

---

STATUTORY INSTRUMENTS

---

**1996 No. 3008**

**The Friendly Societies (Insurance Business) (Amendment) Regulations 1996**

**Citation, commencement and general**

1.—(1) These Regulations may be cited as the Friendly Societies (Insurance Business) (Amendment) Regulations 1996 and shall come into force on 30th December 1996.

(2) The Friendly Societies (Insurance Business) Regulations 1994(1) (“the 1994 Regulations”) shall be amended as follows.

**Localisation**

2. In paragraph (1) of regulation 17 of the 1994 Regulations (localisation) for the words “the European Community”, in each place where they occur, substitute “any EEA State”.

**Exclusions from regulations 13 to 17**

3. In regulation 18(1) of the 1994 Regulations (exclusions from regulations 13 to 17) for the words “European Community” substitute “EEA States”.

**Interpretation: Part IV**

4.—(1) Paragraph (1) of regulation 19 of the 1994 Regulations (interpretation: Part IV) 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 societies;”.

(3) In the definition of “approved counterparty”, at the end of sub-paragraph (b) omit “or” and at the end of sub-paragraph (c) add

“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 assigned to it in section 75 of the Financial Services Act 1986(2);”.

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

---

(1) [S.I. 1994/1981](#).

(2) [1986 c. 60](#); section 75 was amended by article 6 of the Financial Services Act 1986 (Restriction of Scope of Act and Meaning of Collective Investment Scheme) Order 1990 ([S.I. 1990/349](#)) and paragraph 22 of Schedule 7 to the Investment Services Regulations 1995 ([S.I. 1995/3275](#)).

- ““counterparty” has the meaning assigned to it in paragraph 2 of Schedule 5 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 referred to at G II under the heading “Assets” in Part I of Schedule 2 to the Friendly Societies (Accounts and Related Provisions) Regulations 1994(3);”.
- (7) At the end of the definition of “derivative contract” add “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 “enactment” insert—
- ““equivalent securities” means securities issued by the same issuer being of an identical type and having the same nominal value, description and amount;
- “exposure” in relation to assets means an amount determined in accordance with regulation 32 of, and paragraph 5 of Schedule 5 to, these Regulations;
- “exposure” in relation to a counterparty means an amount determined in accordance with regulation 32 of, and paragraphs 14 to 16 of Schedule 5 to, these Regulations;”.
- (9) Omit the definitions of “equity share” and “equity share capital”.
- (10) In the definition of “general business amount” for the words “regulation 32(9) below” substitute “paragraph 2 of Schedule 5 to these Regulations”.
- (11) After the definition of “industrial and provident society”, insert—
- ““initial margin” in respect of a derivative contract or a contract or asset having the effect of a derivative contract means assets which, before or at the time the contract is entered into, are transferred by the society subject to a condition that such assets (or, where the assets transferred are securities, equivalent securities) will be returned to the society on completion of that contract;”.
- (12) Omit the definition of “insurance liabilities”.
- (13) 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;”.
- (14) In the definition of “listed”, for paragraphs (a) and (b), substitute—
- “(a) that 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 under the law of that State; or
- (b) that facilities have been granted for dealing in that investment on a regulated market;”.
- (15) In the definition of “long term business amount” for the words “regulation 32(9) below” substitute “paragraph 2 of Schedule 5 to these Regulations”.
- (16) 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 societies;”.
- (17) After the definition of “option” insert—
- ““permitted asset exposure limit” has the meaning assigned to it in paragraph 3 of Schedule 5 to these Regulations;

“permitted counterparty exposure limit” has the meaning assigned to it in paragraph 4 of Schedule 5 to these Regulations;”.

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

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

(20) In the definition of “regulated market”, in sub-paragraph (c), for “European Community” substitute “EEA States”.

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

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

(23) After the definition of “Treasury Bills” insert—

““variation margin” means—

- (a) in respect of a derivative contract, or a contract having the effect of a derivative contract, assets (other than assets transferred by way of initial margin) which, at the relevant date, have been transferred by, to, or for the benefit of, the society in pursuance of a condition in that contract or a related contract; and
- (b) in respect of an asset having the effect of a derivative contract, assets which, at the relevant date, have been transferred by, to, or for the benefit of, the society in pursuance of a contractual right conferred, or obligation imposed, by the holding of the asset having the effect of a derivative contract;”

(24) After the definition of “warrant” insert—

““working day” means any day other than Saturday, Sunday, Good Friday, Christmas Day and any day which is a bank holiday in any part of the United Kingdom under section 1 of the Banking and Financial Dealings Act 1971(4).”.

5. For paragraphs (3) and (4) of regulation 19 substitute—

“(3) For the purposes of these Regulations, a debt owed to (or an obligation to be fulfilled for the benefit of) a society 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 sum of the aggregate amount available under all letters of credit established for the benefit of the society with the same counterparty, the aggregate amount of all guarantees issued for the benefit of the society by that counterparty and the amount of any exposure of the society to that counterparty does not exceed the permitted counterparty exposure limit for that counterparty; 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 society’s exposure to assets of the same description does not exceed the permitted exposure limit for

assets of that description (as defined in regulation 32 of, and paragraph 3 of Schedule 5 to, these Regulations); and

(iii) where the assets give rise to exposure to a counterparty, the exposure of the society to that counterparty, when added to the sum of the aggregate amount available under all letters of credit established for the benefit of the society with that counterparty, and the aggregate amount of all guarantees issued for the benefit of the society by that counterparty, does not exceed the permitted counterparty exposure limit for that counterparty.

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

- (a) the aggregate amount available under letters of credit established with a counterparty shall be taken not to exceed the sum of the aggregate amount of all debts and the aggregate value of all obligations in respect of which those letters of credit were established;
- (b) the aggregate amount of guarantees issued by a counterparty shall be taken not to exceed the sum of the aggregate amount of all debts and the aggregate value of all obligations so guaranteed; and
- (c) assets which are securing any other debt owed to (or obligation to be fulfilled for the benefit of) the society shall be treated as if they were assets of the society.”.

#### **Application: Part IV**

6.—(1) Regulation 20 of the 1994 Regulations (application: Part IV) shall be amended as follows.

(2) For paragraph (4) substitute—

“(4) Where in all the circumstances of the case it appears that 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.”.

(3) In paragraph (5) for the words “shall be of a lesser value than a specified amount” substitute “is of a lesser value than the amount calculated in accordance with this Part of these Regulations”.

(4) After paragraph (7) insert—

“(8) Where a society 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 society 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.”.

### **Valuation of assets and liabilities of dependants for the purposes of regulation 21**

- 7.—(1) Regulation 22(5) of the 1994 Regulations shall be amended as follows.
- (2) In the definition of “assets of a relevant description” for “Part I” substitute “Part II”.
  - (3) In the definition of “permitted limit”, after “paragraph 1”, insert “in Part II” and for “paragraphs 2 to 17” substitute “the remaining paragraphs in Part II”.

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

8. After regulation 22 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**

**22A.**—(1) Where a society 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 society or within six months of such sale or purchase, subsequently sell to or purchase from the society 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 society—

- (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) shall 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 societies) 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 society under an agreement described in paragraph (1) above either—
- (a) the amount of the consideration received by the society 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 society fell below the value of the consideration provided by it

by more than 2.5 per cent. of the value of the securities sold or purchased (as the case may be), the society 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 society purchases securities from an approved credit institution or an approved investment firm and the consideration provided by the society 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) securities (other than approved 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) if the condition in sub-paragraph (b)(i) above is not satisfied, securities whose value when aggregated with the society's existing exposure to assets of the same description or to the same counterparty would exceed the appropriate permitted asset exposure limit or permitted counterparty exposure limit as determined in accordance with regulation 32 of, and Schedule 5 to, these Regulations.

(4) The conditions specified in this paragraph are that, if the society 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 society's existing exposure to assets of the appropriate description or to the relevant counterparty would exceed the appropriate permitted asset exposure limit or permitted counterparty exposure limit as determined in accordance with regulation 32 of, and Schedule 5 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 society 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 this regulation, where the society has received consideration in respect of a sale of the kind described in paragraph (1) above, in addition to any other exposure to assets or to a counterparty—
  - (a) if such consideration takes the form of a letter of credit established with, or a guarantee provided by, an approved credit institution, it shall be considered to give rise to exposure to that institution by the amount of the consideration;
  - (b) if such consideration takes the form of a charge over securities, it shall be considered to give rise to exposure to securities of the same description and to the issuer of those securities by the amount of the consideration; and
  - (c) if such consideration takes the form of cash deposited with another party for the benefit of the society, or a charge over cash deposited with another party, it shall be considered to give rise to exposure to that party by the amount of the consideration.
- (6) For the purposes of this regulation, the amount of any consideration shall be—
  - (a) where the consideration 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 any 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; and
  - (d) where the consideration takes the form of a Talisman short term certificate, the value of the securities represented by that certificate.
- (7) Where a society 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 referred to 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**

- 9. For regulation 23 of the 1994 Regulations (debts and other rights) substitute—

### **“Debts and other rights**

**23.—**(1) The value of any debt due, or to become due, to a society, other than a debt to which regulation 21(3) above or regulation 26 below applies or to which paragraphs (2) to (6) of this regulation apply, shall be—

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

in either case due account being taken of the terms and conditions for payment of the debt and, where the debt is secured, the nature and quality of the security.

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

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

(4) Subject to paragraph (5) below, the value of any rights of the society 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.

(5) Paragraph (4) 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 21(3) applies which are due or are to become due.

(6) Any debt due, or to become due, to a society—

- (a) from an intermediary in respect of money advanced on account of commission to which that intermediary is not absolutely entitled at the relevant date; or
- (b) which is a debt owed in respect of premiums (due account being taken of rebates, refunds and commissions payable) which is recorded in the society’s accounting records as due and payable and has been outstanding for more than three months,

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

(7) The value of any right to recover assets transferred by way of initial margin in respect of a derivative contract or a contract or asset having the effect of a derivative contract shall be determined—

- (a) where the initial margin was a payment in cash, as if there were a debt owed to the society for that amount, and
- (b) where the initial margin took the form of a transfer of securities, as if there were a debt owed to the society of an amount equal to the value of such securities as determined in accordance with this Part of these Regulations.

(8) The value of any rights arising under a derivative contract to which regulation 30 below does not apply, or under a contract or asset having the effect of such a contract, shall be the value of any right to recover assets transferred by way of initial margin together with the value of any other unconditional right to receive a specified amount.

(9) This regulation shall not apply to any rights (other than debts due) in respect of—

- (a) investments in dependants;
- (b) securities or beneficial interests in a limited partnership;
- (c) units or other beneficial interests in a collective investment scheme;
- (d) a derivative contract, except as provided under paragraphs (7) or (8) above; or
- (e) a contract or asset which has the effect of a derivative contract except as provided under paragraphs (7) or (8) above or under regulation 31(4) or (5) below.”.

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

**10.** For regulation 26 of the 1994 Regulations (unlisted securities) substitute—

**“Securities and beneficial interests in limited partnerships**

**26.—**(1) Subject to paragraph (2) below, this regulation applies to the valuation of investments comprising securities and beneficial interests in limited partnerships and, for the purposes of paragraph (6) below, investments includes loans.

(2) This regulation shall not apply to the valuation of securities which are—

- (a) derivative contracts;
- (b) investments in dependants;
- (c) units or other beneficial interests in collective investment schemes, except as provided in regulation 27(2) below; or
- (d) contracts or assets having the effect of derivative contracts, except as provided in regulation 31(4) below.

(3) Subject to paragraph (6) below, the value of an investment to which this regulation applies shall be—

- (a) where the investment is transferable and paragraph (4) below does not apply, the market value;
- (b) where the investment is transferable and paragraph (4) 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 society; or
- (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.

(4) Subject to paragraph (5) below, 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 97.5 per cent. of the market value other than to the issuer or to an associate or an associated company of the issuer or of the society.

- (5) Paragraph (4) 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 equal to or greater than 97.5 per cent. of the market value.
- (6) Where a society 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)**

**11.** For regulation 27 of the 1994 Regulations (unit trusts) substitute—

**“Beneficial interests in collective investment schemes**

**27.—**(1) Subject to paragraph (3) below, this regulation applies to holdings of units, or other beneficial interests in—

- (a) a scheme falling within Council Directive [85/611/EEC](#) of 20th December 1985<sup>(5)</sup> 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 30 below applies;
  - (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 30 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.

(2) The value of units or other beneficial interests in a collective investment scheme to which this regulation applies shall be—

- (a) where the issuer can be required to purchase the units or other beneficial interests from the holder upon the holder giving notice of one month or less, the price at which the issuer would have purchased the units or other beneficial interests 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; or

---

<sup>(5)</sup> O.J. No. L375, 31.12.85, p.3. The Directive was amended by Directive [88/220/EEC](#) (O.J. No. L100, 19.4.88, p.31) and Directive [95/26/EC](#) (O.J. No. L168, 18.7.95, p.7).

- (b) where the issuer cannot be required to purchase the units or other beneficial interests as set out in sub-paragraph (a) above, a value determined in accordance with regulation 26 above.
- (3) Other than as provided in regulation 31(4) below, this regulation shall not apply to units or other beneficial interests in a collective investment scheme which has the effect of a derivative contract.”.

#### **Deferred acquisition costs (substitution for regulation concerning listed investments)**

12. For regulation 28 of the 1994 Regulations (listed investments) substitute—

##### **“Deferred acquisition costs**

28. 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 societies.”.

#### **Derivative contracts**

13. For regulation 30 of the 1994 Regulations (derivative contracts) substitute—

##### **“Derivative contracts**

30.—(1) The value of rights (other than rights to recover assets transferred by way of initial margin) 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 by way of variation margin.

- (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 effect as if so held 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 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 society 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 36 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 society under the contract and the volatility of the assets identified by the society 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 entered into by a society to which section 37(2) or (3) of the 1992 Act applies and which—

- (a) either is listed or has been entered into with an approved counterparty; and
- (b) the society 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—
  - (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 18th 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) (a)(iii) or (iv) above.”.

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

14. For regulation 31 of the 1994 Regulations (other assets) substitute—

**“Contracts and assets having the effect of derivative contracts**

**31.—(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 society or otherwise—

- (a) for payment (at any time) of amounts which are determined by fluctuations in—
  - (i) the value of property of any description;
  - (ii) an index of the value of property of any description;
  - (iii) income from property of any description; or
  - (iv) an index of income from property of any description;
- (b) for delivery of an asset other than an asset for the valuation of which provision is made in regulation 25 of these Regulations to or by the society; or
- (c) for the conversion of an asset held by the society 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 regulation 27(1)(a) 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 20(8) above in respect of which the conditions set out in regulation 20(9) above have been satisfied; or
- (c) it is a transaction to which regulation 22A(1) above applies.

(4) Rights in respect of a contract or asset whose effect is that of a derivative contract to which regulation 30 above applies shall—

- (a) where the asset is a security, be valued in accordance with regulation 26 above;
- (b) where the asset comprises units or other beneficial interests in a collective investment scheme, be valued in accordance with regulation 27 above; and
- (c) where the asset is a debt or other right, be valued in accordance with regulation 23 above.

(5) Rights in respect of a contract or asset whose effect is that of a derivative contract to which regulation 30 above does not apply shall have a value determined in accordance with regulation 23(8) above.

(6) For the purposes of determining whether a contract or asset has the effect of a derivative contract to which regulation 30 applies, it shall be deemed to have the effect of a derivative contract which is listed or transacted with an approved counterparty if it is itself listed or so transacted.”.

### **Assets to be taken into account only to a specified extent**

**15.** For regulation 32 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**

**32.—**(1) Subject to paragraphs (5) to (7) below, the aggregate value of the assets of a society 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 society 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 society is exposed to a counterparty in excess of the permitted counterparty exposure limit for such counterparty;
- (c) the amount by which the society has an excess concentration with a number of counterparties;
- (d) the value of any assets transferred to or for the benefit of the society in pursuance of a condition in a derivative contract to which regulation 30 above does not apply or a related contract; and
- (e) the value of any assets transferred to or for the benefit of the society in pursuance of a contract whose effect is that of a derivative contract to which regulation 30 above does not apply or a related contract,

as determined in accordance with Schedule 5 to these Regulations.

(2) Where a society 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 society; and
- (b) where the society 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 society would otherwise be permitted to take into account for any of the purposes for which this Part of these Regulations applies.

(3) Where a society is required to make a reduction in accordance with paragraph (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 society would otherwise be permitted to take into account for any of the purposes for which this Part of these Regulations applies.

(4) Where a society 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 a society comprising—
- (a) approved securities or any interest accrued thereon;
  - (b) debts to which regulation 23(3) applies;
  - (c) rights to which regulation 23(4) 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 18th 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 21 above;
  - (g) holdings in a scheme falling within Council Directive [85/611/EEC](#) of 20th 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 society 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 society to the extent that they are held to match liabilities in respect of such benefits.

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

### **Interpretation: Part V**

**16.**—(1) Regulation 33 of the 1994 Regulations (interpretation: Part V) shall be amended as follows.

- (2) For the definition of “general business liabilities” substitute—  
““general business liabilities” has the same meaning as in Part IV 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” in Part I of Schedule 2 to the Friendly Societies (Accounts and Related Provisions) Regulations 1994.”

### **Provision for adverse changes**

**17.** For regulation 36 of the 1994 Regulations (provision for adverse changes) substitute—

“**36.**—(1) A society which has or may have (following the exercise of any right by the society or any other party) an obligation to which this regulation applies 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 society 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—

“linked assets” has the meaning given in regulation 19(1) above;

“property linked liabilities” has the meaning given in paragraph 2 of Schedule 5 to these Regulations; and

“the amount of its excess assets” means the difference between the aggregate value of its assets (other than linked assets to the extent that they are held to match property linked liabilities) determined in accordance with Part IV of these Regulations and the amount of its liabilities (other than property linked liabilities or liabilities for which provision is made in accordance with this regulation).

(4) Subject to paragraph (5) below, this regulation applies to an obligation—

(a) under a contract relating to investments of the kinds mentioned in item B under the heading “Assets” in Part I of Schedule 2 to the Friendly Societies (Accounts and Related Provisions) Regulations 1994 (whether such contract constitutes an asset or liability of the society);

(b) undertaken for the purposes of, or in connection with the making of, investments of the kind mentioned in sub-paragraph (a) above; or

(c) under a contract providing for the purchase, sale or exchange of currency.

(5) This regulation shall not apply to a contract to the extent that it relates to, or is for the purposes of the making of an investment in, or is in connection with the making of an investment in, a building which is to be occupied by the society and used by the society for the conduct of its business.”.

### **General business liabilities**

**18.** For regulation 37 of the 1994 Regulations (general business liabilities) substitute—

#### **“General business liabilities**

**37.** The amount of insurance liabilities which are general business liabilities shall be determined in accordance with the rules set out in Part VI of Schedule 6 to the Friendly Societies (Accounts and Related Provisions) Regulations 1994.”.

### **Long term liabilities**

**19.** In regulation 38(3) of the 1994 Regulations (long term business), after sub-paragraph (d), add the following sub-paragraph—

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

### **Rates of interest**

**20.** In paragraph (3) of regulation 43 of the 1994 Regulations (rates of interest) for sub-paragraph (b) substitute—

“(b) the future income from the asset required to be taken into account (whether interest, dividends or repayment of capital) shall be reduced by a proportion corresponding to such part of any excess exposure to assets of that description,

calculated in accordance with paragraph 13 of Schedule 5 to these Regulations, as may reasonably be attributed to such assets.”.

### **Expenses**

**21.** In paragraph (1) of regulation 45 of the 1994 Regulations (expenses) omit the word “existing”.

### **Linked long term contracts**

**22.**—(1) Regulation 51 of the 1994 Regulations (linked long term contracts) shall be amended as follows.

(2) In paragraph (1) for “paragraph 16” substitute “paragraph 17”.

(3) In paragraph (4) omit sub-paragraph (a).

### **Interpretation: Part VII**

**23.** In regulation 53 (interpretation: Part VII), after paragraph (a), insert the following paragraph—

“(aa) “gross claims” means the amount paid in respect of claims, including reinsured amounts;”.

### **Insurance statistics: member States**

**24.** In regulation 56(2) (statistics in respect of general business) for the words “gross premiums receivable” substitute “gross premiums receivable, commissions attributable to those premiums and gross claims”.

### **Schedule 2**

**25.**—(1) Paragraph 1 of Schedule 2 to the 1994 Regulations (general business solvency margin: first method of calculation (premium basis)) shall be amended as follows.

(2) After the definition of “gross premiums” insert—

““incepted” refers to the time when the liability to risk of a society under a contract of insurance commenced and, for this purpose, a contract providing continuous cover shall be deemed to commence on each anniversary date of the contract;”.

(3) For the definition of “receivable” substitute—

““receivable” in relation to a society, a financial year and a premium means due to the society in respect of contracts of insurance incepted during that financial year, whether or not the premium is received during that financial year.”.

### **Schedule 5**

**26.** For Schedule 5 to the 1994 Regulations (assets to be taken into account only to a specified extent) substitute Schedule 5 as set out in Schedule 1 to these Regulations.

### **Schedule 6**

**27.** For Schedule 6 to the 1994 Regulations (permitted links), substitute Schedule 6 as set out in Schedule 2 to these Regulations.

---

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

---

**Transitional provision**

**28.** Notwithstanding regulation 22 above, regulation 51 of the 1994 Regulations shall continue to apply to contracts entered into before the commencement of these Regulations as if regulation 22 above had not been made.

In witness whereof the common seal of the Friendly Societies Commission is hereunto fixed, and is authenticated by me, a person authorised under paragraph 13 of Schedule 1 to the Friendly Societies Act 1992 on 2nd December 1996.

L.S.

*Michael Cook*  
Secretary to the Commission

We consent to regulations 1, 4–22 and 25–28.

*Bowen Wells*  
*Roger Knapman*  
Two of the Lords Commissioners of Her  
Majesty's Treasury

6 December 1996