
STATUTORY INSTRUMENTS

1995 No. 3248

INSURANCE

The Insurance Companies (Amendment) Regulations 1995

Made - - - - *14th December 1995*
Laid before Parliament *15th December 1995*
Coming into force - - *31st December 1995*

The Secretary of State, in exercise of the powers conferred on him by sections 78, 90, 96(1) and 97 of the Insurance Companies Act 1982(1) and of all other powers enabling him in that behalf, hereby makes the following Regulations:—

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(2).

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—

(1) 1982 c. 50.

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

- ““collective investment scheme” has the meaning given in section 75 of the Financial Services Act 1986(3);”.
- (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(4);”.
- (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;”.
- (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—

(3) 1986. c. 60.

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

- (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⁽⁵⁾ 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
 - (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—

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

“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⁽⁶⁾ 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;
- (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.

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

(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.

14th December 1995

Anthony Nelson
Minister for Trade,
Department of Trade and Industry

SCHEDULE 1

Regulation 19

[SCHEDULE 10 TO THE 1994 REGULATIONS]
PERMITTED LINKS

PART I

DESCRIPTIONS OF PROPERTY BY REFERENCE
TO WHICH BENEFITS MAY BE DETERMINED

1. Securities which are listed and to which regulation 51(2)(a) above applies.
2. Securities, other than those to which regulation 51(2)(a) above applies, in aggregate value up to a maximum of 10 per cent of the property linked benefits.
3. Land (including any interest in land) in an EEA State, Australia, Canada, the Channel Islands, Gibraltar, Hong Kong, the Isle of Man, New Zealand, the Republic of South Africa, Singapore or the United States of America.
4. Loans—
 - (a) which are fully secured by mortgage or charge on land (or any interest in land) which—
 - (i) is situated in any of the countries specified in paragraph 3 above, and
 - (ii) in the case of a loan made to a person other than a body corporate, is not used wholly or mainly for domestic purposes, and
 - (b) in relation to which the rate of interest and the due dates for the payment of interest and the repayment of principal can be fully ascertained from the terms of any agreement relating to the loan.
5. Units or other beneficial interests in—
 - (a) 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;
 - (b) a collective investment fund which satisfies the following conditions—
 - (i) the property of the fund comprises property of any of the descriptions in paragraphs 1 to 10 of this Schedule; and
 - (ii) the units are readily realisable at a price which represents the net value per unit of the assets and liabilities of the fund; and
 - (iii) the price at which the units may be bought and sold is published regularly.
6. Approved securities.
7. Loans to or deposits with an approved credit institution, an approved financial institution or an approved investment firm.
8. Income due, or to become due, in respect of property of any of the descriptions specified in the foregoing paragraphs of this Schedule.
9. Permitted derivative contracts.
10. Cash.
11. Units, by whatever name called, in a real or notional fund (not being a scheme or undertaking of a kind mentioned in paragraph 5 above) which is limited to the descriptions of property mentioned

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above, not being property falling within sub-paragraphs (a) to (d) of paragraph 16 below, and which under the contract is to be managed either—

- (a) wholly by the insurer; or
- (b) wholly or to any extent by another person being a person for whose acts and omissions in managing the fund the insurer assumes responsibility towards the policyholder as if they were the acts or omissions of the insurer, and otherwise (if at all) by the insurer.

PART II

INDICES BY REFERENCE TO WHICH BENEFITS MAY BE DETERMINED

12. An approved index.

PART III

INTERPRETATION

13. Unless the context otherwise requires, words or expressions contained in this Schedule bear the same meaning as in Part VIII of these Regulations.

14. For the purposes of this Schedule, “approved index” means either—

- (a) an index which is—
 - (i) calculated independently,
 - (ii) published at least once every week,
 - (iii) based on constituents, each of which is property falling within paragraphs 1 to 8 or 10 above, and
 - (iv) calculated on a basis which is made available to the public and which includes both the rules for including and excluding constituents and the rules for valuation which must use an arithmetic average of the value of the constituents; or
- (b) 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 on a solvency ratio for credit institutions; or
- (c) an index which is—
 - (i) based on constituents, each of which is property falling within paragraphs 1 to 8 or 10 above; and
 - (ii) in respect of which a derivative contract is listed.

15.—(1) For the purposes of this Schedule, “permitted derivative contract” means a derivative contract which—

- (a) is covered and—
 - (i) which is held in connection with property of the type described in paragraph 15(2) below for the purposes of reduction of investment risks or efficient portfolio management; or
 - (ii) which has the effect of a permitted derivative contract held in connection with such property for such purposes; and
- (b) satisfies the conditions in regulations 55(6) to (8) above except that for this purpose the reference in regulation 55(7)(a)(i) to “an asset for the valuation of which provision is made

in this Part of these Regulations” shall be construed as a reference to permitted connected property.

- (2) The property described in this paragraph is either—
- (a) permitted connected property, not being a contract or asset having the effect of a derivative contract; or
 - (b) a permitted derivative contract or a contract or asset having the effect of a permitted derivative contract either of which when taken together with the permitted derivative contract mentioned first in paragraph 15(1) above has the effect that the company holds either permitted connected property or a permitted derivative contract in connection with such property.
- (3) For the purposes of this paragraph—
- (a) a derivative contract shall be deemed to be covered if it would not require a significant provision to be made in respect of it pursuant to regulation 61 of these Regulations if it were a derivative contract to which Part VIII of these Regulations applied;
 - (b) “permitted connected property” means property of any of the descriptions in paragraphs 1 to 8 or 10 above and which is not property falling within paragraph 16(a) to (d) below.

16. Benefits payable under any contract to which regulation 43 applies shall not be determined by reference to—

- (a) property of any of the descriptions specified in paragraphs 2, 5(b) or 7 above if the value of such property is determined, either wholly or partly, by reference to the value of, or the income from or fluctuations in the value of, property other than property of the descriptions in Part I of this Schedule; or
- (b) property of the description specified in paragraph 2 above unless the securities are realisable in the short term without any diminution in value; or
- (c) property of the description specified in paragraph 5(b) above which in aggregate value exceeds 10 per cent. of the property linked benefits, unless the contract under which the benefits are payable has been marketed in accordance with any legal restrictions which apply to the marketing of the corresponding collective investment fund; or
- (d) property of any of the descriptions specified in Part I of this Schedule which has the effect of a derivative contract other than a permitted derivative contract.

SCHEDULE 2

Regulation 20

[SCHEDULE 12 TO THE 1994 REGULATIONS]

PART I

EXCESS EXPOSURE: METHOD OF CALCULATION

1. Unless the context requires otherwise, words and expressions contained in this Schedule bear the same meaning as in Parts VIII and IX of these Regulations.

2. For the purposes of this Schedule—

“business amount” means—

- (a) for a company carrying on only general business, the general business amount;
- (b) for a company carrying on only long term business, the long term business amount;

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- (c) for a company carrying on both general business and long term business, in the case of its general business assets, the general business amount and in the case of its long term business assets, the long term business amount.

“connected company” of any company means—

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

“counterparty” in relation to a company means—

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

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

“counterparty exposure” shall be determined in accordance with paragraph 13 below;

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

“diversified contract for differences” means a contract for differences whose value does not depend to a significant extent on fluctuations in the value of, or income from, assets or any of the descriptions in paragraphs 1 to 9, 11 or 13 to 19 of Part II of this Schedule and “undiversified contract for differences” shall be construed accordingly;

“excess concentration with a number of counterparties” shall be determined in accordance with paragraph 17 below;

“general business amount” means the aggregate of the company’s insurance liabilities (net of reinsurance) in respect of general business and an amount equal to whichever is the greater of 400,000 units of account or 20 per cent. of the general premium income;

“group” has the meaning given in section 262 of the Companies Act 1985;

“hybrid security” means a debt security, other than an approved security, the terms of which provide, or have the effect that, or contain an option which if exercised by the issuer would have the effect that the holder does not or would not have an unconditional entitlement to payment of interest and repayment of capital in full within seventy five years of the relevant date;

“index linked liabilities” means contractual liabilities to policyholders to pay index linked benefits;

“insurance liabilities” means amounts calculated in accordance with Part IX 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 business amount” means the amount of the company’s insurance liabilities (net of reinsurance ceded and excluding property linked liabilities), together with—

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- (a) the amount of the required margin of solvency (or the amount of the minimum guarantee fund if greater) determined in accordance with regulations 18 to 22 above (or, in the case of a company whose head office is not in the United Kingdom, the amount which would apply if its head office were in the United Kingdom) less the amount of any implicit item valued in accordance with regulations 24 to 26 of these Regulations; and
- (b) the amount of any deposit-back in connection with a contract of reinsurance in respect of long-term business,

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

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

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

“property linked liabilities” means contractual liabilities to policyholders in respect of property linked benefits;

“readily realisable” in relation to a listed investment means a listed investment to which regulation 51(3) either does not apply or 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 not more than 97½ per cent of the market value;

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

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

4. The permitted counterparty exposure limit is—

- (a) where the counterparty is an individual or an unincorporated body of persons, 5 per cent of the business amount;
- (b) where the counterparty is a counterparty of the type mentioned in sub-paragraph (d) in the definition of counterparty, 5 per cent of the business amount;
- (c) where the counterparty is a body corporate or group, each of—
 - (i) 20 per cent of the business amount;
 - (ii) 10 per cent of the business amount where the exposure arises other than by reason that debts are due or to become due as a result of short term deposits made with an approved credit institution;
 - (iii) 5 per cent of the business amount where the exposure is other than to bodies which are approved counterparties.

Calculation of exposure to assets

5. A value shall be ascribed to assets of each description which shall be an amount determined in accordance with the provisions of Part VIII of these Regulations, or where the assets are of a description for the valuation of which no provision is made in Part VIII of these Regulations, an amount which would reasonably be paid by way of consideration for an immediate assignment or

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transfer of such assets. The amount by which the company is exposed to assets of each description shall be determined by adjusting the value of the assets in accordance with paragraphs 6 to 11 below.

Adjustments in respect of futures contracts

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

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

- (a) provides for the acquisition of assets by that company; or
- (b) is listed and provides for the disposal of assets by the company or
- (c) is not listed but provides for the disposal of assets by the company to an approved counterparty within one year of the relevant date.

Adjustments in respect of options

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

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

- (a) provides for the acquisition of assets by the company; or
- (b) is listed and provides for the disposal of assets by the company; or
- (c) is not listed but provides for the disposal of assets by the company to an approved counterparty within one year of the relevant date.

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

10. The amount arrived at in accordance with paragraphs 6 to 9 above shall be increased or decreased by an amount representing the value of assets which the company is deemed to have acquired or disposed of under—

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

11. For the purposes of paragraph 10 above, the company shall be deemed to have achieved the effect of such contract by entering into appropriate futures contracts or options. The assets deemed to be acquired or disposed of shall be dealt with in accordance with the provisions in paragraphs 6 and 8 respectively.

Excess asset exposure

12. The amount by which the company is exposed to assets of a particular description in excess of the permitted asset exposure limit shall be calculated by subtracting the permitted asset exposure limit for assets of that description from the corresponding amount of the exposure, calculated in accordance with paragraphs 5 to 11 above. For this purpose, exposure to assets shall be excluded to

the extent that such exposure has caused the recognition of excess exposure to assets of a different description. If the figure arrived at is negative, it shall be taken to be zero.

Calculation of exposure to a counterparty

13. Subject to paragraphs 14 and 15 below, the value of all investments (determined in accordance with regulation 51 above) issued by any one counterparty and the value of all rights (determined in accordance with regulations 48, 55 and 56 above) against that counterparty, in each case up to the amount of the appropriate permitted asset exposure limit, shall be aggregated. Where the counterparty is an issuer of a collective investment scheme falling within paragraph (c) of regulation 52 above, the value of units or other beneficial interest in the collective investment scheme shall be included.

14. Where an insurance company has rights in respect of an obligation to be fulfilled by a counterparty and the obligation is a secured obligation secured by:—

- (a) cash deposited with, or a letter of credit established with, or securities issued by, or a guarantee provided by, an approved credit institution or an approved financial institution;
- (b) approved securities; or
- (c) listed securities to which regulation 51(2)(a) applies which have been deposited with an approved credit institution or an approved financial institution and which in either case will not be available for the benefit of creditors generally in the event of the winding-up of the counterparty,

the aggregation required by paragraph 13 above need not include the value of such rights.

15. If the insurance company has liabilities to the counterparty which may be offset against the above-mentioned assets in accordance with generally accepted accounting concepts, bases and policies or other generally accepted methods appropriate for insurance companies, then such liabilities may be offset for the purposes of the aggregation required by paragraph 13 above.

Excess counterparty exposure

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

Excess concentration with a number of counterparties

17. Where there is exposure to a counterparty of the type mentioned in paragraph 4(c)(ii) above which exceeds 5 per cent. of the business amount, 40 per cent. of the business amount shall be deducted from the aggregate of such exposures (each of which, for this purpose, shall be taken not to exceed 10 per cent. of the business amount). The amount so arrived at shall be the excess exposure to a number of counterparties. Where this amount is negative it shall be taken to be zero.

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PART II

DESCRIPTION OF ASSET AND CORRESPONDING BUSINESS AMOUNT

1. A piece of land or a number of pieces of land to which in the most recent proper valuation of such pieces of land an aggregate value is ascribed which is greater than the value of each of such pieces of land valued separately

5%

2. All debts due or to become due from any one individual (other than an individual who is connected with the insurance company within the meaning of section 31(5) of the Act), being debts which are fully secured on any dwelling or any land appurtenant thereto owned or to be purchased by the individual and used or to be used by him for his own residence

1%

3. All debts due or to become due from an individual, other than debts specified in paragraph 2 above

¼%

4. All unsecured debts (other than debts arising under the terms of debt securities or debts from a regulated institution) due or to become due from any one counterparty other than an individual, body corporate or group

1%

5. All unsecured debts (other than debts arising under the terms of debt securities or debts from a regulated institution) due or to become due from any one company, taken together with all such debts due or to become due from a connected company of that company

1%

6. All unsecured debts (other than debts arising under the terms of debt securities or debts from an approved counterparty) due or to become due from any one regulated institution, taken together with all such debts due or to become due from a connected company of that institution

2½%

7. All debts, other than debts arising under the terms of debt securities, due or to become due from any one counterparty which is not an approved counterparty taken together with all such debts due or to become due from any connected company (other than an approved counterparty) of that counterparty

5%

8. All debts, other than short-term deposits with an approved credit institution or debts arising under the terms of debt securities, due or to become due from any one approved counterparty, taken together with all such debts due or to become due from any connected company of that approved counterparty

10%

9. All debts due or to become due from an approved credit institution (or a connected company of that institution) taken together

20%

10. The aggregate of debts of the descriptions in paragraphs 3, 4 and 5 above

5%

11. All investments of a kind which may be valued in accordance with regulation 51 of these Regulations (other than secured debt securities or investments which are listed and readily realisable) issued by any one issuer taken together with—

- (a) all units or other beneficial interests in a collective investment scheme falling within paragraph (c) of regulation 52 above issued by that issuer; and with
- (b) all investments of the kinds mentioned in this paragraph issued by a connected company of that issuer

1%

12. The aggregate of assets of the descriptions in paragraph 11 above

10%

13. All shares and hybrid securities issued by any one issuer taken together with all such securities issued by a connected company of that issuer

2½%

14. All securities issued by any one issuer which is not an approved counterparty taken together with all securities issued by a connected company, other than an approved counterparty, of that issuer

5%

15. All securities issued by any one counterparty

10%

16. All holdings in any one authorised unit trust scheme or recognised scheme

5%

17. All cash

3%

18. All computer equipment

5%

19. All office machinery (other than computer equipment) taken together with all furniture, motor vehicles and other equipment

2½%

EXPLANATORY NOTE

(This Note does not form part of the Regulations)

These Regulations make amendments to Parts VIII and IX of and Schedules 10 and 12 to the Insurance Companies Regulations 1994. They concern the treatment of assets and liabilities of a UK-authorized insurance company for various purposes of the Insurance Companies Act 1982 and the methods by which benefits payable to policyholders under linked long-term contracts of insurance may be determined.

Regulation 1 provides for citation and commencement.

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Regulations 2 and 3 update the provisions for interpretation of Part VIII in line with the changes to that Part.

Regulation 4 amends general provisions concerning treatment of assets under Part VIII.

Regulation 5 introduces a new regulation 47A dealing with the treatment of certain sale and repurchase transactions.

Regulation 6 amends regulation 48 concerning the valuation of debts and other rights owed to an insurance company.

Regulation 7 substitutes for regulation 51 (unlisted securities) a new regulation for the valuation of securities and beneficial interests in a limited partnership.

Regulation 8 substitutes for regulation 52 (unit trusts) a new regulation for the valuation of beneficial interests in a collective investment scheme.

Regulation 9 substitutes for regulation 53 (listed securities) a new regulation for the valuation of deferred acquisition costs.

Regulation 10 replaces regulation 55 with a new regulation dealing with treatment of derivatives.

Regulation 11 substitutes for regulation 56 (other assets) a new regulation dealing with contracts and assets having the effect of derivative contracts.

Regulation 12 substitutes a new regulation 57 dealing with assets to be taken into account only to a specified extent.

Regulations 13 to 18 make minor changes to regulations 58, 60, 61, 62, 64 and 69 concerning, respectively, interpretation of Part IX, general rules for Part IX, determination of the provision for adverse changes, general business liabilities, long-term liabilities and rates of interest used in the determination of long-term liabilities.

Regulation 19 introduces a revised Schedule 10, concerning the reference values which may be used for the determination of policyholder benefits under long-term linked contracts.

Regulation 20 introduces a revised Schedule 12 which sets out the rule for the calculations required by regulation 57.

Regulation 21 contains transitional provisions.

Compliance Costs

Compliance Cost Assessments were prepared in respect of the Insurance Companies (Third Insurance Directives) Regulations 1994, the Insurance Companies Regulations 1994 and the Insurance Companies (Accounts and Statements) (Amendment) Regulations 1994 and placed in the Libraries of both Houses of Parliament. Copies are also available from the Insurance Division of the Department of Trade and Industry, Room 5.G. 23, 1 Victoria Street, London SW1H 0NN. These assessments concluded that the cost impact of the Regulations was broadly neutral. These Regulations will not impose any new burden on business, and a further Compliance Cost Assessment has not been prepared.