
EXPLANATORY NOTE

(This note is not part of the Regulations)

The Insurance Companies Act 1982 (“the Act”) contains provision for the regulation of insurance companies. The Act has been amended, inter alia, by the Insurance Companies (Reserves) Act 1995 which inserted a new section 34A into the Act. Section 34A enables the Secretary of State to make regulations requiring insurance companies carrying on general business of a prescribed description to maintain an equalisation reserve for the purpose of providing against above average fluctuations in claims in respect of general business of that description.

The Insurance Companies (Reserves) Regulations 1996, which come into force on 23rd December 1996, are made primarily under section 34A of the Act. The amendment of paragraph 50 of Schedule 9A to the Companies Act 1985 and the Companies (Northern Ireland) Order 1986 is made under section 2(2) of the European Communities Act 1972 (“the 1972 Act”), as is the revocation of Part X of, and Schedule 14 to, the Insurance Companies Regulations 1994 (S.I. 1994/1516) (“the 1994 Regulations”). The 1994 Regulations consolidated in part the Insurance Companies (Credit Insurance) Regulations 1990 (S.I. 1990/1181) (“the 1990 Regulations”) made under section 2(2) of the 1972 Act pursuant to Council Directive 87/343/EEC (O.J. No. L185, 4.7.87, p.72) which amended, as regards credit insurance and suretyship insurance, Council Directive 73/239/EEC (O.J. No. L228, 16.8.73, p.3). The 1990 Regulations imposed a general obligation on insurers carrying on credit insurance business to establish an equalisation reserve in accordance with one of four specified methods which they could select.

Part I contains citation, commencement, application and interpretation provisions (regulations 1 and 2). Regulation 3 defines the scope of the Regulations and specifies, by reference to Parts II and III, the businesses which are prescribed for the purposes of section 34A.

Part II applies in respect of prescribed business other than credit insurance business. Regulation 4 sets out the companies covered and the general business falling within Part II. Regulation 5 imposes a general obligation on companies covered by Part II to maintain equalisation reserves. Companies whose business falls under the specified threshold and certain foreign business are exempted from this obligation. Regulation 6 requires companies to classify their prescribed business by reference to groups and accounting bases. Regulations 7(1) and (2) require companies to make transfers to or transfers from the equalisation reserve at the end of a financial year in accordance with the provisions of Schedule 1 to the Regulations. Parts I and II of Schedule 1 prescribe the calculation of the aggregate value of transfers to and transfers from the equalisation reserve respectively, while Part III prescribes the calculation of the maximum reserve. Regulations 7(3), (4) and (5) prescribe the method of calculation of the transfer to or transfer from the equalisation reserve, if any, ensuring that any transfer out does not exceed the size of any equalisation reserve brought forward from the previous financial year, and that the equalisation reserve does not exceed the maximum reserve permitted under these Regulations.

Regulations 8 and 9 prescribe how the Regulations shall be applied when a business has either been transferred or acquired by a company, in both cases whether by novation or under the provisions of Schedule 2C to the Act. Companies are required to take no account of such business in calculating the net premiums written for the year or in calculating the maximum reserve. Companies are required to adjust their calculation of the amounts to be transferred to or from the equalisation reserve in accordance with these Regulations. Regulation 10 specifies the circumstances in which a company whose net premiums written fall in amount below specified limits is required to transfer out the full amount of its equalisation reserve brought forward from the previous financial year.

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Part III applies in relation to credit insurance business. Regulation 11 sets out the companies covered by Part III. Companies whose credit insurance business falls under the specified threshold are exempted. Regulation 12 requires a company to which Part III applies to maintain an equalisation reserve in accordance with Schedule 2 to the Regulations. Schedule 2 prescribes rules for transfers to and transfers from the credit insurance equalisation reserve and for its maximum size.

In **Part IV** regulation 13 amends the reference in paragraph 50 of Schedule 9A to the Companies Act 1985 and the Companies (Northern Ireland) Order 1986 to take account of the revocation of Part X of, and Schedule 14 to, the 1994 Regulations (regulation 14).

A compliance cost assessment is available, copies of which have been 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.A.43, 1 Victoria Street, London, SW1H 0ET.