
STATUTORY INSTRUMENTS

1994 No. 1981

FRIENDLY SOCIETIES

The Friendly Societies (Insurance Business) Regulations 1994

Made - - - - - *20th July 1994*

Laid before Parliament *1st August 1994*

Coming into force - - - *1st September 1994*

The Friendly Societies Commission, being a Department designated for the purposes of section 2(2) of the European Communities Act 1972⁽¹⁾ in relation to the authorisation of the carrying on by friendly societies of insurance business and the regulation of such business and its conduct and in relation to anything supplemental or incidental to such matters⁽²⁾, in exercise of the powers conferred by that section and, with the consent of Treasury, in exercise of the powers conferred upon it by section 45(1) and (2), 46(1), (3), and (8), 48(1), (2), (6), and (7), 49(1), 56(1), (2) and (5) and 121(3) of the Friendly Societies Act 1992⁽³⁾ and of all other powers enabling it in that behalf, hereby makes the following Regulations:

PART I

PRELIMINARY

Citation and commencement

1. These Regulations may be cited as the Friendly Societies (Insurance Business) Regulations 1994, and shall come into force on 1st September 1994.

Interpretation: general

- 2.—(1) In these Regulations, unless the context otherwise requires—
- “the 1982 Act” means the Insurance Companies Act 1982⁽⁴⁾;
 - “the 1992 Act” means the Friendly Societies Act 1992;

(1) 1972 c. 68.
(2) The European Communities (Designation) (No. 5) Order 1992 (S.I. 1992/3197).
(3) 1992 c. 40; section 119(1) contains a definition of “the Commission”.
(4) 1982 c. 50.

“the 1987 Regulations” means the Friendly Societies (Long Term Insurance Business) Regulations 1987⁽⁵⁾;

“the 1994 Regulations” means the Insurance Companies Regulations 1994⁽⁶⁾;

“authorisation” has the same meaning as it has in Part IV of the 1992 Act by virtue of section 32(9) of that Act, and “authorised” shall be construed accordingly;

“cede” and “cession”, in relation to reinsurance, include retrocede and retrocession;

“the Commission” means the Friendly Societies Commission established by section 1 of the 1992 Act;

“deposit back arrangement”, in relation to any contract of reinsurance, means an arrangement whereby an amount is deposited by the reinsurer with the cedant;

“guarantee fund” has the meaning given in regulation 5(1) below;

“implicit items” has the meaning given by regulation 8(3) below and “implicit item” shall be construed accordingly;

“insurance company” means a person or body of persons (whether incorporated or not) carrying on insurance business other than a friendly society;

“linked long term contract” means a contract of the kind referred to in section 56(1) of the 1992 Act;

“mathematical reserves” means the provision made by a society to cover liabilities (excluding liabilities which have fallen due and liabilities arising from deposit back arrangements) arising under or in connection with contracts for long term business;

“minimum guarantee fund” has the meaning given in regulation 5(2) below;

“premium” includes a contribution in respect of an insurance benefit and the consideration for the granting of an annuity;

“required margin of solvency” has the meaning given in regulation 4(2) below;

“Schedule” means Schedule to these Regulations;

“society” means a society which is either an incorporated friendly society or a registered friendly society;

“the Stock Exchange” means the International Stock Exchange of the United Kingdom and the Republic of Ireland Limited;

“zillmerising” has the meaning given by regulation 10(7) below.

(2) Unless the context otherwise requires, expressions used in these Regulations which are defined in section 116, 117, 119 or in any other provision of the 1992 Act shall have the same meanings as they have for the purposes of that Act.

(3) Any reference in these Regulations to a financial year or preceding financial year of a friendly society shall be construed—

- (a) in the case of a registered friendly society or an incorporated friendly society which was not formerly a registered friendly society, in accordance with section 118 of the 1992 Act; and
- (b) in the case of an incorporated friendly society which was formerly a registered friendly society, as referring to a period of 12 months ending with 31st December during which period the friendly society was or is—
 - (i) a registered friendly society;

(5) S.I. 1987/2132.

(6) S.I. 1994/1516.

- (ii) an incorporated friendly society; or
 - (iii) registered as an incorporated friendly society; or
- as referring to such shorter period than 12 months ending with the date as at which the incorporated friendly society makes up its final accounts.

PART II

MARGINS OF SOLVENCY

Application: Part II

3.—(1) This Part of these Regulations applies to a society to which section 48 of the 1992 Act applies.

- (2) Subject to regulation 62 below, a society which is—
- (a) an incorporated friendly society, or
 - (b) an authorised registered friendly society,
- is prescribed for the purposes of section 48(1)(c) of the 1992 Act.

Required margin of solvency

4.—(1) The margin of solvency of a society is the excess of the value of its assets over the amount of its liabilities determined in accordance with Parts IV and V of these Regulations.

(2) Subject to paragraphs (3) to (5) below, the margin of solvency to be maintained by a society to which this Part of these Regulations applies pursuant to section 48 of the 1992 Act (referred to in these Regulations as “the required margin of solvency”) shall be determined—

- (a) with respect to a society which carries on long term business, in accordance with Schedule 1; and
 - (b) with respect to a society which carries on general business, by taking the greater of the two sums resulting from the application of the two methods of calculation set out in Schedules 2 and 3 respectively.
- (3) For a contract to which section 117(4) of the 1992 Act applies, the required margin of solvency shall be determined by taking the aggregate of the results arrived at by applying—
- (a) in the case of so much of the contract as is within any class of long term business, the appropriate method prescribed by Schedule 1 for that class; and
 - (b) in the case of so much of the contract as is within general business class 1 or 2, the method of calculation set out in Schedule 2 (excluding paragraphs 7, 8 and 9).
- (4) Where a society carries on long term business and owing to the nature of that business more than one margin of solvency is produced in respect of that business by the operation of this Part of these Regulations, the margins in question shall be aggregated as regards the society in order to arrive at its required margin of solvency for long term business.
- (5) Where a society carries on both long term and general business and is accordingly required to maintain separate margins of solvency in respect of the two kinds of business—
- (a) these Regulations shall apply for determining the margin of solvency for each kind of business separately; and
 - (b) assets other than those representing the funds maintained by the society in respect of its long term business, if they are not included among the assets covering the liabilities and

the margin of solvency relating to the society's general business, may be included among the assets taken into account in covering the liabilities and the margin of solvency for the society's long term business.

Guarantee fund and minimum guarantee fund

5.—(1) Subject to paragraphs (2) and (3) below, one-third of a required margin of solvency (being, in the case of long term business, the required margin of solvency determined in accordance with regulation 4(4) above) shall constitute the amount (“the guarantee fund”) prescribed for the purposes of section 49(1) of the 1992 Act.

(2) In the case of a society which is—

- (a) an incorporated friendly society; or
- (b) a registered friendly society to which section 37(2) or (3) of the 1992 Act applies, the guarantee fund shall not be less than an amount (“the minimum guarantee fund”) arrived at in accordance with regulation 6 for long term business and regulation 7 for general business respectively.

(3) In the case of long term business, items that are not implicit items must be at least large enough to cover either the minimum guarantee fund or 50 per cent. of the guarantee fund, whichever is the greater.

Minimum guarantee fund: long term business

6.—(1) In the financial year during which a society is first authorised under section 32 of the 1992 Act to carry on long term business, the minimum guarantee fund shall be the amount in column 2 of the table below, which corresponds to the society's annual contribution income in respect of that business in the last preceding financial year, as shown in column 1 of the table

Contribution Income (in ECU)	Minimum Guarantee Fund (in ECU)
1,000,000 or less	100,000
1,000,001-1,500,000	200,000
1,500,001-2,000,000	300,000
2,000,001-2,500,000	400,000
2,500,001-3,000,000	500,000
3,000,001 or more	600,000

but where a society had no annual contribution income in respect of long term business in the last preceding financial year or has not been in existence long enough to have a preceding financial year, the minimum guarantee fund shall be an amount of 100,000 ECU.

(2) In any subsequent financial year during which a society continues to be authorised to carry on long term business, the minimum guarantee fund shall be the greater of either—

- (a) the amount in column 2 of the table in paragraph (1) above that corresponds to the society's annual contribution income in respect of long term business in the last preceding financial year; or
- (b) the amount of the minimum guarantee fund required to be maintained by the society in the last preceding financial year,

providing that if the amount referred to in subparagraphs (a) and (b) above is the same, the minimum guarantee fund shall be that amount.

(3) Where a society obtains authorisation under section 32 of the 1992 Act to carry on long term business—

- (a) of a class additional to that in respect of which it is already authorised; or
- (b) in a part of the United Kingdom additional to that in respect of which it is already authorised,

a minimum guarantee fund of 600,000 ECU shall be maintained by that society for the whole of its long term business (that is to say, not only for the additional business carried on but also for the business previously carried on).

Minimum guarantee fund: general business

7. The minimum guarantee fund in respect of general business carried on by a society shall be an amount of 225,000 ECU.

Valuation of solvency margins

8.—(1) Where a society to which this Part of these Regulations applies has assets in excess of its liabilities, then, in addition to any other applicable valuation regulations in Part IV of these Regulations, paragraphs (2) and (3) below shall have effect for determining the extent to which the value of the assets exceeds the amount of liabilities in connection with the required margin of solvency, the guarantee fund and the minimum guarantee fund.

(2) In the case of a society carrying on general business, any claim which the society has against its members by way of a call for supplementary contributions for a financial year shall have its full value for that financial year, subject to the limitation that the value shall not exceed—

- (a) 50 per cent. of the difference between the maximum contributions and the contributions called in, or
- (b) 50 per cent. of the required margin of solvency.

(3) The items mentioned in regulations 9 to 11 below (which relate to future surpluses, zillmerising and hidden reserves and shall be known as “implicit items”) shall have no value, except with the consent of the Commission given upon application of a society. Where the Commission so consents—

- (a) any of the implicit items may be valued in accordance with the provisions of regulations 9 to 11 with respect to long term business; and
- (b) the implicit item relating to hidden reserves may be valued in accordance with regulation 11 with respect to general business.

Implicit items: future surpluses

9.—(1) The implicit item relating to future surpluses may be valued at not more than 50 per cent. of the full amount of future surpluses.

(2) For the purposes of paragraph (1) above, the full amount of future surpluses shall be obtained by multiplying the estimated annual surplus by a factor which shall as nearly as may be represent the average number of years remaining to run on policies, but shall, if it exceeds 10, be reduced to 10.

(3) For the purposes of paragraph (2) above—

- (a) the estimated annual surplus shall be taken to be one-fifth of the surplus (“the periodic surplus”) made in long term business over a period of five years (“the relevant period”) ending on the last day of the most recent completed financial year during which a valuation for the purposes of section 46 of the 1992 Act or regulation 11 of the 1987 Regulations has been carried out, substantial items of an exceptional nature being excluded, and

- (b) the average number of years remaining to run on policies shall be calculated—
- (i) by multiplying the number of years to run on each policy by the actuarial value of the benefits payable under the policy, adding together the products so obtained and dividing the total by the aggregate of the actuarial values of the benefits payable under all the policies; or
 - (ii) by an approximation to this method of calculation suitable to the circumstances of the case, including, where appropriate, an approximation involving the grouping of contracts,
- appropriate allowance being made in either case for premature termination of contracts.
- (4) For the purposes of paragraph (3)(a) above—
- (a) where a valuation under section 46 of the 1992 Act or regulation 11 of the 1987 Regulations has been carried out annually in relation to the relevant period, the annual surplus made in long term business for any particular year of the relevant period shall be taken to be the surplus (if any) arising in the long term business funds since the last such valuation, and the periodic surplus shall be taken to be the aggregate of those annual surpluses less any deficiencies in the long term business funds during that period;
 - (b) where a society has carried on long term business throughout the relevant period but valuations under section 46 of the 1992 Act or regulation 11 of the 1987 Regulations have not been made annually in that period, the periodic surplus shall be taken to be the aggregate of surpluses arising in the long term business funds since the last valuation preceding the relevant period less any deficiencies in the long term business funds since the last valuation, except that the surplus or deficiency arising in the period ending with the first valuation within the relevant period shall be proportionately reduced to allow for any period of time falling outside the relevant period;
 - (c) where a society has not carried on long term business throughout the relevant period, the periodic surplus shall be taken to be the aggregate of any surpluses arising in the long term business funds during that part of the relevant period for which long term business was carried on less any deficiencies in the long term business funds during that part of that period.

Implicit items: zillmerising

10.—(1) Where zillmerising (as defined in paragraph (7) below) is appropriate but either is not practised or is at a rate less than the loading for acquisition costs included in the premium then, subject to paragraph (6) below, the implicit item relating to zillmerising may be valued at an amount not exceeding the difference between—

- (a) the non-zillmerised or partially zillmerised figure for mathematical reserves maintained by the society concerned; and
- (b) a figure for mathematical reserves (determined in accordance with Part V of these Regulations) zillmerised at a rate equal to the loading for acquisition costs included or allowed for in the premium.

(2) Where zillmerising is not practised, then subject to paragraph (6) below, the value given by paragraph (1) above (less any amount relating to temporary assurances) shall not exceed 3.5 per cent. of the aggregate of the difference between—

- (a) the relevant capital sums for long term business activities; and
- (b) the mathematical reserves (excluding mathematical reserves for temporary assurances).

(3) Where zillmerising is practised but is at a rate less than the loading for acquisition costs, then, subject to paragraph (6) below, the value given by paragraph (1) above (less any amount relating to temporary assurances) together with the difference between the partially zillmerised mathematical

reserves and the non-zillmerised mathematical reserves shall not exceed 3.5 per cent. of the aggregate of the difference between—

- (a) the relevant capital sums of long term business activities; and
 - (b) the mathematical reserves (excluding mathematical reserves for temporary assurances).
- (4) In paragraphs (2) and (3) above “relevant capital sums” means—
- (a) for whole life assurances, the sum assured;
 - (b) for policies where a sum is payable on maturity (including policies where a sum is also payable on earlier death), the sum payable on maturity;
 - (c) for deferred annuities, the capitalised value of the annuity at the vesting date (or the cash option if it is greater);
 - (d) for capital redemption contracts, the sums payable at the end of the contract period; and
 - (e) for linked long term contracts, notwithstanding subparagraphs (a) to (d) above, the lesser of—
 - (i) the amount for the time being payable on death, and
 - (ii) the aggregate of the value for the time being of the units allocated to the contract (or, where entitlement is not denoted by means of units, the value for the time being of any other measure of entitlement under the contract equivalent to units) and the total amount of the premiums remaining to be paid during such part of the term of the contract as is appropriate for zillmerising, or, if such premiums are payable beyond the age of seventy-five, until that age,

excluding in all cases any vested reversionary bonus and any capital sums for temporary assurances.

(5) Where, under the contract relating to any such business as is mentioned in paragraph (4) above, the payment of premiums is to stop before the sum assured becomes due, then, notwithstanding the said paragraph (4), “relevant capital sums” in paragraphs (1) to (3) above shall be taken to mean the mathematical reserves appropriate for that contract at the end of the premium-paying term.

- (6) For the purposes of this regulation—
- (a) reserves for vested reversionary bonuses shall not be regarded as mathematical reserves, and
 - (b) the result given by paragraph (1), (2) or (3) above shall be reduced by the amount of any undepreciated acquisition costs brought into account as an asset.

(7) “Zillmersing” means the method known by that name for modifying the net premium reserve method of valuing a long term policy by increasing the part of the future premiums for which credit is taken so as to allow for initial expenses.

Implicit items: hidden reserves

11. The implicit item relating to hidden reserves, if it consists of hidden reserves resulting from the underestimation of assets and overestimation of liabilities (other than mathematical reserves), may, in so far as the hidden reserves in question are not of an exceptional nature, be given its full value.

PART III

MATCHING AND LOCALISATION

Application: Part III

12. This Part of these Regulations applies to a society to which section 37(2) or (3) of the 1992 Act applies.

Matching: general requirement

13.—(1) Where the liabilities of a society to which this Part applies in any particular currency exceed 5 per cent. of the society's total liabilities, the society shall hold sufficient assets in that currency to cover at least 80 per cent. of the society's liabilities in that currency.

(2) Where a society carries on both long term and general business, the requirements of paragraph (1) apply to the assets and liabilities of each kind of business separately.

(3) Where the contract of insurance expresses any liability in terms of a particular currency, that liability shall be regarded as a liability in that currency.

(4) For the purposes of this regulation—

“assets”, except in the case of assets of the kind referred to in regulation 20(2) below, means assets valued in accordance with Part IV of these Regulations; and

“liabilities” means provision by a society to cover liabilities arising under or in connection with contracts of insurance (not being liabilities relating to insurance business excluded by regulation 18 below).

(5) For the purposes of this regulation references to assets in a currency shall be construed as references to assets expressed in or capable of being realised (without exchange risk) in that currency; and an asset is capable of being realised (without exchange risk) in a currency if it is reasonably capable of being realised in that currency without risk that changes in exchange rates would reduce the cover of liabilities in that currency.

(6) The provisions of this regulation have effect subject to the following regulations in this Part of these Regulations.

Matching: property linked benefits

14.—(1) In so far as the liabilities for property linked benefits and index linked benefits are covered by assets which determine the benefits payable under a linked long term contract, regulation 13 above does not apply.

(2) In so far as the liabilities for property linked benefits are determined by reference to assets in a currency other than that in which the society's obligations to the policyholder are expressed, those liabilities shall for the purposes of regulation 13 be deemed to be liabilities in the first-mentioned currency.

(3) In this regulation “property linked benefits” and “index linked benefits” have the meanings given by regulation 19(1) below.

Matching: currency of general business liabilities

15.—(1) The currency of a society's general business liabilities shall, for the purposes of regulation 13 above, be determined as follows.

(2) Where the liabilities are not expressed as liabilities in terms of a particular currency, they shall be regarded as liabilities in the currency of the country in which the risk is situated or, if the

society on reasonable grounds so determines, in the currency in which the premium payable under the contract is expressed.

(3) However, the society may regard its liabilities as liabilities in the currency which it will use in accordance with past experience or, in the absence of such experience, in the currency of the country in which it is established where, in accordance with the nature of the risks, the society's liabilities are liabilities in a currency other than that determined in accordance with paragraph (2).

(4) Where a claim has been notified to a society and the society's liability in respect of that claim is payable in a currency other than one which would result from the application of the above provisions, the liability shall be regarded as a liability in the currency in which the society is actually obliged to pay it.

(5) Where a claim is assessed in a currency which is known to the society in advance but which is different from a currency determined in accordance with the above provisions, the society may regard its liabilities as liabilities in that currency.

Matching: exception for certain liabilities

16.—(1) Subject to paragraphs (2) and (3) below, a society need not cover its liabilities by assets in a particular currency if those assets would amount to 7 per cent. or less of the remainder of its assets in other currencies.

(2) During the period until 31st December 1998, paragraph (1) has effect in relation to general business liabilities required to be covered by assets in Greek drachmas, Irish pounds or Portuguese escudos as if the amount of 2 million ECU, if less than the percentage mentioned in that paragraph, were substituted for that percentage.

(3) During the period until 31st December 1996, paragraph (1) has effect in relation to general business liabilities required to be covered by assets in Belgian francs, Luxembourg francs or Spanish pesetas as if the amount of 2 million ECU, if less than the percentage mentioned in that paragraph, were substituted for that percentage.

Localisation

17.—(1) Assets held pursuant to regulation 13 above shall be held—

- (a) if they cover liabilities in sterling, in the European Community;
- (b) If they cover liabilities in any other currency, in the European Community or in the country of that currency.

(2) For the purposes of applying paragraph (1) above to tangible assets and assets consisting of a claim against a debtor or a listed or unlisted investment, the following provisions shall have effect—

- (a) a tangible asset shall be regarded as held in the place where it is situated;
- (b) an asset consisting of a claim against a debtor shall be regarded as held in any place where it can be enforced by legal action;
- (c) an asset consisting of a listed investment shall be regarded as held in any place where—
 - (i) there is a stock exchange (of the kind described in paragraph (a) of the definition of “listed” in regulation 19(1) below) where it is listed; or
 - (ii) there is a regulated market as defined in regulation 19(1) below where it is dealt in;
- (d) an asset consisting of an unlisted investment issued by an incorporated company shall be regarded as held in the place where the head office of the company is situated.

(3) In this regulation—

“assets” and “liabilities” have the same meaning as in regulation 13 above;

“listed” and “unlisted” have the meaning given in regulation 19(1) below.

Exclusions from regulations 13 to 17

18.—(1) Nothing in regulations 13 to 17 above shall apply to long term or general business carried on outside the European Community.

(2) For the purposes of paragraph (1) above, the term “carried on”—

- (a) in relation to long term business, has the same meaning as the term “written in” has for the purposes of Article 17(3) of the first life Directive; and
- (b) in relation to general business, refers to general business where the risk is situated in a member State.

PART IV

VALUATION OF ASSETS

Interpretation: Part IV

19.—(1) In this Part of these Regulations, unless the context otherwise requires—

“approved counterparty” means any of the following—

- (a) an approved credit institution;
- (b) a person who is exempt pursuant to section 43 of the Financial Services Act 1986⁽⁷⁾; or
- (c) a person who is an authorised person within the meaning of section 207(1) of the Financial Services Act 1986 in respect of investment business of a kind which includes entering into unlisted derivative contracts as principal;

“approved credit institution” means an institution recognised or permitted under the law of an EEA State to carry on any of the activities set out in Annex 1 to Council Directive [89/646/EEC](#) of 15 December 1989 on the co-ordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of credit institutions⁽⁸⁾;

“approved financial institution” means any of the following—

- the central bank of an EEA State,
- the International Bank for Reconstruction and Development;
- the International Finance Corporation;
- the International Monetary Fund;
- the Inter-American Development Bank;
- the African Development Bank;
- the Asian Development Bank;
- the Caribbean Development Bank;
- the European Investment Bank;
- the European Community;
- the European Atomic Energy Community; and
- the European Coal and Steel Community;

⁽⁷⁾ 1986 c. 60.

⁽⁸⁾ O.J. No. L386, 31.12.89, p.1.

“approved investment firm” means an investment firm as defined in article 2 of Council Directive 93/22/EEC of 10 May 1993 on investment services in the securities field⁽⁹⁾;

“approved securities” means any of the following—

(a) any securities issued or guaranteed by, or the repayment of the principal of which, or the interest on which is guaranteed by, and any loans to or deposits with, any of the following, namely, any government, public or local authority or nationalised industry or undertaking, which belongs to Zone A as defined in Council Directive 89/647/EEC of 18 December 1989 on a solvency ratio for credit institutions⁽¹⁰⁾; and

(b) any loan to, or deposit with, an approved financial institution;

“asset” includes part of an asset;

“assignment” includes an assignation;

“building society” means a building society within the meaning of the Building Societies Act 1986⁽¹¹⁾;

“company” includes any body corporate;

“contract for differences” means a contract which falls within paragraph 9 of Part I of Schedule 1 to the Financial Services Act 1986⁽¹²⁾;

“debenture” includes debenture stock and bonds, whether constituting a charge on assets or not, and loan stock or notes;

“debt” includes an obligation to pay a sum of money under a negotiable instrument;

“derivative contract” means a contract for differences, a futures contract or an option;

“enactment” includes an enactment of the Parliament of Northern Ireland;

“equity share” means a share of equity share capital;

“equity share capital”, in relation to a company, means its issued share capital excluding any part thereof which, neither as respects dividends nor as respects capital, carries any right to participate beyond a specified amount in a distribution;

“fixed interest securities” means securities which under their terms of issue provide for fixed amounts of interest;

“futures contract” means a contract which falls within paragraph 8 of Part I of Schedule 1 to the Financial Services Act 1986;

“general business amount” has the meaning assigned to it in regulation 32(9) below;

“general business assets” and “general business liabilities” mean respectively assets of a society or insurance company which are, for the time being, identified as representing the general business fund or funds maintained by that body in respect of its general business and liabilities of the body which are attributable to its general business;

“general premium income” means, in relation to any body in any year, the net amount, after deduction of any premiums payable for reinsurance, of the premiums receivable by the body in that year in respect of all insurance business other than long term business;

“index linked benefits” means benefits—

(a) provided for under any contract the effecting of which constitutes the carrying on of ordinary long term business; and

⁽⁹⁾ O.J. No. L141, 11.6.93, p.27.

⁽¹⁰⁾ O.J. No. L386, 30.12.89, p.14.

⁽¹¹⁾ 1986 c. 53.

⁽¹²⁾ 1986 c. 60.

(b) determined by reference to fluctuations in any index of the value of property (whether specified in the contract or not);

“industrial and provident society” means any society registered (or deemed to be registered) under the Industrial and Provident Societies Act 1965⁽¹³⁾ or the Industrial and Provident Societies Act (Northern Ireland) 1969⁽¹⁴⁾;

“insurance liabilities” means, in relation to a society any debt due from, or other liabilities of the society, under any contract of insurance to which it is party;

“intermediary” means a person who in the course of any business or profession invites other persons to make offers or proposals or to take other steps with a view to entering into contracts of insurance with a society, other than a person who only publishes such invitations on behalf of, or to the order of, some other person;

“linked assets” means, in relation to a society, long term business assets of the society which are, for the time being, identified in the records of the society as being assets by reference to the value of which property linked benefits are to be determined;

“listed” means, in relation to an investment—

(a) that there has been granted and not withdrawn a listing in respect of that investment on any stock exchange in a member State which is a stock exchange within the meaning of the law of that member State and that dealings in the investment are effected regularly on such stock exchange; or

(b) that dealings in that investment are effected regularly on a regulated market;

and “unlisted” shall be construed accordingly;

“long term business amount” has the meaning assigned to it in regulation 32(9) below;

“long term business assets” and “long term business liabilities” mean respectively assets of a society or insurance company which are, for the time being, identified as representing the long term business fund or funds maintained by that body in respect of its long term business and liabilities of the body which are attributable to its long term business;

“middle market quotation” means—

(a) in relation to an investment for which two prices are quoted in the official list published for the relevant market, the average of the two prices so quoted for the relevant date or, if no official list has been published for that day, for the most recent day prior to that day for which the official list has been published; and

(b) in relation to an investment for which one price is quoted in the official list published for the relevant market, the price so quoted for the relevant date or, if no official list has been published for that day, for the most recent day prior to that day for which the official list has been published; and

(c) in any other case, the nearest equivalent to the average referred to in paragraph (a) above which is published or can be reasonably ascertained from the information which is published;

“option” means an option which falls within paragraph 7 of Part I of Schedule 1 to the Financial Services Act 1986⁽¹⁵⁾ or a warrant;

“price earnings ratio” means the price earnings ratio (net) estimated in respect of the non-financial index of the Financial Times-Stock Exchange-Actuaries Share Indices jointly compiled by the Financial Times, the Stock Exchange, the Institute of Actuaries and the Faculty of Actuaries;

⁽¹³⁾ 1965 c. 12.

⁽¹⁴⁾ 1969 c. 24 (N.I.).

⁽¹⁵⁾ 1986 c. 60.

“proper valuation” means, in relation to land, a valuation made by a qualified valuer not more than three years before the relevant date which determined the amount which would be realised at the time of the valuation on an open market sale of the land free from any mortgage or charge;

“property linked benefits” means benefits other than index linked benefits—

- (a) provided for under any contract the effecting of which constitutes the carrying on of ordinary long term business; and
- (b) determined by reference to the value of, or income from, property of any description (whether specified in the contract or not);

“qualified valuer”, in relation to any particular type of land in any particular area, means a person who is a fellow or professional associate of the Royal Institution of Chartered Surveyors or a fellow or associate of the Incorporated Society of Valuers and Auctioneers or a fellow or associate of the Rating and Valuation Association and either—

- (a) has knowledge of and experience in the valuation of that particular type of land in that particular area; or
- (b) has knowledge of and experience in the valuation of land and has taken advice from a valuer who he is satisfied has knowledge of and experience in the valuation of that particular type of land in that particular area;

“regulated institution” means any of the following—

- (a) an EC company, a UK company or an EFTA company within the meaning of the 1982 Act;
- (b) an approved credit institution;
- (c) a friendly society which is authorised to carry on insurance business; and
- (d) an approved investment firm;

“regulated market” means a market which is characterised by—

- (a) regular operation;
- (b) the fact that regulations issued or approved by the appropriate authority of the state where the market is situated—
- (c) define the conditions for the operation of and access to the market;
- (ii) define the conditions to be satisfied by a financial instrument in order for it to be effectively dealt in on the market; and
- (iii) require compliance with reporting and transparency requirements comparable to those laid down in articles 20 and 21 of the Council Directive [93/22/EEC](#) of 10 May 1993 on investment services in the securities field⁽¹⁶⁾; and
- (f) in the case of a market situated outside the European Community, the fact that the financial instruments dealt in are of a quality comparable to those in a regulated market in the United Kingdom;

“relevant date” means, in relation to the valuation of any asset for any purpose for which this Part of these Regulations applies, the date when the asset falls to be valued for that purpose;

“securities” includes shares, debentures, Treasury Bills, Tax Reserve Certificates and Certificates of Tax Deposit;

“settlement date” means any date on which the fulfilment of an obligation under a derivative contract is or may be required;

“share” includes stock;

(16) O.J. No. L141, 11.6.93, p.27.

“stock lending transaction” means an agreement under which title to securities is transferred from one party to the agreement, described in the agreement as the lender, to another, described as the borrower, on terms which provide for redelivery of identical securities from the borrower to the lender on demand or at an agreed date;

“Talisman short term certificate” means a short term certificate provided by the Stock Exchange to Talisman trading account holders which has been endorsed by such account holders and passed to lenders as security under stock lending transactions;

“Treasury Bills” includes bills issued by Her Majesty’s Government in the United Kingdom and Northern Ireland Treasury Bills.

“warrant” means an instrument which falls within paragraph 4 of Part I of Schedule 1 to the Financial Services Act 1986.

- (2) For the purposes of these Regulations, a body is a dependant of a society if it is—
- (a) a subsidiary of that society; or
 - (b) a body jointly controlled by that society and another person, within the meaning of section 13 of the 1992 Act.
- (3) For the purposes of these Regulations, a debt owed to a society shall be regarded as being secured only to the extent that—
- (a) it is a debt in respect of the full amount of which a letter of credit has been established with an approved credit institution; or
 - (b) it is a debt the payment in full of which is guaranteed by an approved credit institution; or
 - (c) it is fully secured by a Talisman short term certificate; or
 - (d) it is fully secured on an asset or assets for the valuation of which provision is made in this Part of these Regulations; and—
 - (i) the value of the asset or assets providing the security (after deducting reasonable expenses of sale) is sufficient to enable the debt to be discharged in full; and
 - (ii) subject to paragraph (4) below, the value of the asset or assets providing the security for the debt when added to the aggregate exposure (as defined in regulation 32(3)) to assets of the same descriptions does not exceed the maximum admissible value (as defined in regulation 32(4)) for assets of that description; and
 - (iii) there is no other obligation secured on the asset or assets which has priority to or ranks equally with the debt.
- (4) A debt arising under a stock lending transaction shall not be deemed to be unsecured by reason only that the condition set out in subparagraph (3)(d)(ii) above is not satisfied if the total value of the assets providing security for the debt is not dependent on fluctuations in the value of any individual asset.

Application: Part IV

20.—(1) Subject to paragraph (2) below, this Part of these Regulations applies with respect to the determination of the value of assets of a society for the purposes of—

- (a) section 48 of the 1992 Act;
- (b) any actuarial investigation carried out pursuant to section 46 or 47 of the 1992 Act; and
- (c) such other actuarial investigation in relation to the financial condition of an authorised society which carries on insurance business as may be required by the Commission in the exercise of its powers under Part V of the 1992 Act.

(2) Where a society has entered into any contracts for the payment of property linked benefits, regulations 21 to 32 of these Regulations shall not apply, and where the requirements of

section 49A(2) and (3) of the 1992 Act have been met in respect of liabilities under such contracts, the value of any linked asset by reference to the value of which those benefits are to be determined shall be the value of that asset as determined in accordance with generally accepted accounting concepts, bases and policies or other generally accepted methods appropriate for insurance business.

(3) Any asset to which this Part of these Regulations applies (other than cash) for the valuation of which no provision is made in this Part of these Regulations shall be left out of account for the purposes specified in paragraph (1) above.

(4) Where in accordance with this Part of these Regulations the value of any asset is to be not greater than any specified amount and, in all the circumstances of the case, it appears that the asset is of a lesser value than that amount, such lesser value shall be the value of the asset.

(5) For the purposes of paragraph (4) above, in determining whether it appears that an asset shall be of a lesser value than a specified amount, regard shall be had to the underlying security and in, the case of bonds, debt securities and other money and capital market instruments, the credit rating of the issuer, including whether the issuer belongs to Zone A as defined in the Council Directive [89/647/EEC](#) of 18th December 1989 on a solvency ratio for credit institutions⁽¹⁷⁾ and, where the issuer is an international organisation, whether it includes at least one EEA State among its members.

(6) Notwithstanding paragraph (1) above (but subject to the conditions set out in paragraph (7) below) and in relation to an actuarial investigation of its long term business only, a society may elect to assign to any of its assets the value given to the asset in question in the books or other records of the society.

(7) The conditions referred to in paragraph (6) above are—

- (a) that the election shall not enable the society to bring into account any asset for the valuation of which no provision is made in this Part of these Regulations;
- (b) that the value assigned to the aggregate of the assets shall not be higher than the aggregate of the value of those assets as determined in accordance with regulations 21 to 32 of these Regulations.

Shares in and debts due or to become due from dependants

21.—(1) The value of any share in a dependant of a society shall be not greater than that part of the net asset value of the dependant which would be payable in respect of the share if the dependant were in liquidation and the net asset value were the amount distributable to the shareholders in the winding up.

(2) In this regulation, “net asset value” means, in relation to a dependant, the amount by which the value of its assets, as determined in accordance with regulation 22 below, exceeds the amount of its liabilities as determined in the case of a dependant which is an insurance company, in accordance with regulation 22.

(3) The value of any debt due, or to become due, to a society from a dependant (other than a debt to which regulation 23(2), (3) or (6) below applies) shall be the amount which would reasonably be expected to be recovered in respect of that debt (due account being taken of any security held in respect thereof and of the terms and conditions for payment) if the dependant were in liquidation and—

- (a) in the case of a dependant which is an insurance company, the amount realised from its assets and the amount of its liabilities in the liquidation were equal to the value of those assets and the amount of those liabilities, as determined in accordance with regulation 22 below; and

⁽¹⁷⁾ O.J. No. L386, 30.12.89, p.14.

- (b) in the case of a dependant which is not an insurance company, the amount realised from its assets in the liquidation were equal to the value of those assets, as determined in accordance with regulation 22.

(4) Any share in a dependant—

- (a) in which there is no excess of assets over liabilities as is mentioned in paragraph (2) above; or
- (b) in relation to which a society cannot reasonably ascertain the amount of the liabilities of the dependant for the purposes of paragraph (2),

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

(5) Where a society is unable to determine the value of any debt due or to become due to the society from a dependant because the society cannot reasonably ascertain the amount of the liabilities of the dependant for the purpose of ascertaining what would reasonably be expected to be recovered in respect of that debt in accordance with paragraph (3) above, the debt shall be left out of account for the purposes for which this Part of these Regulations applies.

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

22.—(1) This regulation shall apply with respect to the determination of the value of the assets and the amount of the liabilities of a dependant for the purposes of regulation 21 above.

(2) In the case of a dependant which is an insurance company, whether or not it is a company to which Part II of the 1982 Act applies—

- (a) subject to paragraph (4) below and paragraph 3 of Schedule 4, the value of its assets shall be determined in accordance with Part VIII of the 1994 Regulations;
- (b) subject to subparagraphs (c), (d), (e) and (f) below, the amount of its liabilities shall be determined in accordance with Part IX of the 1994 Regulations;
- (c) where the dependant carries on general business, its general business liabilities shall be deemed to include an amount equal to whichever is the greater of 400,000 ECU or 20 per cent. of the general premium income;
- (d) where the dependant carries on long term business, its long term business liabilities shall be deemed to include whichever is the greatest of the following three amounts—
 - (i) an amount (“the first amount”) which is one-sixth of the margin of solvency that would be arrived at by regarding the dependant as having its head office in the United Kingdom (whether it has or not) and applying regulations 18 to 21 of the 1994 Regulations;
 - (ii) an amount which is six times the first amount, reduced by the implicit figure within the meaning of subparagraph (e) below;
 - (iii) 800,000 ECU;
- (e) for the purposes of subparagraph (d)(ii) above the implicit figure is—
 - (i) in the case of a dependant having its head office in the United Kingdom, the amount of any implicit items relating to future profits, zillmerising or hidden reserves which the dependant is permitted to count by virtue of an order under section 68 of the 1982 Act of the kind mentioned in regulation 23(5) of the 1994 Regulations and the application of regulations 23(5), 24, 25 and 26 of those Regulations; and
 - (ii) in the case of a dependant having its head office elsewhere than in the United Kingdom, the amount of any implicit items relating to future profits or zillmerising which would be arrived at by regarding the dependant as having its head office in the United Kingdom and as having received an order under section 68 of the 1982 Act of

the kind mentioned in regulation 23(5) of the 1994 Regulations and the application of regulations 23(5), 24 and 25 of those Regulations accordingly;

- (f) in any case where the dependant is required to establish a long term business fund or funds under section 28 of the 1982 Act, its long term business liabilities shall be deemed to be not less than the value of the assets representing that fund or funds.
- (3) In the case of a dependant which is not an insurance company—
- (a) the value of its assets shall be determined in accordance with Part VIII of the 1994 Regulations, subject to the provisions of and the modifications provided for in paragraphs 3 and 4 of Schedule 4 to these Regulations;
 - (b) subject to paragraph (4) below, assets of the dependant which are of a relevant description shall be taken into account only to the extent that their value does not exceed the permitted limit applicable to the dependant in relation to those assets; and
 - (c) any equipment leased by the dependant exclusively to any person other than the society of which it is a dependant, or any other dependant of that society, shall be valued as a debt for the purposes of Part VIII of the 1994 Regulations.
- (4) Where—
- (a) the dependant is an insurance company and has general business assets of a relevant description, or, is not an insurance company and has assets of a relevant description;
 - (b) the value of such assets exceeds the permitted limit applicable to the dependant in relation to those assets; and
 - (c) the society has no assets of the same description of the relevant class, or has assets of the same description of the relevant class and their value is less than the permitted limit applicable to the society in relation to those assets,

then, for the purpose of determining the value of the assets of the dependant, there shall be added to the permitted limit applicable to the dependant in relation to the assets referred to in subparagraph (a) above an amount equal to the supplementary amount determined in accordance with Part I of Schedule 4.

- (5) In this regulation and Schedule 4—

“assets of a relevant description” means assets of a description specified in Part I of Schedule 12 of the 1994 Regulations or, in the case of a dependant which is not an insurance company, assets which would be of such a description if it were an insurance company;

“permitted limit” means, in relation to assets of a relevant description—

- (a) in the case of the society, an amount equal to the percentage of the general business amount or, as the case may be, the long term business amount applicable in relation to assets of that description in accordance with regulation 32 below;
- (b) in the case of a dependant which is an insurance company, an amount equal to the percentage of the general business amount or, as the case may be, the long term business amount applicable in relation to assets of that description in accordance with regulation 57 of the 1994 Regulations as applied pursuant to paragraph (2) above; and
- (c) in the case of a dependant which is not an insurance company, an amount equal to the percentage specified in Schedule 12 of the 1994 Regulations, with respect to assets of that description, of the liabilities of the dependant, other than liabilities to the society or to any other dependant of the society;

and references to assets held by any society being of the same description as assets held by a dependant mean—

- (i) in relation to land of the dependant of a description specified in paragraph 1 of Schedule 12 of the 1994 Regulations, any interest of that society in that land,

- (ii) in relation to assets of the dependant of a description specified in paragraphs 2 to 17 of Schedule 12 of the 1994 Regulations, assets of the society which, if held by the dependant, would be assets of that description.
- (6) Save as otherwise provided in paragraph 3(5) of Schedule 4, references in this regulation and in Schedule 4 to assets of the society being of a relevant class mean—
 - (a) where this regulation and Schedule 4 are being applied for the purpose of determining the value of a long term business asset of the society, assets of the society which are long term business assets, and
 - (b) in any other case, assets of the society which are general business assets.
- (7) Where the society cannot reasonably ascertain in accordance with the provisions of this regulation—
 - (a) the value of any asset of the dependant; or
 - (b) the amount of the permitted limit applicable in relation to any asset of the dependant,
 that asset shall be left out of account in determining the value of the assets of the dependant under this regulation.

Debts and other rights

- 23.**—(1) The value of any secured debt due, or to become due, to a society, other than a debt to which regulation 21(3) above, paragraph (2), (3) or (6) of this regulation applies, shall be the amount which can reasonably be expected to be recovered in respect of that debt (due account being taken of 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) The value of any unsecured debt due, or to become due, to a society, other than a debt to which regulation 21(3) above, paragraph (5) or (6) of this regulation or regulation 28 or 32 applies, shall be—
- (a) in the case of any such 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 (due account being taken of the terms and conditions for payment thereof); and
 - (b) in the case of any other such debt, the amount which would reasonably be paid by way of consideration for an immediate assignment of the debt (due account being taken of the terms and conditions for payment thereof).
- (5) The value of any debt due to, or other rights of, the society under any contract of reinsurance to which the society is a party (other than a debt to which regulation 21(3) above applies) shall be the amount which can reasonably be expected to be recovered in respect of that debt or right.
- (6) Any debt due or to become due to the 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 to which paragraph (7) or (8) below applies,
- shall be left out of account for the purposes for which this Part of these Regulations applies.

(7) This paragraph shall apply to a debt 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.

(8) This paragraph shall apply to a debt arising under a contract which, wholly or in part, has the equivalent effect to a derivative contract to which regulation 30(3) does not apply.

(9) The value of any right of a society to have identical securities transferred to it under a stock lending transaction shall be calculated as if the right was a debt owed to the society in respect of the value of the securities to be transferred to it.

Land

24.—(1) The value of any land of a society (other than land held by the society as security for a debt or to which paragraph (2) of this regulation or regulation 29 below applies) shall be not greater than the amount which (after deduction of the reasonable expenses of sale) would be realised if the land were sold at a price equal to the most recent proper valuation of that land which has been provided to the society and any such land of which there is no proper valuation shall be left out of account for the purposes for which this Part of these Regulations applies.

(2) The value of any interest in property which is determinable upon the death of any person or upon the happening of some other future event or at some future time shall be the amount which would reasonably be paid by way of consideration for an immediate transfer thereof.

Equipment

25.—(1) The value of any computer equipment of a society—

- (a) in the financial year of the society in which it is purchased, shall not be greater than three-quarters of the cost thereof to the society;
- (b) in the first financial year thereafter, shall not be greater than one-half of that cost;
- (c) in the second financial year thereafter, shall be not greater than one-quarter of that cost; and
- (d) in any subsequent financial year, shall be left out of account for the purposes for which this Part of these Regulations applies.

(2) The value of any office machinery (other than computer equipment), furniture, motor vehicles and other equipment of a society, shall be, in the financial year of the society in which it is purchased, not greater than one-half of the cost thereof and shall be, in any subsequent financial year, left out of account for the purposes for which this Part of these Regulations applies.

Unlisted securities

26.—(1) This regulation does not apply to the valuation of shares in a dependant of a society.

(2) The value of any unlisted security which is dealt in on a regulated market shall be an amount not greater than the middle market quotation.

(3) The value of any unlisted equity share, other than a share to which paragraph (2) above applies, shall not be greater than—

- (a) where the company in which the share is held has been carrying on business for more than three financial years, the multiple of the price earnings ratio for the relevant date (or, if no price earnings ratio has been published for that date, for the most recent date prior to that date for which a price earnings ratio has been published) and the proportionate amount attributable to that share of the average amount of the profits of the company for the last three financial years; and

- (b) where the company has been carrying on business for less than three but more than one financial year, the multiple of such price earnings ratio and the proportionate amount attributable to that share of the average amount of the profits of the company for its two financial years or the profits of the company in its only financial year (as the case may be).

(4) For the purposes of this regulation, the average amount of the profits of a company for any specified years shall be the amount represented by the formula—

$$\frac{P-L}{Y}$$

where—

- a P is the aggregate amount of the profits of the company after provision for taxation in each of the specified years,
- b L is the aggregate amount of any losses made by the company after provision for taxation in any of the specified years in which there were no profits, and
- c Y is the number of years specified,

no account being taken of any profit or loss brought forward from any year preceding the specified years.

(5) In this regulation, the proportionate amount attributable to any share of the average amount of any profits of the company in which the share is held for any specified years shall be the amount which could reasonably be expected to be received in respect of that share if the average amount or the amount (as the case may be) of the profits in question were available for distribution by the company among its shareholders.

(6) Where the value of any share would otherwise be determined in accordance with the provisions of paragraph (3) above but cannot be so determined because the amount of the profits of, or the amount of losses incurred by, the company in the last financial year cannot be reasonably ascertained, then the value of that share shall be determined—

- (a) in the case of a company which has been carrying on business for not less than four financial years, by reference to the average amount of the profits of the company for the three financial years preceding the last financial year; and
- (b) in the case of a company which has been carrying on business for less than four years but more than two financial years, by reference to the average amount or the amount (as the case may be) of the profits of the company in any specified years other than the last financial year.

(7) Any share to be valued in accordance with paragraphs (3) to (6) above shall be left out of account for the purposes for which this Part of these Regulations applies if—

- (a) no amount is attributable thereto in accordance with paragraph (3) above;
- (b) the company in which the share is held has been carrying on business for less than one financial year; or
- (c) the value of the share cannot be ascertained in accordance with paragraphs (3) to (6) above because the amount of the profits of, or the amount of the losses incurred by, the company in any of the specified years cannot reasonably be ascertained and no provision is made for its valuation in paragraph (6) above; or
- (d) no amount is realisable in the short term.

(8) The value of any unlisted share other than one to which paragraph (2) or (3) above applies shall be the amount which would reasonably be paid by way of consideration for an immediate transfer of that share.

Unit trusts

27. The value of any holding of units, or other beneficial interest, under an authorised unit trust scheme or a recognised scheme within the meaning of the Financial Services Act 1986(18) shall be the price at which the managers under the scheme would purchase the holding of units or other beneficial interest if required to do so.

Listed Investments

28.—(1) The value of any listed debenture which is not a debenture issued by a dependant of a society, and of any listed share, which is not a share in such a dependant nor a share in any body specified in regulation 31(2) below, shall be the middle market quotation.

(2) Where the listing of any listed debenture or listed share, the value of which falls to be determined in accordance with this regulation, was suspended at a relevant date, then for the purpose or purposes for which that date was the relevant date—

- (a) if that suspension was in force for a period in excess of ten days, that debenture or share shall be left out of account, and
- (b) if that suspension was in force for a period not exceeding ten days, the value of that debenture or share shall be the lower of—
 - (i) the middle market quotation on the day before the day the suspension came into force, and
 - (ii) the middle market quotation on the day after the day the suspension was terminated.

(3) For the purposes of paragraph (2) above, a day which is a Saturday or a Sunday or a bank holiday in any part of the United Kingdom shall be disregarded.

Reversionary interests etc

29. The value of any long term business asset of a society consisting of an interest in property which is a remainder, reversionary interest, right of fee subject to a liferent or other future interest, whether vested or contingent shall be the amount which would reasonably be paid by way of consideration for an immediate transfer or assignment thereof.

Derivative contracts

30.—(1) Subject to paragraph (2) below, 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 amount which would reasonably be paid by way of consideration for an immediate transfer or assignment thereof; or
- (b) in the case of an unlisted derivative contract which the society—
 - (i) has entered into with an approved counterparty; and
 - (ii) reasonably believes may be readily closed out by entering into a further approved derivative contract with an approved counterparty,

the amount which would reasonably be paid by way of consideration for closing out that contract.

(2) There shall be deducted from the amount calculated in accordance with paragraph (1) above the amount of any cash or other assets as shall at the relevant date have been paid or transferred to the society in respect of that contract.

(3) This regulation applies to an approved derivative contract—

- (a) which is held for the purposes of reduction of investment risks or efficient portfolio management, and which—
 - (i) is held in connection with assets to which this Part of these Regulations applies for such purposes; or
 - (ii) has the equivalent effect to such a contract held in connection with such assets for such purposes; and
 - (b) in respect of which, having regard to its assets and liabilities, the society will have, so far as can reasonably be foreseen and (if applicable) in the appropriate fund maintained by it, assets at the settlement date which match its obligations under that contract and from which it will fulfil those obligations.
- (4) In this regulation “approved derivative contract” means a contract entered into by a society to which section 37(2) or (3) of the 1992 Act applies and which is—
- (a) a contract for differences under which the amount payable by either party is calculated by reference to fluctuations in the value of—
 - (i) an asset for the valuation of which provision is made in this Part of these Regulations; or
 - (ii) income from such an asset; or
 - (iii) an index of such assets, or income therefrom, the value of which is determined on the basis of an arithmetic average of the value of the assets which comprise the index; or
 - (iv) an index in respect of which a derivative contract is listed; or
 - (b) a futures contract or an option, in each case providing for the acquisition or disposal of assets for the valuation of which provision is made in this Part of these Regulations.

Other assets

31.—(1) The value of any approved securities shall be—

- (a) in the case of listed securities, the middle market quotation;
- (b) in the case of securities which are not transferable, the amount payable on a surrender or redemption of such securities at the relevant date; and
- (c) in any other case, the amount which would reasonably be paid by way of consideration for an immediate transfer or assignment thereof.

(2) The value of shares in any building society or industrial and provident society shall be the amount which would reasonably be paid by way of consideration for an immediate transfer or assignment thereof.

Assets to be taken into account only to a specified extent

32.—(1) The extent to which assets of a society shall be taken into account shall be determined on the basis of the society’s aggregate exposure to such assets.

(2) Where the aggregate exposure of the society to assets of any one description exceeds the maximum admissible value for assets of that description, there shall be left out of account assets equal in value to the excess comprising—

- (a) assets of that description; and
- (b) where there are insufficient assets of that description held, any other assets.

(3) In this regulation, “aggregate exposure” means the value of such assets held by the society (if any) adjusted—

- (a) to take account of the value of assets of that description which the society is deemed to have acquired or disposed of by the application of paragraphs (6) to (8) below; and
 - (b) to include the value of assets of that description which have been transferred to another party by the society under a stock lending transaction.
- (4) In this regulation, the “maximum admissible value” means—
- (a) for a society carrying on general business, whether or not also carrying on long term business, in the case of general business assets of a description specified in Part I of Schedule 5, an amount equal to the percentage of the general business amount specified in Schedule 5 for assets of that description;
 - (b) for a society carrying on only long term business, for all assets of a description specified in Part I of Schedule 5, an amount equal to the percentage of the long term business amount specified in Schedule 5 for assets of that description;
 - (c) for a society carrying on general business and long term business, in the case of long term business assets of a description specified in Part I of Schedule 5, an amount equal to the percentage of the long term business amount specified in Schedule 5 for assets of that description;
 - (d) for any society, in the case of assets of any other description, no value.
- (5) For the purposes of determining whether, in pursuance of paragraphs 6, 8, 9, 10, 12, 13 and 14 of Schedule 5, assets should be left out of account by reason that the aggregate exposure exceeds the maximum admissible value, account may be taken of any amount which has already been left out of account in respect of assets of any of the descriptions in those paragraphs.
- (6) Where the society is a party to a contract which is (wholly or in part) a futures contract which—
- (a) provides for the acquisition of assets by the society; or
 - (b) is listed and provides for the disposal of assets by the society; or
 - (c) is not listed but provides for the disposal of assets by the society to an approved counterparty within one year of the relevant date,
- for the purposes of calculating its aggregate exposure the society shall be deemed at the relevant date to have acquired or disposed of such assets.
- (7) Where the society is a party to a contract which is (wholly or in part) an option which—
- (a) provides for the acquisition of assets by the society; or
 - (b) is listed and provides for the disposal of assets by the society; or
 - (c) is not listed but provides for the disposal of assets by the society to an approved counterparty within one year of the relevant date,
- and it is prudent at the relevant date to assume that such option will be exercised, for the purposes of calculating its aggregate exposure to such assets, the society shall be deemed to have acquired or disposed of such assets at that date.
- (8) Where the society is a party to a contract which (wholly or in part) is or has the equivalent effect to a contract for differences, the value of which depends to a significant extent upon fluctuations in the value of, or income from, particular assets, for the purposes of calculating its aggregate exposure the society shall be deemed to have achieved the effect of such contract for differences by entering into appropriate options or futures contracts in respect of those assets, and such options or futures contracts shall be dealt with in accordance with paragraphs (6) and (7) above.
- (9) In this regulation—
- “general business amount” means the aggregate of the society’s general business liabilities and in the case of a society which carries on general business an amount equal to whichever is the

greater of 225,000 ECU or 20 per cent. of the general premium income less the amount of the deduction specified in paragraph (10) below.

“long term business amount” means the aggregate of the society’s long term business liabilities and whichever is the greater of—

- (a) one-sixth of the margin of solvency which the society is required to maintain and
- (b) 600,000 ECU

less the amount of the deduction specified in paragraph (10) below;

(10) The deduction to be made in determining the general business amount or the long term business amount in accordance with paragraph (9) above shall be the aggregate of the following—

- (a) the amount of any general business or, as the case may be, long term business liabilities of the society to a dependant, other than insurance liabilities; and
- (b) the value of the debts due or to become due to and other rights of the society under contracts of reinsurance ceded by it (but excluding any rights of recovery in respect of insurance liabilities already discharged by the society) which are general business or, as the case may be, long term business assets of the society; and
- (c) in the case of the long term business amount, the amount of any liabilities of the society in respect of property linked benefits.

(11) Where an asset (or group of assets) of a society carrying on only long term business is attributed by the society partly to its long term business assets and partly to its other assets, any asset or assets required to be left out of account shall be left out of account in the same proportion as such attribution.

(12) For the purposes of this regulation, the amount of the liabilities of a society shall be determined in accordance with Part V of these Regulations.

(13) Until 1st January 1995, paragraphs 12 and 14 of Schedule 5 shall have effect as if the words “any of its connected companies (not being a dependant of the society)” were omitted.

(14) Where a society has entered into any contracts providing for the payment of index linked benefits, this regulation shall not apply to assets of any of the descriptions specified in paragraphs 1 to 11 and 15 to 17 of Schedule 5 to the extent that they are held in compliance with section 49A of the 1992 Act to match liabilities in respect of such benefits.

(15) This regulation shall not apply to—

- (a) any approved securities or to any interest accrued thereon; or
- (b) debts of the descriptions specified in regulation 23(5); or
- (c) debts in respect of premiums; or
- (d) moneys due from the Crown or any public body;

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

PART V

DETERMINATION OF LIABILITIES

Interpretation: Part V

33. In this Part of these Regulations—

“derivative contract” has the meaning given in regulation 19(1) of these Regulations;

“general business liabilities” means liabilities of a society arising under or in connection with contracts for general business;

“long term liabilities” means liabilities of a society arising under or in connection with contracts for long term business including liabilities arising from deposit back arrangements;

“the valuation date”, in relation to an actuarial investigation, means the date to which the investigation relates.

Application: Part V

34. This Part of these Regulations applies with respect to the determination of the amount of liabilities of a society for the purposes of—

- (a) section 48 of the 1992 Act;
- (b) any actuarial investigation to which section 46 or 47 of the 1992 Act applies; and
- (c) such other actuarial investigation in relation to the financial condition of an authorised society which carries on insurance business as may be required by the Commission in the exercise of its powers under Part V of the 1992 Act.

Long term and general business

35.—(1) Subject to this Part of these Regulations, the amount of liabilities of a society in respect of long term and general business and other lawful activities shall be determined in accordance with generally accepted accounting concepts, bases and policies or other generally accepted methods appropriate for insurance business.

(2) In determining under paragraph (1) above the amount of liabilities of a society, all contingent and prospective liabilities shall be taken into account.

Provision for adverse changes

36.—(1) A society which has or may have (following the exercise of any right by a third party) an obligation under a derivative contract or a contract to which regulation 23(8) applies shall make such provision as shall be sufficient, on prudent assumptions, to allow for the effect of possible adverse changes in—

- (a) the current value of the assets or indices of assets to which that contract relates; and
- (b) the current value of any assets held by the society,

on the ability of the society to meet its obligations under that contract.

(2) For the purposes of paragraph (1) above, a society shall have regard to—

- (a) past volatility in the value of such assets or indices of assets (and in the value of assets or indices of a similar nature); and
- (b) the possibility of adverse changes in the volatility of the value of such assets or indices in the future.

General business liabilities

37. The amount of the general business liabilities shall be determined in compliance with the rules applicable to such liabilities laid down in Part VI of Schedule 6 to the Friendly Societies (Accounts and Related Provisions) Regulations 1994⁽¹⁹⁾.

⁽¹⁹⁾ S.I. 1994/1983.

Long term liabilities

38.—(1) The determination of the amount of long term liabilities (other than liabilities which have fallen due for payment before the valuation date) shall be made on actuarial principles which shall have due regard to the reasonable expectations of policyholders and shall make proper provision for all liabilities on prudent assumptions that shall include appropriate margins for adverse deviation of the relevant factors.

(2) The determination shall take account of all prospective liabilities as determined by the policy conditions for each existing contract, taking credit for premiums payable after the valuation date.

(3) Without prejudice to the generality of paragraph (1) above, the amount of the long term liabilities shall be determined in compliance with each of regulations 39 to 49 below and shall take account, *inter alia*, the following factors:

- (a) all guaranteed benefits, including guaranteed surrender values;
- (b) vested, declared or allotted bonuses to which policyholders are already either collectively or individually contractually entitled;
- (c) all options available to the policyholder under the terms of the contract;
- (d) expenses, including commissions.

Method of calculation

39.—(1) Subject to paragraphs (2), (3) and (4) below, the amount of the long term liabilities shall be determined separately for each contract by a prospective calculation.

(2) A retrospective calculation may be applied to determine the liabilities where a prospective method cannot be applied to a particular type of contract or benefit, or where it can be demonstrated that the resulting amount of liabilities would be no lower than would be required by a prudent prospective calculation.

(3) Appropriate approximations or generalisations may be made where they are likely to provide the same, or a higher, result than individual calculations of the same amount of the liabilities in respect of each contract.

(4) Where necessary, additional amounts shall be set aside on an aggregated basis for general risks which are not individualised.

(5) The method of calculation of the amount of the liabilities and the assumptions used shall not be subject to discontinuities from year to year arising from arbitrary changes and shall be such as to recognise the distribution of profits in an appropriate way over the duration of each policy.

(6) The liabilities for contracts under which the policyholder is eligible to participate in any established surplus shall have regard to the level of the premiums under the contracts, to the assets held in respect of those liabilities, and to the custom and practice of the society in the manner and timing of the distribution of profits or the granting of discretionary additions, as the case may be.

(7) In this regulation “established surplus” means an excess of assets representing the whole or a particular part of the fund or funds maintained by the society in respect of its long term business over the liabilities, or a particular part of the liabilities, of the society attributable to that business as shown by an investigation to which section 46 or 47 of the 1992 Act applies.

Avoidance of future valuation strain

40. The amount of the liability determined in respect of a group of contracts shall not be less than such amount as, if the assumptions adopted for the valuation were to remain unaltered and were fulfilled in practice, would enable liabilities similarly determined at all times in the future to be covered from resources arising solely from the contracts and the assets covering the amount of the liability determined at the current valuation.

Valuation of future premiums

41.—(1) Where further specified premiums are payable by the policyholder under a contract (not being a linked long term contract) under which benefits (other than benefits arising from a distribution of surplus) are determined from the outset in relation to the total premiums payable thereunder, then, subject to paragraph (4) and regulation 42 below—

- (a) where the premiums under the contract are at a uniform rate throughout the period for which they are payable, the premiums to be valued shall not be greater than such level premiums as, if payable for the same period as the actual premiums under the contract and calculated according to the rates of interest and rates of mortality or disability which are to be employed in calculating the liability under the contract, would have been sufficient at the outset to provide for the benefits under the contract according to the contingencies upon which they are payable, exclusive of any additions for profits, expenses or other charges;
- (b) where the premiums under the contract are not at a uniform rate throughout the period for which they are payable, the premiums to be valued shall not be greater than such premiums as would be determined on the principles set out in subparagraph (a) above modified as appropriate to take account of the variations in the premiums payable by the policyholder in each year;

save that a premium to be valued shall in no year be greater than the amount of the premium payable by the policyholder.

(2) Where the terms of the contract have changed since the contract was first made (the terms of the contract being taken to change for the purposes of this paragraph if the change is indicated in an endorsement on the policy but not if a new policy is issued), then, for the purposes of paragraph (1) above it shall be assumed that those changes from the time they occurred were provided for in the contract at the time it was made.

(3) Where under a contract (not being a linked long term contract)—

- (a) each premium paid increases the benefits (other than benefits arising from a distribution of surplus) provided under the contract; or
- (b) the amount of a premium payable in future is not determinable until it comes to be paid,

future premiums and the corresponding liability may be left out of account so long as adequate provision is made against any risk that the increase in the liabilities of the society resulting from the payment of future premiums might exceed the amount of the premiums.

(4) An alternative valuation method to that described in paragraphs (1) to (3) above may be used where it can be demonstrated that the alternative method results in reserves no less, in aggregate, that would result from use of the method described in those paragraphs.

Acquisition expenses

42.—(1) In order to take account of acquisition expenses, the maximum annual premium to be valued under regulation 41 above may (subject to paragraph (2) below) be increased by an amount not greater than the equivalent, taken over the whole period of premium payments and calculated according to the rates of interest and rates of mortality or disability employed in valuing the contract, of 3.5 per cent. (or the defined percentage, if it is lower than 3.5 per cent.) of the relevant capital sum under the contract.

(2) For the purposes of paragraph (1) above “the defined percentage” is the percentage arrived at by taking (for all contracts of the same type as the contract in question for which an adjustment is made) the average of the percentages of the relevant capital sum under each such contract that represent the acquisition costs incurred which, after allowing for the effects of taxation, might reasonably be recovered from the premiums payable under the contract.

(3) The increase permitted by the paragraph (1) above shall be subject to the limitation that the amount of a future premium valued shall not in any event be greater than the amount of the premium actually payable by the policyholder.

(4) For the purposes of this regulation—

- (a) for contracts other than temporary assurances, the relevant capital sum under a contract shall be arrived at in accordance with regulation 10(4) above; and
- (b) for temporary assurances, the relevant capital sum shall be the sum assured on the valuation date.

Rates of interest

43.—(1) The rates of interest to be used in calculating the present value of future payments by or to a society shall be no greater than the rates of interest determined from a prudent assessment of the yields on existing assets attributed to the long term business and, to the extent appropriate, the yields which it is expected will be obtained on sums to be invested in the future.

(2) For the purposes of paragraph (1) above, the assumed yield on an asset attributed to the long term business, before any adjustment to take account of the effect of taxation, shall not exceed the yield on that asset calculated in accordance with paragraphs (3) to (7) below, reduced by 2.5 per cent. of that yield.

(3) For the purpose of calculating the yield on an asset—

- (a) the asset shall be valued in accordance with Part IV of these Regulations, excluding any provision under which assets may be taken at lower book values for the purposes of an investigation to which section 46 or 47 of the 1992 Act applies; and
- (b) where a particular asset is required to be taken into account only to a specified extent by the operation of regulation 32 above, the future income to be taken into account (whether interest, dividends or repayments of capital) shall be correspondingly reduced.

(4) For fixed interest investments (that is to say, investments which are fixed interest securities as defined in regulation 19(1) above) the yield on an asset, subject to paragraph (7) below, shall be that annual rate of interest which, if used to calculate the present value of future payments of interest before the deduction of tax and the present value of repayments of capital, would result in the sum of those amounts being equal to the value of the asset.

(5) For variable interest investments (that is to say, investments which are not fixed interest securities as defined in regulation 19(1) above) that are equity shares or land, the yield on an asset, subject to paragraph (7) below, shall be the ratio to the value of the asset of the income before deduction of tax which would be received in the period of twelve months following the valuation date on the assumption that the asset will be held throughout that period and that the factors which affect income will remain unchanged, so however that account shall be taken of any changes in those factors known to have occurred by the valuation date and in particular, without prejudice to the generality of the foregoing, of—

- (a) any known changes in the rental income from property or in dividends on equity shares;
- (b) any forecast changes in dividends which have been publicly announced by the valuation date;
- (c) the effect of any alterations in capital structure; and
- (d) the value (at the most recent date for which it is known at the valuation date) of any determinant of the amount of any future interest payment, the said value being deemed to remain unaltered for all subsequent dates.

(6) For variable interest investments (that is to say, investments which are not fixed interest securities as defined in regulation 19(1) above) other than equity shares or land, the yield on an

asset, subject to paragraph (7) below, shall be that annual rate of interest which, if used to calculate the present value of future payments of interest, before deduction of tax, and the present value of repayments of capital, where applicable, would result in the sum of these amounts being equal to the value of the asset, on the assumption that—

- (a) the value of any determinant of the amount of the next interest rate payment and capital repayment made during the following twelve months will be the value of that determinant at the most recent date for which it is known at the valuation date;
- (b) the amount of future interest payments and capital repayments will take account, where appropriate, of—
 - (i) the right of either party to have the investment repaid; and
 - (ii) an assumed yield on other comparable investments made in the future not exceeding an amount determined in accordance with paragraphs (8) to (10) below; and
- (c) indices and all other factors which affect future income payments or capital repayment will remain unchanged after the valuation date.

(7) In calculating the yield on an asset under this regulation—

- (a) if the asset does not consist of equity shares or land—
 - (i) a prudent adjustment shall be made to exclude that part of the yield estimated to represent compensation for the risk that the income from the asset might not be maintained or that capital repayments might not be received as they fall due; and
 - (ii) in making that adjustment, regard shall be had wherever possible to the yields on risk-free investments of a similar term in the same currency;
- (b) for assets which are equity shares or land, adjustments to yields shall be made as appropriate to exclude that part, if any, of the yield from each category of asset that is needed to compensation for the risk that the aggregate income from that category of asset, taking one year with another, might not be maintained; for the purposes of this subparagraph, a “category of asset” comprises assets of a similar nature, type and degree of risk.

(8) To the extent that it is necessary to make an assumption about the yields which will be obtained on sums to be invested in future, the yield shall be determined in accordance with paragraphs (9) and (10) below.

(9) Where the liabilities are denominated in sterling, the yield assumed, before any adjustments to take account of the effect of taxation—

- (a) on any investment to be made more than three years after the valuation date, shall not exceed the lowest of—
 - (i) the long term gilt yield current on the valuation date; or
 - (ii) 6 per cent. per annum, increased by one quarter of the excess, if any, of the long term gilt yield current on the valuation date over 6 per cent. per annum; or
 - (iii) 7.5 per cent. per annum,

where “the long term gilt yield” means the annualised equivalent of the 15 year medium coupon yield for United Kingdom Government fixed-interest securities jointly compiled by the Financial Times, the Institute of Actuaries and the Faculty of Actuaries;

- (b) on any investment to be made at any time not more than three years after the valuation date shall not exceed the assumed yield determined under paragraph (2) above adjusted linearly over the said three years to the yield determined in accordance with subparagraph (a) above.

(10) Where the liabilities are denominated in currencies other than sterling, the yield shall be determined on assumptions that are as prudent as those made under paragraph (9) above.

(11) In no case shall a rate of interest determined for the purposes of paragraph (1) above exceed the adjusted overall yield on assets calculated as the weighted average of the reduced yields on the individual assets arrived at under paragraph (2) above; and when that weighted average is calculated—

- (a) the weight given to each investment shall be its value as an asset determined in accordance with Part IV of these Regulations, excluding any provision under which assets may be taken at lower book values for the purposes of any investigation to which section 46 or 47 of the 1992 Act applies; and
- (b) except in relation to the rate of interest used in valuing payments of property linked benefits (as defined in regulation 19(1) above), both the yield and the value of any linked assets (as so defined) shall be omitted from the calculation.

(12) For the purpose of determining the rates of interest to be used in valuing a particular category of contracts the assets may, where appropriate, be notionally apportioned between different categories of contracts.

Rates of mortality and disability

44. The amount of the liability in respect of any category of contract shall, where relevant, be determined on the basis of prudent rates of mortality and disability and any other decrement that take into account—

- (a) where the policyholder is an individual, the state in which he has his habitual residence; and
- (b) where the policyholder is not an individual, the state in which the establishment of the policyholder to which the commitment covered by the contract relates is situated.

Expenses

45.—(1) Provision for expenses, whether implicit or explicit, shall be not less than the amount required, on prudent assumptions, to meet the total net cost, after taking account of the effect of taxation, that would be likely to be incurred in fulfilling existing contracts if the society were to cease to transact new business twelve months after the valuation date.

(2) The provision mentioned in paragraph (1) above shall have regard to, among other things, the society's actual expenses in the last twelve months before the valuation date and to the effects of inflation on future expenses on prudent assumptions as to the future rates of increase in prices and earnings.

Options

46.—(1) Provision shall be made on prudent assumptions to cover any increase in liabilities caused by policyholders exercising options under their contracts.

(2) Where a contract includes an option whereby the policyholder could secure a guaranteed cash payment within twelve months following the valuation date, the provision for that option shall be such as to ensure that the value placed on the contract is not less than the amount required to provide for the payments that would have to be made if the option were exercised.

Contracts not to be treated as assets

47. No contract for long term business shall be treated as an asset.

No credit for profits from voluntary discontinuance

48. Allowance shall not be made in the valuation for the voluntary discontinuance of any contract if the amount of the liability so determined would thereby be reduced.

Nature and term of assets

49. The determination of the amount of long term liabilities shall take into account the nature and term of the assets representing those liabilities and the value placed upon them and shall include prudent provision against the effects of possible future changes in the value of the assets on—

- (a) the ability of the society to meet its obligations arising under contracts for long term business as they arise; and
- (b) the adequacy of the assets to meet the liabilities as determined in accordance with regulations 39 to 48 above.

PART VI

CONDUCT OF LONG TERM BUSINESS

Application: Part VI

50. This Part of these Regulations shall apply to a society which carries on long term business.

Linked long term contracts

51.—(1) Benefits payable under any contract to which this regulation applies shall not be determined, either wholly or partly, by reference to the value of, or the income from, or fluctuations in the value of, property of any description other than property of any of the descriptions specified in Part I of Schedule 6 which, where appropriate, comply with the provisions of paragraph 16 of that Schedule.

(2) Benefits payable under any contract to which this regulation applies shall not be determined, whether directly or indirectly, either wholly or partly by reference to fluctuations in any index of the value of property other than an index described in Part II of Schedule 6.

(3) This regulation applies to ordinary long term contracts entered into by societies, including any such contracts entered into before the coming into force of these Regulations, which—

- (a) are contracts under which the benefits payable to the policyholder are wholly or partly to be determined by reference to the value of, or the income from, property of any description (whether or not specified in the contract) or by reference to fluctuations in, or in an index of, the value of property of any description (whether or not so specified); and
- (b) are not contracts specified in paragraph (4) below as being contracts to which this regulation does not apply.

(4) The contracts referred to in paragraph 3(b) above to which this regulation does not apply are—

- (a) contracts with any policyholder who is a person not ordinarily resident in the United Kingdom;
- (b) contracts to manage the investments of pension funds that are not combined with contracts of insurance covering either conservation of capital or payment of a minimum interest.

(5) Benefits payable under contracts referred to in paragraph (4)(b) above shall not be determined, either wholly or partly, by reference to the value of, or the income from, or fluctuations in the

value of derivative contracts other than permitted derivative contracts as defined in paragraph 15 of Schedule 6.

(6) Any reference in this regulation to contracts of a similar description to any specified contract is a reference to contracts which correspond with that contract in both the following respects—

- (a) the provisions defining the descriptions of property or indices by reference to which the benefits payable thereunder are to be determined are the same as in that contract; and
- (b) the society or other person undertaking to pay the benefits provided for thereunder is the same as in that contract.

(7) In this regulation any reference to an ordinary long term contract is a reference to a contract the effecting of which constituted the carrying on of ordinary long term business.

Statutory notice: long term business

52.—(1) Subject to the following provisions of this regulation—

- (a) a statutory notice shall have the contents and be in the form set out in Schedule 7; and
- (b) the notice of cancellation to be annexed to a statutory notice shall have the contents and be in the form set out in Schedule 8.

(2) A statutory notice shall be printed on a single sheet of paper.

(3) The lettering of statutory notices and notices of cancellation shall be easily legible; and capital letters and figures shall be used in all the places in which they are shown in the form as set out in Schedule 7.

(4) In statutory notices the lettering of the words “**IMPORTANT—YOU SHOULD READ THIS CAREFULLY**” shall be set out in larger printing than all other lettering and in bolder printing than all other lettering except that of main headings and subheadings.

(5) In statutory notices and notices of cancellation the lettering of all main headings and subheadings shall be set out in bolder printing than all other lettering except (in the case of a statutory notice) that of the words “**IMPORTANT—YOU SHOULD READ THIS CAREFULLY**”.

(6) In statutory notices and notices of cancellation there shall be substituted for words contained within square brackets in the appropriate Schedule and for the square brackets containing them the information or wording which, as indicated by those words, should be inserted there.

(7) For the purposes of this regulation and Schedules 7 and 8—

“notice of cancellation” means a notice of the kind mentioned in section 67B(4)(b) of the 1992 Act;

“statutory notice” means a notice of the kind mentioned in section 67B(4) of the 1992 Act;

and in the paragraphs in the form set out in Schedule 7 headed “Your right to withdraw from the transaction” the description or title of the person to whom the notice of cancellation should be sent may be substituted for or included with the name of that person.

PART VII

STATISTICAL INFORMATION

Interpretation: Part VII

53. In this Part of these Regulations—

- (a) references to insurance business, general business and long term business do not include reinsurance business;

- (b) “gross premiums” means premiums after deduction of discounts, refunds, rebates of premium and any taxes or levies that are related to those premiums but before deduction of premiums for reinsurance ceded and before deduction of commission payable by the society;
- (c) “the commencement date” means the day on which these Regulations come into force; and
- (d) references, in relation to the provision of general insurance or the carrying on of general business, to the groups of classes are to the following two groups—
 - (i) accident and sickness, that is to say, general business of classes 1 and 2 specified in Head B of Schedule 2 to the 1992 Act: and
 - (ii) miscellaneous financial loss, that is to say, general business of class 3 so specified.

Application: Part VII

54. This Part of these Regulations applies to a society to which section 37(2) or (3) of the 1992 Act applies.

Insurance statistics: EFTA States

55.—(1) Every society to which this Part of these Regulations applies which provides, in any financial year ending after the commencement date, long term insurance in an EFTA State through an establishment in the United Kingdom shall prepare, in respect of long term insurance so provided by it, a statement of gross premiums receivable by each of classes 1 to VI specified in Head A of Schedule 2 to the 1992 Act.

(2) The statement prepared under paragraph (1) above shall show separately—

- (a) gross premiums receivable in respect of commitments for which the society requires authorisation in the EFTA State in which the commitments are situated in accordance with Article 12 of the second life Directive; and
- (b) gross premiums receivable in respect of commitments for which the society does not require authorisation in that EFTA State in accordance with Article 14 of that Directive.

(3) Every society to which this Part of these Regulations applies which, in any financial year ending after the commencement date, provides general insurance in an EFTA State through an establishment in the United Kingdom shall prepare, in respect of general insurance so provided by it—

- (a) a statement of gross premiums receivable by each group of classes; and
- (b) where the gross premiums earned in respect of general insurance so provided by its exceed 2,500,000 ECU, an underwriting account showing, in respect of each group of classes, the items specified in paragraph (6) below.

(4) A separate statement and underwriting account shall be prepared under paragraph (1) and (3) above in respect of each EFTA State in which the society provides the insurance.

(5) If—

- (a) in respect of general insurance provided by it in the EFTA State concerned through all its establishments (in the United Kingdom and elsewhere), the society earns in any financial year ending after the commencement date gross premiums in excess of 2,500,000 ECU; and
- (b) the supervisory authorities of that EFTA State request the Commission to give a direction under this paragraph,

the Commission may by notice in writing direct the society in future to prepare, in respect of general insurance provided by it in that EFTA State through an establishment in the United Kingdom,

an underwriting account showing, in respect of each group of classes, the items specified in paragraph (6) below.

(6) For the purposes of paragraphs (3) and (5) above the items which the underwriting account must show are as follows—

- (a) the total gross premiums earned in the financial year;
- (b) the total cost of gross claims incurred in the financial year;
- (c) the total cost of gross commission attributable to premiums referred to in subparagraph (a) above; and
- (d) the gross underwriting result.

(7) In paragraph (6) above—

- (a) the gross premiums mentioned in subparagraph (a) are the gross premiums written in the financial year in addition to gross premiums unearned brought forward less gross premiums unearned carried forward;
- (b) the gross claims mentioned in subparagraph (b) are the gross claims paid in the financial year in addition to gross claims outstanding carried forward less gross claims outstanding brought forward, and including directly attributable expenses;
- (c) the gross commission mentioned in subparagraph (c) is the gross commission paid in the financial year plus gross commission brought forward less gross commission carried forward; and
- (d) the gross underwriting result mentioned in subparagraph (d) is reached by deducting from the amount in subparagraph (a) the amounts referred to in subparagraphs (b) and (c).

(8) In respect of any financial year part of which falls before the commencement date, any statement or underwriting account required by paragraph (1), (3) or (5) above may be prepared solely in respect of long term or general insurance provided on or after that date.

Insurance statistics: member States

56.—(1) Every society to which this Part of these Regulations applies which in a financial year ending after the commencement date—

- (a) carries on long term business in a member State other than the United Kingdom through an overseas branch in that State; or
- (b) provides long term insurance in a member State other than the United Kingdom through an establishment in another member State,

shall prepare in respect of long term business so carried on by it, or long term insurance so provided by it, a statement of gross premiums receivable by each of classes I to VII specified in head A of Schedule 2 to the 1992 Act.

(2) Every society to which this Part of these Regulations applies which in a financial year ending after the commencement date—

- (a) carries on general business in a member State other than the United Kingdom through an overseas branch in that State; or
- (b) provides general insurance in a member State other than the United Kingdom through an establishment in another member State,

shall prepare in respect of general business so carried on by it, or general insurance so provided by it, a statement of gross premiums receivable by each group of classes.

(3) The statements referred to in paragraphs (1) and (2) above shall be prepared separately in respect of each member State in which the society carries on the insurance business or provides the insurance.

(4) Subject to paragraph (5) below, in respect of any financial year part of which falls before the commencement date, the statement required by paragraph (1) and (2) above may be prepared solely in respect of long term or general insurance so provided or so carried on on or after that date.

(5) Paragraph (4) above does not apply in relation to any insurance provided in a member State before the commencement date where the society had notified the Commission of its intention to provide such insurance under section 57(1) or 57A(1) of the 1992 Act prior to 1st January 1994.

Regulations 55 and 56: supplementary provisions

57.—(1) Where a statement or underwriting account is prepared by a society under regulation 55(1), (3) or (5), or 56(1) or (2) above, the society shall—

- (a) cause the statement or account to be printed; and
- (b) deposit three copies of the statement or account with the Commission within nine months after the end of the financial year to which it relates,

but the Commission may extend that period of nine months by such period (not exceeding three months) as it thinks fit.

(2) One of the copies of any statement or account deposited under paragraph (1) above shall be signed by the chief executive or secretary of the society.

(3) The Commission shall—

- (a) consider any statement or account deposited under paragraph (1) above, and
- (b) if the statement or account appears to it to be inaccurate or incomplete in any respect, communicate with the society with a view to the correction of any inaccuracies and the supply of any deficiencies.

Notification of non-provision of insurance or non-carrying on of business

58.—(1) Subject to paragraph (2) below, where a society which has notified the Commission—

- (a) in accordance with paragraph 1 of Schedule 13B to the 1992 Act, of its intention to establish an overseas branch in a member State other than the United Kingdom; or
- (b) in accordance with paragraph 5 or 9 of that Schedule, of its intention to provide insurance in an EEA State other than the United Kingdom,

does not in any financial year carry on insurance business or, as the case may be, provide insurance in that State, it shall send to the Commission a notification of that fact within nine months after the end of the financial year to which the notification relates, signed by the chief executive or secretary of the society.

(2) Paragraph (1) above shall not apply if the society has, before the beginning of the financial year, informed the Commission that it no longer intends to carry on insurance business or, as the case may be, provide insurance in the member State or EEA State in question.

(3) The Commission shall—

- (a) consider any notification given under paragraph (1) above; and
- (b) if the notification appears to it to be inaccurate or incomplete in any respect, communicate with the society with a view to the correction of any inaccuracies and the supply of any deficiencies.

Default in complying with regulations 55 to 58

59.—(1) A society shall be guilty of an offence if it makes default in complying with any of regulations 55 to 58 above.

- (2) A person shall be guilty of an offence if either—
- (a) he causes or permits to be included in a document deposited with the Commission under regulation 57(1) above a statement which he knows to be false in a material particular; or
 - (b) he recklessly causes or permits to be so included a statement which is false in a material particular.
- (3) A person guilty of an offence under this regulation shall be liable—
- (a) on summary conviction in Great Britain, to a fine not exceeding level 5 on the standard scale; and
 - (b) on summary conviction in Northern Ireland, to a fine not exceeding £2,000.

PART VIII

MISCELLANEOUS

Annual actuarial investigation: prescribed societies

60. A friendly society which is an incorporated friendly society carrying on long term business, and is not a society to which section 37(2) of the 1992 Act applies, is prescribed for the purposes of section 46(1)(b) of the 1992 Act and accordingly shall, once in every period of 12 months, cause an investigation to be made by the appropriate actuary into the financial condition of the society in respect of its long term business in accordance with section 46 of that Act.

Annual investigation: signature of copy of abstract

61.—(1) For the purposes of section 46(3) of the 1992 Act (signature of a copy of an abstract of an actuary's report), one copy of the abstract of the actuary's report shall be signed by the following persons:

- (a) the actuary who prepared the report;
- (b) the chief executive;
- (c) the secretary; and
- (d) subject to paragraph (2) below, one member of the committee of management.

(2) Where the offices of chief executive and secretary are held by the same person, the copy of the abstract shall be signed, in addition to the persons referred to in paragraphs (1)(a) and (b) above, by two members of the committee of management.

Transitional provision

62.—(1) Notwithstanding regulation 3(2) above, an authorised registered friendly society is not prescribed for the purposes of section 48(1)(c) of the 1992 Act until the first investigation return date, and accordingly Part II of these Regulations shall not apply to such a society until that date.

(2) For the purposes of paragraph (1) above, the "first investigation return date" is the date by which, in accordance with section 47(2) of the 1992 Act, a society is required to send to the Commission an abstract of the appropriate actuary's report on the first investigation into the society's financial condition or, if earlier, the date on which the society sends that abstract to the Commission.

Revocations

63.—(1) The Friendly Societies (Insurance Business No. 2) Regulations 1993(**20**) are hereby revoked.

(2) Regulations 8 to 13 of the Friendly Societies (Amendment) Regulations 1993(**21**) are hereby revoked.

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 18th July 1994.

L.S.

Michael Cook
Secretary to the Commission

We consent to regulations 1-11, 19-51 and 60-63(1).

Tim Wood
Irvine Patnick
Two of the Lords Commissioners of Her
Majesty's Treasury

20th July 1994

SCHEDULE 1

Regulation 4

LONG TERM BUSINESS MARGIN OF SOLVENCY

Long term classes I and II

1.—(1) For long term business of class I or II the required margin of solvency shall be determined by taking the aggregate of the results arrived at by applying the calculation described in subparagraph (2) below (“the first calculation”) and the calculation described in subparagraphs (3), (4) and (5) below (“the second calculation”).

(2) For the first calculation—

- (a) there shall be taken a sum equal to 4 per cent. of the mathematical reserves for direct business and reinsurance acceptances without any deduction for reinsurance cessions;
- (b) the amount of the mathematical reserves at the end of the last preceding financial year after the deduction of reinsurance cessions shall be expressed as a percentage of the amount of those mathematical reserves before any such deduction; and
- (c) the sum mentioned in paragraph (a) above shall be multiplied—
 - (i) where the percentage arrived at under paragraph (b) above is greater than 85 per cent., by that greater percentage, and
 - (ii) in any other case, by 85 per cent..

(3) For the second calculation—

- (a) there shall be taken, subject to subparagraphs (4) and (5) below, a sum equal to 0.3 per cent. of the capital at risk for contracts on which the capital at risk is not a negative figure;
- (b) the amount of the capital at risk at the end of the last preceding financial year for contracts on which the capital at risk is not a negative figure, after the deduction of reinsurance cessions, shall be expressed as a percentage of the amount of that capital at risk before any such deduction; and
- (c) the sum arrived at under paragraph (a) above shall be multiplied—
 - (i) where the percentage arrived at under paragraph (b) above is greater than 50 per cent., by that greater percentage, and
 - (ii) in any other case, by 50 per cent.

(4) Where a contract provides for benefits payable only on death within a specified period and is valid for a period of not more than three years from the date when the contract was first made, the percentage to be taken for the purposes of subparagraph (3)(a) above shall be 0.1 per cent; and where the period of validity from the date is more than three years but not more than five years, the percentage to be so taken shall be 0.15 per cent.

(5) For the purposes of subparagraph (4) above, the period of validity of the contract evidencing a group policy is the period from the date when the premium rates under the contract were last reviewed for which the premium rates are guaranteed.

(6) For the purposes of the second calculation, the capital at risk is—

- (a) in any case in which an amount is payable in consequence of death other than a case falling within paragraph (b) below, the amount payable on death; and
- (b) in any case in which the benefit under the contract in question consists of the making, in consequence of death, of the payment of an annuity, payment of a sum by instalments or any other kind of periodic payments, the present value of that benefit,

less in either case the mathematical reserves in respect of the relevant contracts.

(7) When the amount of the mathematical reserves referred to in subparagraph (2)(a) above, or the amount of the capital at risk referred to in subparagraph (3)(a) above, is to be calculated for the purposes of determining the required margin of solvency, the day as on which that amount is calculated shall be the same as that on which the margin of solvency is determined; and the mathematical reserves referred to in subparagraph (6) above shall also be calculated as on that day when the capital at risk in question is that referred to in subparagraph (3)(a) above, but shall be calculated as at the end of the last preceding financial year when the capital at risk in question is that referred to in subparagraph (3)(b) above.

Long term classes III and VII

2.—(1) For long term business of class III or VII the required margin of solvency shall be determined in accordance with subparagraphs (2) to (5) below.

(2) In so far as a society bears an investment risk, the first calculation shall be applied.

(3) In so far as—

- (a) a society bears no investment risk; and
- (b) the total expired and unexpired term of the relevant contract exceeds five years; and
- (c) the allocation to cover management expenses in the relevant contract has a fixed upper limit which is effective as a limit for a period exceeding five years,

the first calculation shall be applied, but as if paragraph 1(2)(a) above contained a reference to 1 per cent. instead of 4 per cent.

(4) If neither subparagraph (2) nor subparagraph (3) above applies, then, subject to subparagraph (5) below, the required margin of solvency is zero.

(5) Where a society covers a death risk, a sum arrived at by applying the second calculation disregarding paragraph 1(4) and (5) shall be added to any required margin of solvency, including a required margin of solvency of zero, arrived at under subparagraph (2), (3) or (4) above.

Long term classes IV and VI

3. For long term business of class IV or VI the required margin of solvency shall be determined by applying the first calculation.

Long term class V

4. For long term business of class V the required margin of solvency shall be equal to 1 per cent. of the assets of the relevant tontine.

SCHEDULE 2

Regulation 4

GENERAL BUSINESS SOLVENCY MARGIN: FIRST METHOD OF CALCULATION (PREMIUM BASIS)

1. In this Schedule—

“gross premiums”, in relation to a society and a financial year—

- (a) means premiums after deduction of discounts, refunds and rebates of premium but before deduction of premiums for reinsurance ceded and before deduction of commission payable by the society; and

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(b) includes premiums receivable by the society under reinsurance contracts accepted by the society,

“receivable”, in relation to a society, a financial year and a premium, means recorded in the society’s books as due to the society in respect of—

(a) a contract commencing in that year; or

(b) a contract not accounted for in an annual revenue account of the society prior to that year, even though the contract commenced in an earlier financial year,

whether or not the society has received the premium;

“recoverable”, in relation to a society and a financial year, means recorded in the society’s books as due in that year, whether or not the society has received any payment;

“taxes included in the premiums” shall have the same meaning as the words “taxes pertaining to the premiums” in the third indent of the first subparagraph of Article 16(3) of the first general insurance Directive.

2. The gross premiums receivable in respect of the society’s entire general business for the last preceding financial year shall be aggregated.

3. From the aggregate arrived at under paragraph 2 above there shall be deducted—

(a) any taxes included in the premiums mentioned in paragraph 2 above; and

(b) any levies that are related to premiums and are recorded in the society’s books as payable in the last preceding financial year in respect of general business.

4. The amount arrived at under paragraph 3 above shall be multiplied by twelve and divided by the number of months in the financial year.

5. If the amount arrived at under paragraph 4 above is more than 10 million ECU, it shall be divided into two portions, the former consisting of 10 million ECU and the latter comprising the excess.

6. Where there has been a division into two portions pursuant to paragraph 5 above, there shall be calculated and added together 18 per cent., and 16 per cent. of the two portions respectively; and where there has been no such division, there shall be calculated 18 per cent. of the amount arrived at under paragraph 4 above.

7. In the case of general business consisting of health insurance based on actuarial principles, paragraph 6 above shall apply with the substitution of “6 per cent.” for “18 per cent.” and “51/3 per cent.” for “16 per cent.”, but only if all the necessary conditions are satisfied.

8. For the purposes of paragraph 7 above, the necessary conditions are as follows, that is to say—

(a) the gross premiums receivable shall be calculated on the basis of sickness tables appropriate to insurance business;

(b) the reserves shall include provision for increasing age;

(c) an additional premium shall be collected in order to set up a safety margin of an appropriate amount;

(d) it shall not be possible for the society to cancel the contract after the end of the third year of insurance;

(e) the contract shall provide for the possibility of increasing premiums or reducing payments during its currency.

9. Where paragraph 7 above applies to a society whose general business consists partly of health insurance based on actuarial principles and partly of other business, the procedure provided in paragraphs 2 to 7 above shall operate separately for each part of the general business, so as to produce

a sum under paragraph 7 above for the health insurance and a sum under paragraph 6 above for the other business.

10.—(1) If the provision for claims outstanding at the end of the last preceding financial year exceeds the provision for claims outstanding at the beginning of that year, the amount of the excess shall be added to the amount of claims paid in the last preceding financial year.

(2) If the provision for claims outstanding at the beginning of the last preceding financial year exceeds the provision for claims outstanding at the end of that year, the amount of the excess shall be deducted from the amount of claims paid in the last preceding financial year.

11.—(1) For the purposes of paragraph 10 above, the amount of claims paid, in relation to a society and a financial year, is the amount that is recorded in the society's books at the end of the financial year as paid by it (whether or not payment has been effected in that year) in full or partial settlement of—

- (a) the claims described in subparagraph (2) below; and
- (b) the expenses described in subparagraph (3) below,

less any recoverable amounts within the meaning of subparagraph (4) below.

(2) The claims mentioned in subparagraph (1) above are claims under contracts of insurance (and under contracts of reinsurance accepted by the society) including claims relating to business accounted for over a longer period than a financial year.

(3) The expenses mentioned in subparagraph (1) above are expenses (such as, for example, legal or medical costs) which are incurred by the society, whether through the employment of its own staff or otherwise, and are directly attributable to the settlement of individual claims, whether or not the individual claims in question are those mentioned in subparagraph (1) above.

(4) Recoverable amounts for the purposes of subparagraph (1) above are amounts recoverable by the society in respect of the claims mentioned in that subparagraph or other claims, including amounts recoverable from third parties and amounts recoverable from other insurers but excluding amounts recoverable in respect of reinsurance ceded by the society.

12.—(1) For the purposes of paragraph 10 above, the provisions for claims outstanding, in relation to a society and a financial year, is (subject to any applicable valuation regulations in Part IV of these Regulations) the amount set aside by the society as at the beginning or end of the financial year as being an amount likely to be sufficient to meet—

- (a) the claims described in subparagraph (2) below; and
- (b) the expenses described in subparagraph (3) below,

less any recoverable amounts within the meaning of subparagraph (4) below.

(2) The claims mentioned in subparagraph (1) above are claims under contracts of insurance in respect of incidents occurring—

- (a) in the case of an amount set aside as at the beginning of the financial year, before the beginning of that year, and
- (b) in the case of an amount set aside as at the end of a financial year, before the end of that year,

being claims which have not been treated as claims paid and including claims relating to business accounted for over a longer period than a financial year, claims the amounts of which have not been determined and claims arising out of incidents that have not been notified to the society.

(3) The expenses mentioned in subparagraph (1) above are expenses (such as, for example, legal or medical costs) which are likely to be incurred by the society, whether through the employment of

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its own staff or otherwise and are directly attributable to the settlement of individual claims, whether or not the individual claims in question are those mentioned in subparagraph (1) above.

(4) Recoverable amounts for the purposes of subparagraph (1) above are amounts estimated by the society to be recoverable by it in respect of the claims mentioned in that subparagraph, including amounts recoverable from third parties and amounts recoverable from other insurers but excluding amounts recoverable in respect of reinsurance ceded by the society.

13. From the amount determined under paragraph 10(1) or (2) above there shall be deducted the total sum recoverable in respect of that amount under reinsurance contracts ceded.

14. The amount determined under paragraph 13 above shall be expressed as a percentage of the amount determined under paragraph 10(1) or (2) above.

15. The sum arrived at under paragraph 6 or 7 above or the aggregate of the sums arrived at under those paragraphs, as the case may be, shall be multiplied—

- (a) where the percentage arrived at under paragraph 14 above is greater than 50 per cent. but not greater than 100 per cent., by the percentage so arrived at,
- (b) where the percentage so arrived at is greater than 100 per cent., by 100 per cent., and
- (c) in any other case, by 50 per cent.

SCHEDULE 3

Regulation 4

GENERAL BUSINESS SOLVENCY MARGIN: SECOND METHOD OF CALCULATION (CLAIMS BASIS)

1. In this Schedule “reference period”, in relation to a society, means the three last preceding financial years.

2. If a society has not been in existence long enough to acquire a reference period, this Schedule shall be deemed to give a lower result than that given by Schedule 2 and shall otherwise not apply to the society.

3.—(1) If the provision for claims outstanding at the end of the reference period exceeds the provision for claims outstanding at the beginning of the reference period, the amount of the excess shall be added to the amount of claims paid in the reference period.

(2) If the provision for claims outstanding at the beginning of the reference period exceeds the provision for claims outstanding at the end of the reference period, the amount of the excess shall be deducted from the amount of claims paid in the reference period.

(3) For the purposes of this paragraph, the expressions “amount of claims paid” and “provision for claims outstanding” have, in relation to a reference period, the same meaning as they have in paragraph 10 of Schedule 2 in relation to a financial year.

4. The aggregate obtained under paragraph 3(1) or (2) above shall be divided by the number of months in the reference period and multiplied by twelve.

5. If the amount arrived at under paragraph 4 above is more than 7 million ECU, it shall be divided into two portions, the former consisting of 7 million ECU and the latter comprising the excess.

6. Where there has been a division into two portions pursuant to paragraph 5 above, there shall be calculated and added together 26 per cent. and 23 per cent. of the two portions respectively; and where there has been no such division, there shall be calculated 26 per cent. of the amount arrived at under paragraph 4 above.

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7. In the case of general business consisting of health insurance based on actuarial principles, paragraph 6 above shall apply with the substitution of “8 2/3 per cent.” for “26 per cent.” and “7 2/3 per cent.” for “23 per cent.”, but only if all the necessary conditions are satisfied.

8. The necessary conditions for the purposes of paragraph 7 above are the same as those set out in paragraph 8 of Schedule 2.

9. In a case of the kind mentioned in paragraph 9 of Schedule 2, that paragraph shall apply (with the necessary modifications) so as to produce separate sums under paragraphs 6 and 7 above.

10. The sum arrived at under paragraph 6 or 7 above or the aggregate of the sums arrived at under those paragraphs, as the case may be, shall be multiplied by the same percentage as is applicable for the purposes of paragraph 15 of Schedule 2.

SCHEDULE 4

Regulation 22

VALUE OF DEPENDANTS

PART I

THE SUPPLEMENTARY AMOUNT

1. Subject to paragraph 2(1) below, the supplementary amount in relation to assets of a relevant description held by a dependant of a society shall be determined in accordance with the following formula—

$$A = \frac{B}{C} \times D$$

in which—

A is the supplementary amount;

B is the amount by which the value of assets of that description held by the dependant, excluding any long term business assets of the dependant if it is an insurance company, exceeds the permitted limit applicable to the dependant in relation to those assets;

C is the aggregate of the amount specified in B above and of the amounts by which the value of assets of the same description held by other relevant dependants, excluding any long term business assets of a dependant which is an insurance company, exceeds respectively the permitted limits applicable to such other relevant dependants in relation to those assets;

D is—

- (a) where the society holds no assets of the same description of the relevant class, the amount of the permitted limit that would be applicable to the society in relation to such assets were it to hold them; and
- (b) where the society holds assets of the same description of the relevant class, the amount by which the permitted limit applicable to the society in relation to those assets exceeds the value of those assets.

2.—(1) Where for the purpose of determining any supplementary amount in accordance with paragraph 1 above the society cannot reasonably ascertain—

- (a) the value of any asset of a relevant dependant; or
- (b) the amount of the permitted limit applicable in relation to any asset of a relevant dependant,

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the asset in question shall be left out of account for that purpose.

(2) In this Part of this Schedule—

“relevant dependant” means—

- (a) where this Schedule is being applied in relation to the determination of the value of a share in, or debt due or to become due from, a dependant of the society which is a long term business asset of the society, any dependant of the society—
 - (i) a share in which, or in any body (whether incorporated or not) of which it is a jointly controlled body, is a long term business asset of the society; or
 - (ii) from which a debt is due, or will become due, to the society which is a long term business asset of that society; and
- (b) in any other case, any dependant of the society—
 - (i) a share in which, or in any body (whether incorporated or not) of which it is a jointly controlled body, is a general business asset of the society; or
 - (ii) from which a debt is due, or will become due, to the society which is a general business asset of that society.

PART II

FURTHER PROVISIONS AND MODIFICATIONS OF THE REGULATIONS APPLICABLE WITH RESPECT TO THE DETERMINATION OF THE VALUE OF DEPENDANTS

3.—(1) This paragraph applies where, for the purpose of ascertaining the value of the assets of the subject company under regulation 22 above, any determination falls to be made in accordance with regulation 22 of the value of the assets of a dependant of the society, a share in which, or a debt due or to become due from which, is an asset of the subject company; and reference herein to a determination of the value of assets of a dependant to which this paragraph applies are references to any such determination.

(2) Regulation 22(4) shall not apply with respect to a determination of the value of assets of a dependant to which this paragraph applies.

(3) Where, in the case of a determination of the value of assets of a dependant to which this paragraph applies—

- (a) the dependant is an insurance company and has general business assets of a relevant description or is not an insurance company and has assets of a relevant description,
- (b) the value of such assets exceeds the permitted limit applicable to the dependant in relation to those assets; and
- (c) any controller of the dependant has no assets of the same description of the relevant class, or has assets of the same description of the relevant class and their value is less than the permitted limit applicable to that controller in relation to those assets;

then, for the purposes of such determination, there shall be added to the permitted limit applicable to the dependant in relation to the assets referred to in paragraph (a) above an amount equal to the supplementary amount or, if there is more than one such controller, to the aggregate of the supplementary amounts, determined with respect to any such controller in accordance with Part I of this Schedule, subject where the controller is not the society, to the modifications specified in subparagraph (5) below.

(4) In this paragraph, “a controller” means, in relation to a dependant—

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- (a) the society; and
 - (b) the subject company, if it is an insurance company.
- (5) Where subparagraph (3) above is being applied in relation to a controller, other than the society—
- (a) Part I of this Schedule, as applied in accordance with the said subparagraph (3), shall have effect as if, for the reference to the society, there were substituted references to the controller; and
 - (b) the references to assets being of a relevant class in the said subparagraph (3) and in Part I of this Schedule, as so applied, shall be construed as referring to long term business assets of the controller, if subparagraph (3) is being applied in connection with the determination of the value of a long term business asset of the controller, and to general business assets of the controller, in any other case.
4. The modifications of these Regulations applicable (in addition to that specified in paragraph 3(2) above) with respect to the determination of the value of the assets of the subject company where it is not an insurance company are as follows—
- (a) these Regulations shall apply to the subject company as if it were an insurance company and its assets were being valued for the purpose specified in regulation 45(1) of the 1994 Regulations;
 - (b) regulation 45(2) of the 1994 Regulations shall not apply; and
 - (c) regulation 57 of those Regulations shall not apply.
5. In this Schedule, “subject company” means the dependant of the society the value of whose assets is being determined in accordance with regulation 22(2) or (3) (as the case may be).

SCHEDULE 5

Regulation 32

ASSETS TO BE TAKEN INTO ACCOUNT ONLY TO A SPECIFIED EXTENT

PART I

Descriptions of Asset	Percentage of general business or long term business amount
1. A piece of land or a number of pieces of such land to which in the most recent proper valuation of such pieces of land an aggregate value is ascribed which is greater than the aggregate of the value of each of such pieces of land valued separately.	5%
2. Debts due, or which will become due, to the society from an individual (other than an individual who is connected with the society within the meaning of section 31(5) of the 1982 Act), being debts which are fully secured on any dwelling or any land appurtenant (or in Scotland, appertaining) thereto owned or to be	1%

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Descriptions of Asset	Percentage of general business or long term business amount
purchased by the individual and used or to be used by him for his own residence.	
3. Unsecured debts, other than listed debentures or debts from an approved counterparty, which are debts due, or which will become due, (including debts which would become due if the society were to exercise any right to which it is entitled to require payment or repayment of the same) from a regulated institution and any of its connected companies (not being a dependant of the society).	2½%
4. Unsecured debts, other than listed debentures or debts from a regulated institution, which are debts due, or which will become due, to the society (including debts which would become due if the society were to exercise any right to which it is entitled to require payment or repayment of the same) from—	
(a) any one company and any of its connected companies (not being a dependant of the society)	1%
(b) any one unincorporated body of persons	1%
5. Debts due or which will become due, to the society from an individual (other than debts specified in regulation 23(3) above or paragraph 2 or 4(b) above).	¼%
6. The aggregate of debts, other than debentures, of the description in paragraph 4 above.	5%
7. Listed equity shares in any one company and any of its connected companies (not being a dependant of the society).	2½%
8. Listed shares (including listed equity shares) and listed debentures in any one company and any of its connected companies (not being a dependant of the society or an approved counterparty).	5%
9. Unlisted shares in any one company and any of its connected companies (not being a dependant of the society).	1%
10. The aggregate of unlisted debentures of the descriptions in paragraphs 3 and 4 above and of unlisted shares and debt of the descriptions in paragraph 9 above.	10%

Descriptions of Asset	Percentage of general business or long term business amount
11. Holdings in an authorised unit trust scheme or a recognised scheme (other than a scheme falling within the 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)(22).	5%
12. Subject to paragraph 13 below, shares held in or secured or unsecured debts (including debts which would become due if the society were to exercise any right to which it is entitled to require payment or repayment of the same) or the value of rights under derivative contracts due, or which will become due, from— (a) an individual; or (b) any one company and any of its connected companies (not being a dependant of the society); or (c) any one unincorporated body of persons	5%
13. Shares, debts and rights under derivative contracts to which the limitations in paragraph 12 apply, the holdings of which exceed 5% but which in aggregate are taken into account for no more than 40% of the business amount.	10%
14. Shares, debts and rights under derivative contracts to which the limitations in paragraph 12 and 13 apply which are issued by any one approved credit institution and any of its connected companies together with deposits held in that institution and any of its connected companies (not being a dependant of the society).	20%
15. Cash.	3%
16. Computer equipment.	5%
17. Office machinery (other than computer equipment), furniture, motor vehicles and other equipment.	2½%

PART II

18. In this Schedule, a company is connected with another company if it is—

- (a) a subsidiary of that other company; or

(22) O.J. No. L375, 31.12.85, p.3. Directive last amended by Directive [88/220/EEC](#) (O.J. No. L100, 19.4.88, p.31.)

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- (b) the holding company of that other company; or
- (c) a subsidiary of the holding company of that other company.

19. In this Schedule, references to “subsidiary” and “holding company” shall have the same meanings as they have in section 96 of the 1982 Act.

SCHEDULE 6

Regulation 51

PERMITTED LINKS

PART I

DESCRIPTIONS OF PROPERTY BY REFERENCE TO WHICH BENEFITS MAY BE DETERMINED

1. Securities (other than derivative contracts) which are listed.
2. Unlisted securities (other than derivative contracts) in aggregate 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 and the United States of America.
4. Loans—
 - (a) which are fully secured by mortgage (or in Scotland, by standard security) 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) of 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 in—
 - (a) a unit trust 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⁽²³⁾;
 - (b) an authorised unit trust scheme other than an authorised unit trust scheme falling within subparagraph (a) above;
 - (c) a recognised scheme within the meaning of sections 86, 87, and 88 of the Financial Services Act 1986⁽²⁴⁾ other than recognised schemes falling within subparagraph (a) above.
6. Approved securities.
7. Loans to or deposits with an approved credit institution, an approved financial institution or an approved investment firm.

⁽²³⁾ O.J. No. L375, 31.12.85, p.3; Directive last amended by Directive [88/220/EEC](#) (O.J. No. L100, 19.4.88, p.31).

⁽²⁴⁾ [1986 c. 60](#).

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 above and which under the contract is to be managed either—

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

PART II

INDICES BY REFERENCE TO WHICH BENEFITS MAY BE DETERMINED

12. An approved index.

PART III

13. Unless the context otherwise requires, words or expressions contained in this Schedule bear the same meaning as in Part IV 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) an index in respect of which a derivative contract is listed.

15.—(1) For the purposes of this Schedule, “permitted derivative contract” means a derivative contract to which subparagraph (2) below applies—

- (a) which is held for the purposes of reduction of investment risks or efficient portfolio management, and which—
 - (i) is held in connection with property falling within paragraphs 1 to 8 or 10 above for such purposes; or
 - (ii) has the equivalent effect to such a contract held in connection with such assets for such purposes;
- (b) in respect of which, having regard to its assets and liabilities, the society will have, so far as can reasonably be foreseen, and in the appropriate fund maintained by it, assets at the settlement date which match its obligations under that contract and from which it will fulfil those obligations; and

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- (c) which—
 - (i) is listed; or
 - (ii) the society has entered into with an approved counterparty and which it reasonably believes may be readily closed out by entering into a further permitted derivative contract with an approved counterparty.
- (2) This subparagraph applies to a contract entered into by a society to which section 37(2) or (3) of the 1992 Act applies and which is—
 - (a) a contract for differences under which the amount payable by either party is calculated by reference to fluctuations in the value of any property falling within paragraphs 1 to 10 of Part I above or in an approved index; or
 - (b) a futures contract or option, in each case providing for the acquisition or disposal of property, all of which is property falling within paragraphs 1 to 10 of Part I above.
- 16.** Benefits payable under any contract to which regulation 51 applies shall not be determined by reference to—
 - (a) property of any of the descriptions specified in paragraph 2, 5(b), 5(c) 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, fluctuations in the value of property other than property of the descriptions in Part I of this Schedule;
 - (b) property of the description in paragraph 2 above unless the securities are realisable in the short term without any diminution in value.

SCHEDULE 7

Regulation 52

STATUTORY NOTICE

[Insert the name and address of the person to whom this Notice is sent]

IMPORTANT! YOU SHOULD READ THIS CAREFULLY

STATUTORY NOTICE* RELATING TO LONG-TERM INSURANCE CONTRACT

YOUR RIGHT TO CHANGE YOUR MIND

[Identify the contract to which the notice relates or state how it may be identified e.g. by reference to an accompanying contract note]

You **have entered into/have applied to enter into** the above contract with [insert name or otherwise identify friendly society with whom the contract is being entered into].

You have a legal right to consider the matter again and change your mind if you wish.

Points you should consider

Before you decide whether you want to change your mind, ask yourself:

- If you received personal advice on your **policy/ contract of insurance**, are you clear whether that advice was given by an independent adviser working on your behalf or by someone representing the society?
- Have you received all the information you want in order to understand your **policy/ contract of insurance**?
- Are you satisfied that the **policy/contract of insurance** is suitable for your needs?

If the answer to any of these questions is NO, you should consult your adviser **or the society** as quickly as possible. There is no extension to the cancellation period if you ask for further information or if the reply is delayed.

Your right to withdraw from the transaction

If you wish to go ahead with the transaction you should do nothing with the attached notice of cancellation.

If you wish to withdraw, you should send the notice of cancellation to [insert the name and address of the person to whom the notice of cancellation should be sent] and you must post it on or before **if the contract is already in force insert: the 14th day after the day on which you received this notice** **if the contract is not yet in force insert: the 14th day after the date upon which you receive written notification informing you that the contract has become binding on you**.

This notice deals with your statutory right to cancel and does not affect your common law right to withdraw an order, application or proposal before it has been accepted.

Financial consequences of withdrawal

If you withdraw, you are entitled to have repaid to you any money you have paid the society, and you will have to repay any amounts already paid to you by the society under the contract.

* This notice is issued in compliance with the requirements of section 67B of the Friendly Societies Act 1992 and regulation 52 of the Friendly Societies (Insurance Business) Regulations 1994.

******* Delete as appropriate.

SCHEDULE 8

Regulation 52

NOTICE OF CANCELLATION

NOTICE OF CANCELLATION

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(To be returned only if you wish to cancel the contract)

To [name of society]

I hereby give notice that I have decided not to proceed with this insurance contract; and I require the return of any money paid to you or your agent in connection with it.

Signed.....

Date.....

[Name and address of the person to whom the Statutory Notice is being sent]

This notice relates to insurance contract reference [contract reference number or code].

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke the Friendly Societies (Insurance Business No. 2) Regulations 1993 (S.I.1993/2520) and regulations 8 to 13 of the Friendly Societies (Amendment) Regulations 1993 (S.I. 1993/2519) and re-enact those provisions with modifications. The Regulations apply to both incorporated and registered friendly societies and come into force on 1st September 1994.

The Regulations implement the relevant provisions of—

- (a) the First Life Directive (that is, Council Directive [79/267/EEC](#) on the co-ordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of direct life assurance (O.J. No. L63, 13.3.79, p.1));
- (b) the First Non-Life Directive (that is, Council Directive [73/239/EEC](#) on the co-ordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of direct insurance other than life assurance (O.J. No. L228, 16.8.73, p.3));
- (c) the Second Life Directive (that is, Council Directive [90/619/EEC](#) on the co-ordination of laws, regulations and administrative provisions relating to direct life assurance, laying down provisions to facilitate the effective exercise of freedom to provide services and amending Directive [79/267/EEC](#) (O.J. No. L330, 29.11.90, p.50));
- (d) the Second Non-Life Directive (that is, Council Directive [88/357/EEC](#) on the co-ordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and laying down provisions to facilitate the effective exercise of freedom to provide services and amending Directive [73/239/EEC](#) (O.J. No. L172, 4.7.88, p.1));
- (e) the Third Life Directive (that is, Council Directive [92/96/EEC](#) on the co-ordination of laws, regulations and administrative provisions relating to direct life assurance and amending Directives [79/267/EEC](#) and [90/619/EEC](#) (O.J. No. L360, 9.12.92, p.1));
- (f) the Third Non-Life Directive (that is, Council Directive [92/49/EEC](#) on the co-ordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and amending Directives [73/239/EEC](#) and [88/357/EEC](#) (O.J. No. L228, 11.8.92, p.1)); and

- (g) the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 (O.J. No. L1, 3.1.94, p.3) as adjusted by the Protocol signed at Brussels on 17th March 1992 (O.J. No. L1, 3.1.94, p.572).

The Regulations are divided into eight Parts: Part I contains the usual preliminary provisions as to citation and interpretation; Part II deals with margins of solvency; Part III deals with matching and localisation; Parts IV and V set out the rules to be applied in valuing assets and determining liabilities; Part VI makes special provision for long term business; Part VII deals with the provision of statistical information in relation to insurance business carried on or provided outside the United Kingdom; and Part VIII contains final provisions of a miscellaneous nature.

Part I is largely self-explanatory. Regulation 1 provides that the Regulations come into force on 1st September 1994.

In Part II, regulation 4 deals with the margins of solvency to be maintained by friendly societies. Regulation 4 is made under section 48 of the Friendly Societies Act 1992 (“the 1992 Act”), which provides for the amount of the margin to be prescribed by regulations. The margin for the various classes of long term business is to be determined in accordance with the detailed rules in Schedule 1. The margin for general business is the higher of the results given by the methods of calculation set out in Schedules 2 and 3 respectively. Regulation 5, which is made under section 49 of the 1992 Act, sets out the minimum level of the margin of solvency. Regulation 5 refers to that level as the “guarantee fund” which is defined as one-third of the required margin of solvency subject, in the case of a registered friendly society to which section 37(2) or (3) of the 1992 Act applies or an incorporated friendly society, to a minimum amount referred to as the “minimum guarantee fund”. The minimum guarantee fund is arrived at in accordance with regulation 6 with respect to long term business and regulation 7 for general business. The guarantee fund therefore cannot be quantified until the required margin of solvency has been calculated. If the margin of solvency falls below the guarantee fund, the Commission may request the society concerned to submit a short-term financial scheme to restore the position (section 49 of the 1992 Act). Regulation 5(3) limits the extent to which implicit items may be taken into account in the composition of the guarantee fund and minimum guarantee fund for long term business. Implicit items are future surpluses, zillmerising and hidden reserves, as provided in regulations 8-11 which are valuation regulations made under section 45 of the 1992 Act. The minimum guarantee fund is expressed as an amount in ECU. The term “ECU” is defined in section 119(2) of the 1992 Act which states that the exchange rates as between the ECU and pounds sterling to be applied for each year beginning on 31st December shall be the rates applicable on the last day of the preceding October for which exchange rates for the currencies of all the member States were published in the Official Journal of the Communities. Information on the appropriate exchange rate is available from the Friendly Societies Commission.

Regulations 12 to 18 in Part III are necessary to implement the above mentioned directives as regards matching and localisation. Matching means holding assets in a currency appropriate to the society’s liabilities, and localisation means holding those assets in the location appropriate to them. Regulations 12 to 18 apply only to friendly societies to which section 37(2) or (3) of the 1992 Act applies.

Parts IV and V are valuation regulations made under section 45 of the 1992 Act. They are essentially adaptations of Parts VIII and IX of the Insurance Companies Regulations 1994. Part IV is intended to ensure a satisfactory spread of assets by requiring that any asset, the valuation of which is not provided for in the Regulations, is to be left out of account altogether. Furthermore, assets of a description specified in Schedule 5 (other than the assets of a registered friendly society to which neither section 37(2) nor (3) of the 1992 Act applies) may be taken into account only within the limits specified in that Schedule. Regulations 21 and 22 make provision for valuation of shares in and debts due from dependants of societies. Dependants are defined as subsidiaries of, or bodies jointly controlled by, a friendly society within the meaning of section 13 of the 1992 Act. Consequently no registered friendly society is capable of having a dependant for the purposes of these Regulations.

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In Part VI, regulation 51 makes provision for all long term linked contracts entered into by friendly societies (including those entered into prior to the coming into force of these Regulations) other than contracts expressly excluded by regulation 51(4) and is made under section 56 of the 1992 Act. Regulation 52 sets out the contents and form of the statutory notice and notice of cancellation which friendly societies to which section 37(2) of the 1992 Act applies are required, under section 67B of that Act, to send to members who have entered into certain contracts of long term insurance (other than contracts the effecting of which constitutes investment business under the Financial Services Act 1986).

Part VII provides for the preparation and submission of statistical information in relation to insurance business carried on or insurance provided in other EEA States by friendly societies to which section 37(2) or (3) of the 1992 Act applies.

Part VIII contains miscellaneous provisions. Regulation 60 (in conjunction with section 46(1)(a) of the 1992 Act) ensures that any society which carries on long term business and is—

- (a) an incorporated friendly society, or
- (b) a registered friendly society to which section 37(2) of the 1992 Act applies,

is required to carry out an annual actuarial investigation into its financial condition. Regulation 61 prescribes the persons required to sign one copy of the abstract of the actuary's report for the purposes of section 46(3) of the 1992 Act. Regulation 62 contains a transitional measure designed to ensure that an authorised registered friendly society (other than a society to which section 37(2) or (3) of the 1992 Act applies) is not under a duty to maintain a solvency margin under section 48 of that Act until the "first investigation return date" which is defined in regulation 62(2). Regulation 63 revokes the Friendly Societies (Insurance Business No. 2) Regulations 1993 and regulations 8 to 13 of the Friendly Societies (Amendment) Regulations 1993.

A review of the cost of compliance with these Regulations has been undertaken and the resulting compliance cost assessment may be purchased from the Secretary, Friendly Societies Commission, 15 Great Marlborough Street, London W1V 2AX.