accordance with Schedule 12 to these Regulations.

(2) Where a company is exposed to assets of any description in excess of the permitted asset exposure limit for such assets, the reduction required to be made by paragraph (1)(a) above shall be made—

- (a) by deducting (as far as possible) the amount of the excess from the assets of that description held by the insurance company; and
- (b) where the company does not hold sufficient assets of that description to eliminate the excess (or does not hold any assets of that description) by making an appropriate deduction from the aggregate value of the assets which the company would otherwise be permitted to take into account for any of the purposes for which this Part of these Regulations applies.

(3) Where an insurance company is required to make a reduction in accordance with paragraphs (1)(b), (c), (d) or (e) above, the reduction shall be made by making a deduction from the aggregate value of the assets which the company would otherwise be permitted to take into account for any of the purposes for which this Part of these Regulations applies.

(4) Where an insurance company carrying on long term business has attributed assets partly to a long term business fund and partly to its other assets, any reduction required to be made by this regulation shall be made in the same proportion as the attribution.

(5) Assets of an insurance company comprising—

- (a) approved securities or any interest accrued thereon;
- (b) debts to which regulation 48(3) applies;
- (c) rights to which regulation 48(5), (8) or (9) applies;
- (d) debts in respect of premiums;
- (e) moneys due from, or guaranteed by, the government of any state which belongs to Zone A as defined in Council Directive [89/647/EEC](#) of 18 December 1989 on a solvency ratio for credit institutions;
- (f) shares in or debts due or to become due from a dependant falling within regulation 46 above;
- (g) holdings in 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 investments in transferable securities; or
- (h) deferred acquisition costs

shall not be taken into account in any of the calculations described in paragraph (1) above.

(6) Where a company has entered into any contracts providing for the payment of index linked benefits, the provisions of paragraph (1)(a) above shall not apply to assets of that company to the extent that they are held to match liabilities in respect of such benefits.”

Interpretation: Part IX

13.—(1) Regulation 58 of the 1994 Regulations (interpretation: Part IX) shall be amended as follows.

(2) For the definition of “general business liabilities” substitute—

““general business liabilities” has the same meaning as in Part VIII of these Regulations;”.

(3) After the definition of “general business liabilities” insert—

““insurance liabilities” means amounts calculated in accordance with this Part of these Regulations in respect of those items shown at C and D under the heading “Liabilities” set out in paragraph 9 of Schedule 9A to the Companies Act 1985;”.

Long term and general business

14. In regulation 60(1) of the 1994 Regulations (long term and general business), omit the words “in respect of long term and general business”.

Provision for adverse changes

15. For regulation 61 of the 1994 Regulations (provision for adverse changes), substitute—

“Provision for adverse changes

61.—(1) An insurance company which has or may have (following the exercise of any right by the company or any other party) an obligation to deliver assets or make a payment shall—

- (a) at all times identify the assets held by it which it considers to be the most suitable to cover such obligation; and
- (b) make prudent provision for the effect on the amount of its excess assets of adverse variations between the value of the assets identified and the value of the assets

which it is or may be obliged to deliver or the amount of the payment which it is or may be obliged to make.

(2) For the purposes of paragraph (1) above the company shall take into account all reasonably foreseeable adverse variations and shall have particular regard to past volatility in the value of the assets concerned (or assets of a similar nature) and the possibility of adverse changes in such volatility in the future.

(3) For the purposes of this regulation, “the amount of its excess assets” means the difference between the aggregate value of its assets, determined in accordance with Part VIII of these Regulations, and the amount of its liabilities, other than liabilities determined in accordance with this regulation.”

General Business Liabilities

16. For regulation 62 of the 1994 Regulations (general business liabilities), substitute—

“General business liabilities

62. The amount of insurance liabilities which are general business liabilities shall be determined in accordance with the rules set out in Section D of Chapter II of Part I of Schedule 9A to the Companies Act 1985.”

Long term liabilities

17. At the end of paragraph (3) of regulation 64 of the 1994 Regulations (long term business liabilities), substitute a semi-colon for the full stop and insert—

“(e) any rights under contracts of reinsurance in respect of long term business.”

Rates of interest

18. In paragraph (3) of regulation 69 of the 1994 Regulations (rates of interest), for subparagraph (b) substitute—

“(b) the future income from any asset required to be taken into account (whether interest, dividends or repayment of capital) shall be reduced by a proportion corresponding to such of the excess exposure to assets of that description, calculated in accordance with paragraph 12 of Schedule 12 to these Regulations, as may reasonably be attributed to such assets.”

Schedule 10

19. For Schedule 10 to the 1994 Regulations, substitute Schedule 10 as set out in Schedule 1 to these Regulations.

Schedule 12

20. For Schedule 12 to the 1994 Regulations, substitute Schedule 12 as set out in Schedule 2 to these Regulations.

Transitional provisions

21. An insurance company may, until 1st July 1996 for any of the purposes of which Part VIII of the 1994 Regulations apply, apply the 1994 Regulations as if the provisions of these Regulations had not been made.

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

14th December 1995

Anthony Nelson
Minister for Trade,
Department of Trade and Industry