

# Financial Services (Insurance Companies)

## INSURANCE COMPANIES (ACCOUNTS AND STATEMENTS) REGULATIONS 1998

**1987-10**  
**Repealed**  
**Subsidiary**  
**1998/118**

Regulations made under section 118 of the Insurance Companies Act 1987.

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**Repealed by LN.2020/044 as from 15.1.2020**

**(LN. 1998/118)**

**31.12.1998**

Amending enactments	Relevant current provisions	Commencement date
2000/042	rr. 12(3)(f),12(4)(b), 20(2)(a), 32, Sch. 1 para. 16(b), Sch. 2 para. 3(4)(b), 3(5), 4, 5(1)(a) and Sch. 4 para. 5 and 20(3).	8.6.2000
2004/016	rr.2, and 18A	5.2.2004
2004/020	Sch 1 INS 3 and 4, INS 5(13), INS 7(3), Sch. 4 INS 46 to 60, INS 46, 49, 51 to 58 and 60 , para 23, INS 51, 52, 53 and 54, INS 60 and 61.	5.2.2004
2006/141	Sch. 1	31.12.2006

### **EU Legislation/International Agreements involved:**

Directive 92/49/EEC

Directive 98/78/EC

Directive 2002/12/EC

Directive 2002/13/EC

*Note: The forms contained in the Schedules are not reproducible and therefore not included in this document.*

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### **Title and commencement.**

1. These Regulations may be cited as the Insurance Companies (Accounts and Statements) Regulations 1998 and come into operation on 31st December 1998.

### **Application.**

2.(1) These Regulations apply to the accounts and statements of every licensed insurer in respect of any financial year ending on or after 31st December 1998.

(2) Where the Commissioner has directed, pursuant to paragraph 7(2) of Schedule 13 to the Act, that the provisions of the Act with regards to the regulation of licensed insurers shall apply to an EEA insurer, these Regulations shall apply to that insurer.

(3) These Regulations do not apply to –

- (a) an EEA deposit insurer, in relation to long term business or general business carried on by it outside Gibraltar; or
- (b) a Swiss general insurance company, in relation to general business carried on by it outside Gibraltar.

### **Interpretation.**

3.(1) In these Regulations unless the context requires otherwise,–

“the 1996 Regulations” means the Insurance Companies (Accounts and Statements) Regulations 1996;

“the Act” means the Insurance Companies Act 1987;

“accounting class” means a class of insurance business specified in Schedule 3 to the Act;

“accumulating with-profits policy” means a with-profits policy which has a readily identifiable current benefit, whether or not this benefit is currently realisable, which is adjusted by an amount explicitly related to the amount of any premium payment and to which additional benefits are added in respect of participation in profits by additions directly related to the current benefit;

“admissible asset” means an asset which is not required by regulation 3(3) of the Insurance Companies (Valuation of Assets and

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Liabilities) Regulations 1996 to be left out of account for the purposes specified in regulation 3(1) of those Regulations;

“available assets” means the excess of a company’s assets (other than implicit items) over its liabilities, in each case valued in accordance with the rules contained in Parts II and III of the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996 and regulation 4 of the Insurance Companies (Solvency Margins and Guarantee Funds) Regulations 1996;

“appointed actuary” means the person appointed as actuary to an insurer under section 76 of the Act;

“charges for management” means amounts chargeable in respect of the management of an internal linked fund in accordance with the conditions of those contracts of insurance under which property linked benefits are linked to the value of the fund or units of the fund;

“claim” means a claim against an insurer under a contract of insurance;

“claims equalisation” means the amount set aside by an insurer as at the end of its financial year for the purpose of being used to prevent exceptional fluctuations in the amounts charged to revenue in subsequent financial years in respect of claims arising due to the occurrence of events of an exceptional nature, that is to say, events not normally occurring every year;

“claims-made policy” means a contract of liability insurance which provides that no liability is incurred by the insurer in respect of an incident unless—

- (a) the incident is notified to the insurer (or its agent or representative); and
- (b) such notification is received by the insurer (or its agent or representative) before the end of a specified period which is no longer than three years following the final date for which cover is provided under the contract;

“claims management costs”, refers to those claims management costs required by the Insurance Companies (Accounts Directive) Regulations 1997 (note (4) to the profit and loss account format) to be included in claims incurred other than those which, whether or not incurred through the employment of the insurer's own staff, are directly attributable to particular claims;

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“commission payable”, in relation to long term business, means the amounts recorded during a financial year of the insurer as due to intermediaries and cedants in respect of the inception, amendment or renewal of contracts of insurance, whether or not paid during that year;

“connected” shall be construed so that the body corporate “A” and another body corporate “B” are connected with each other if-

- (a) B is a related undertaking of A;
- (b) B is a particular undertaking of A; or
- (c) B is a related undertaking of a participating undertaking in A;

a body corporate “C” and natural person “D” are connected if D holds a participation in-

- (a) C or any of its related undertakings;
- (b) a participating undertaking in C; or
- (c) a related undertaking of a participating undertaking in A;

“connected party transaction” means the transfer of assets or liabilities or the performance of services by, or to a connected person irrespective of whether or not a price is charged;

“contract of insurance” includes a contract of reinsurance;

“direct and facultative” refers to direct insurance business and inwards facultative reinsurance business;

“discounting” refers to discounting or deductions to take account of investment income within the meaning of paragraph 47 of Schedule 1 to the Insurance Companies (Accounts Directive) Regulations 1997;

“EEA deposit insurer” means an insurer (other than a pure reinsurer) whose head office is not in an EEA State and which has made a deposit in an EEA State in accordance with section 25(2)(b) of the Act;

“equalisation reserve” has the same meaning as in section 87B of the Act;

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“established surplus” has the same meaning as in section 86(2) of the Act;

“external insurer” means an insurer, whose head office is outside Gibraltar, other than an EEA insurer, a Swiss general insurance company or an insurer to which section 25(2) of the Act applies;

“the financial year in question” means the financial year which last ended before the date on which accounts and statements of the insurer relating to that financial year are required to be deposited with the Commissioner pursuant to section 52 of the Act; and the “preceding financial year” and “previous financial years” shall be construed accordingly;

“general business class” means a class of general business specified in Part I of Schedule 1 to the Act except that “general business class 1(p)” means the effecting and carrying out of contracts of insurance against risks of death of or injury to passengers which normally fall within general business class 1, to the extent that an insurer has elected to attribute such risks to accounting class 2, 3 or 4, as appropriate;

“Gibraltar deposit insurer” means an insurer (other than a pure reinsurer) whose head office is not in an EEA State and which has made a deposit in Gibraltar in accordance with section 25(2)(b) of the Act;

“guarantee fund” has the same meaning as in regulation 9(1) of the Insurance Companies (Solvency Margins and Guarantee Funds) Regulations 1996;

“home foreign business” means general business written in Gibraltar primarily relating to risks situated outside Gibraltar, but excluding business in accounting classes 3, 4 and 5 and business where the risk commences in Gibraltar;

“hybrid linked contract” means a contract of insurance the effecting of which constitutes the carrying on of long term business and which contains an option or options such that at some future time the contract may, according to how such option or options are exercised, constitute either a linked contract or a non-linked contract;

“incepted” has the same meaning as in Schedule 1 to the Insurance Companies (Solvency Margins and Guarantee Funds)



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Regulations 1996; and “incepting” and “inception” shall be construed accordingly;

“index linked benefits” means benefits—

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

“index linked contract” means a linked contract conferring index linked benefits;

“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 an insurer, other than a person who only publishes such invitations on behalf of, or to the order of, some other person;

“internal linked fund” means an account to which an insurer appropriates certain linked assets and which may be sub-divided into units the value of each of which is determined by the insurer by reference to the value of those linked assets;

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

“linked contract” means a contract of insurance—

- (a) the effecting of which constitutes the carrying on of long term business; and
- (b) under which linked benefits (as defined by section 2(2) of the Act) are payable to the policy holder;

and “non-linked contract” shall be construed accordingly;

“long term business assets” means assets of an insurer which are, for the time being, identified as representing the long term fund or funds maintained by the insurer in respect of its long term business;

“management expenses” in relation to long term business, means all expenses, other than commission, incurred in the administration of an insurer or its business;

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“material connected-party transaction” means a connected-party transaction for which (together with any similar transactions):

- (a) the price actually paid or received for the transfer of assets or liabilities or the performance of services; or
- (b) the price which would have been paid or received had that transaction been negotiated at arm’s length between unconnected parties;

exceeds:

- (i) in the case of an insurer that carries on either general insurance business or long term business, but not both, 5% of the general business amount or long term business amount, as applicable; or
- (ii) in the case of an insurer that carries on both types of business either–
  - (a) 5% of the long term business amount where the transaction is in connection with the insurer’s long term business, or
  - (b) in other cases, 5% of the general business amount;

“mathematical reserves” has the same meaning as in section 2(2) of the Act;

“minimum guarantee fund” has the same meaning as in the Insurance Companies (Solvency Margins and Guarantee Funds) Regulations 1996;

“parent undertaking” shall be construed in accordance with section 2(32) of the Act;

“period of risk” means the period for which a contract of insurance provides cover;

“permanent health contract” means a contract falling within class IV of long term business as specified in Schedule 2 to the Act;

“profit and loss account”, in relation to a company not trading for profit, means an income and expenditure account;

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“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 long term insurance business; and
- (b) determined by reference to the value of or the income from, property of any description (whether specified in the contract or not);

“property linked contract” means a linked contract conferring property linked benefits;

“proportional reinsurance treaty” means a reinsurance treaty under which a pre-determined proportion of each claim payment by the cedant under policies subject to the treaty is recoverable from the reinsurer; and "non-proportional reinsurance treaty" shall be construed accordingly;

“pure re-insurer” means—

- (a) an insurer whose head office is in Gibraltar and whose business is restricted to reinsurance business; or
- (b) an insurer whose head office is not in Gibraltar and whose business in Gibraltar is restricted to reinsurance business;

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

“reinsurance” and “reinsurer” include retrocession and retrocessionaire respectively;

“reinsurance recoveries” means amounts in respect of claims receivable by an insurer from a reinsurer under a contract of reinsurance;

“required margin of solvency” has the same meaning as in the Insurance Companies (Solvency Margins and Guarantee Funds) Regulations 1996;

“required minimum margin” means the greater of the appropriate required margin of solvency and the amount of the appropriate

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minimum guarantee fund; and “required EEA minimum margin” and “required Gibraltar minimum margin” shall be construed accordingly;

“return” includes every document required by sections 52 and 78 of the Act and prepared in accordance with these Regulations;

“subsidiary undertaking” shall be construed in accordance with section 2(32) of the Act; and

“with-profits policy” means a contract falling within a class of long term business as specified in Schedule 2 to the Act which is eligible to participate in any part of any established surplus; and “non-profit policy” shall be construed accordingly.

(2) In regulations 19 to 21, 23, 24 and 26, and in the Schedules to these Regulations, unless the context otherwise requires—

- (a) words and expressions which are also used in the Insurance Companies (Solvency Margins and Guarantee Funds) Regulations 1996 and the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996 shall have the same meanings as in those Regulations; and
- (b) subject to paragraph (a), words and expressions which are also used in the Insurance Companies (Accounts Directive) Regulations 1997 shall have the same meanings as in those Regulations.

(3) In these Regulations—

- (a) any reference to long term business or general business shall, in relation to an EEA deposit insurer, be taken to refer to long term business or general business carried on by it through a branch in Gibraltar; and
- (b) any reference to general business shall, in relation to a Swiss general insurance company, be taken to refer to general business carried on by it through a branch in Gibraltar;

and accordingly, any reference to, or requirement imposed in respect of, the accounts and balance sheet (including any notes, statements, reports and certificates annexed thereto) shall be taken as referring to, or imposing the requirement in respect of, business carried on through that branch.

(4) In these Regulations, any reference to long term business or to general business shall—

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- (a) in relation to an external insurer (other than a pure reinsurer), be taken to refer to its entire long term business or to its entire general business and to any long term business or general business carried on by it through a branch in Gibraltar;
- (b) in relation to a Gibraltar deposit insurer, be taken to refer to its entire long term business or to its entire general business and to any long term business or general business carried on by it through a branch in any EEA State;

and accordingly, any reference to, or requirement imposed in respect of, the accounts and balance sheet (including any notes, statements, reports and certificates annexed thereto) relevant to long term business or to general business shall be taken as referring to or, as the case may be, imposing the requirement in respect of—

- (i) accounts prepared in respect of its entire long term business or entire general business; and
  - (ii) accounts prepared in respect of the long term business or the general business carried on, in the case of an external insurer, by the branch in Gibraltar and, in the case of a Gibraltar deposit insurer, by the branches in question in the EEA States taken together.
- (5) In these Regulations—
- (a) any reference to a numbered Form is a reference to the Form so numbered in Schedules 1, 2, 3 and 4; and
  - (b) references to a numbered class of general business are references to the class so numbered in Part I of Schedule 1 to the Act.

**Value of assets and amount of liabilities.**

4. Unless otherwise provided in these Regulations, in the documents which an insurer is required to prepare in accordance with these Regulations—

- (a) the value or amount given for an asset (other than a linked asset not required to be valued in accordance with Part II of the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996 by virtue of regulation 3(2) of those Regulations) or a liability of the insurer shall be the value or amount of that asset or liability as determined in accordance

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with Parts II and III of the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996 as they apply for the purposes specified in regulations 3 and 17 of those Regulations at the end of the financial year in question; and

- (b) in the case of a linked asset of the insurer (other than a linked asset required to be valued in accordance with Part II of the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996 by virtue of regulation 3 of those Regulations), the value given 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 insurers.

#### **Content and form of accounts.**

5. Every account, balance sheet, note, statement, report and certificate required to be prepared by an insurer pursuant to sections 50, 52 and 53 of the Act shall be prepared in the manner hereinafter specified and shall fairly state the information provided on the basis required by these Regulations.

#### **Balance sheet.**

6.(1) The balance sheet required to be prepared by every insurer under section 50(1) of the Act shall comply with the requirements of Schedule 1 and shall be in Forms INS 1 to INS 7 and INS 9 completed (as may be appropriate) as specified in sub-regulations (2) to (8).

(2) Form INS 1 shall be completed by every insurer, other than a Swiss general insurance company or an EEA deposit insurer.

(3) Form INS 2 shall be completed by every insurer.

(4) Forms INS 3 and INS 4 shall be completed by every insurer which carries on general business, other than a Swiss general insurance company or an EEA deposit insurer.

(5) Form INS 5 shall be completed (as appropriate)–

- (a) by every insurer which carries on long term business in respect of–
  - (i) its total long term business assets; and
  - (ii) the long term business assets appropriated by it in respect of each separate long term business fund or group of funds for which separate assets have been appropriated;

- (b) by every insurer in respect of its total assets other than long term business assets;
  - (c) by every external insurer (other than a pure reinsurer) in respect of long term or general business carried on by it through a branch in Gibraltar in respect of those assets which are—
    - (i) deposited with the Commissioner;
    - (ii) maintained in Gibraltar; and
    - (iii) maintained in Gibraltar and EEA States; and
  - (d) by every Gibraltar deposit insurer in respect of long term or general business carried on by it through branches in the EEA States concerned in respect of those assets which are –
    - (i) deposited with the Commissioner;
    - (ii) maintained in Gibraltar and such EEA States where business is carried on; and
    - (iii) maintained in Gibraltar and EEA States.
- (6) Form INS 6 shall be completed by every insurer which carries on long term business in respect of:
- (a) its total long term business liabilities and margins; and
  - (b) the long term business liabilities and margins for each separate long term business fund or group of funds for which separate assets have been appropriated.
- (7) Form INS 7 shall be completed by every insurer except an insurer not trading for profit which carries on only long term business.
- (8) For each Form INS 5 which an insurer is required to complete under sub-regulation (5)(a) or (b), it shall complete Form INS 9 in respect of the same business; except that where in respect of that Form all amounts required to be shown would be zero and no supplementary note would be required, Form INS 5 may instead be accompanied by a supplementary note to that effect and Form INS 9 may be returned in blank.

**Profit and loss account.**

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7. The profit and loss account required to be prepared by every insurer under section 50(1) of the Act shall comply with the requirements of Schedule 1 and shall be in Form INS 8.

#### **Revenue account.**

8. The revenue account to be prepared by every insurer under section 50(1) of the Act—

- (a) in the case of an insurer carrying on general business, shall comply with the requirements of Schedule 2 and shall be in Form INS 20 so, however, that every such insurer shall prepare a separate account in Form INS 20 in respect of each accounting class and a summary account in that Form in respect of the whole of the general business carried on by it; and
- (b) in the case of an insurer carrying on long term business, shall comply with the requirements of Schedule 3 and shall be in Form INS 40 so, however, that—
  - (i) every such insurer shall prepare a separate account in Form INS 40 in respect of each long term business fund maintained by it; and
  - (ii) where there is more than one fund for long term insurance business, the insurer shall also prepare a summary Form INS 40 for long term insurance business.

#### **Additional information on general business (accounting classes and discounting).**

9.(1) Every insurer which carries on general business shall, in accordance with the requirements of Schedule 2, prepare in respect of each accounting class—

- (a) Forms INS 21, INS 22 and INS 23 for business accounted for on an accident year basis; and
- (b) Forms INS 24 and INS 25 for business accounted for on an underwriting year basis.

(2) For the purposes of sub-regulation (1), business shall be taken to be accounted for on an underwriting year basis where it relates to risks—

- (a) which have been reported previously under these Regulations on Forms INS 24 and INS 25;



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- (b) in respect of which the claims outstanding for such business is set using the method described in paragraph 51 of Schedule 1 to the Insurance Companies (Accounts Directive) Regulations 1997; or
- (c) which have not previously been reported on any Form under these Regulations and which the insurer accounts for on an underwriting year basis,

and business not accounted for on an underwriting year basis shall be taken to be accounted for on an accident year basis.

(3) Every insurer which, in respect of any financial year, includes in Form INS 22 or INS 25 amounts relating to adjustments for discounting shall prepare Form INS 30 in accordance with the requirements of Schedule 2.

**Business categories for general business (reinsurance treaties accepted).**

10.(1) Every insurer which carries on general business shall, for the purposes of this regulation, allocate its business falling within accounting classes 9, 10 and 11 to separate business categories, that is to say—

- (a) accident and health (corresponding general business classes 1 (other than 1(p)) and 2);
- (b) motor (corresponding general business classes 1(p), 3 and 10);
- (c) aviation (corresponding general business classes 1(p), 5 and 11);
- (d) marine (corresponding general business classes 1(p), 6 and 12);
- (e) transport (corresponding general business class 7);
- (f) property (corresponding general business classes 4, 8 and 9);
- (g) third party liability (corresponding general business class 13);  
and
- (h) miscellaneous and pecuniary loss (corresponding general business classes 14, 15, 16, 17 and 18).

(2) An insurer may allocate its business falling within general business class 7 (goods in transit) to the aviation and marine business categories and not to the transport business category and where such allocation is made the

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aviation and marine business categories shall be referred to as “aviation and transport” and “marine and transport” respectively.

(3) Instead of allocating all business falling within the classes of general business specified in any of paragraphs (a) to (h) of sub-regulation (1) to the business category stated in that paragraph, an insurer may allocate such business to two or more separate business categories, each of which shall consist only of business which would otherwise fall in the first-mentioned business category.

(4) Where business is allocated to business categories pursuant to sub-regulation (3), the insurer shall, in the Forms to be prepared in accordance with the requirements of Schedule 2, refer to each business category so created by a name which—

- (a) describes the general nature of the business included; and
- (b) distinguishes that category from other business categories.

#### **Additional information on general business (reinsurance treaties accepted).**

11.(1) Every insurer which carries on general business shall, in relation to each business category to which business has been allocated for the purposes of regulation 10, in accordance with the requirements of Schedule 2 prepare—

- (a) Forms INS 26 and INS 27 for business reported on Forms INS 21, INS 22 and INS 23; and
- (b) Forms INS 28 and INS 29 for business reported on Forms INS 24 and INS 25.

(2) Information relating to reinsurance treaties accepted which fall within more than one business category for the purpose of sub-regulation (1) shall be shown—

- (a) in the Forms prepared for each such business category (amounts being apportioned as necessary); or
- (b) in the Forms prepared for the business category within which the greater part of the business to which the treaty relates falls,

and an explanation shall be given in a supplementary note annexed to the relevant Form of the method used in any such apportionment or of the business included in a Form which falls outside the business category to which that Form relates, as the case may require.

(3) Unless an explanation is given in a supplementary note annexed to Form INS 26 or INS 28 (as appropriate) for the allocation of the information in question to a different business category—

- (a) where information relating to a reinsurance treaty accepted has been given in respect of any financial year, information relating to that treaty shall be included in the same business category in the return prepared in respect of each later financial year; and
- (b) where a reinsurance treaty accepted relates to risks which are of a similar description to those to which an earlier treaty (in relation to which information has been given in respect of an earlier financial year) related and covers those risks in similar proportions, information relating to the first-mentioned reinsurance treaty shall be included in the same business category as information relating to the earlier treaty.

### **Risk groups for general business.**

12.(1) Every insurer which carries on general business shall, in the manner provided in this regulation and for the purpose of the forms specified in regulation 13, classify the direct and facultative business carried on by it in each country into risk groups by reference to accounting classes 1 to 8 as appropriate.

(2) Each risk group classified for the purposes of this regulation shall comprise risks within an accounting class insured by the insurer in each country which, in the opinion of the directors, are not significantly dissimilar, either by reference to the nature of the objects exposed to such risks or by reference to the nature of the cover against such risks provided by the insurer.

(3) Subject to sub-regulation (4), the insurer shall classify its risks so that—

- (a) risks are not included in the same risk group where, having regard to the patterns of risk, claims incurrence and settlement patterns, it is necessary to group them separately for the purposes of applying statistical methods (within the meaning of paragraph 46(1) of Schedule 1 to the Insurance Companies (Accounts Directive) Regulations 1997) in calculating the provision for claims outstanding in accordance with generally accepted accounting practice;
- (b) claims made policies are not included in the same risk group as policies which are not claims-made policies;

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- (c) policies falling within general business class 14, 15, 16, 17 or 18 are not included in the same risk group as policies falling within any other of those general business classes, except that policies falling within general business class 14 may be included in the same risk group as policies falling within general business class 15;
- (d) policies in respect of private motor car risks are not included in the same risk group as policies in respect of other risks falling within accounting class 2;
- (e) policies in respect of comprehensive private motor car risks are not included in the same risk group as policies in respect of non-comprehensive private motor car risks; and
- (f) policies transferred to the company by way of a transfer approved by the Commissioner pursuant to Schedule 10 of the Act, or approved by the competent authority of an EEA State under Article 12 of Council Directive 92/49/EEC, are not included in the same risk group as other policies.

(4) Sub-regulation (3) shall not apply in relation to the risk group mentioned in any paragraph of that sub-regulation where, in the case of any financial year—

- (a) the gross premiums written for that year in respect of that risk group are less than 2 <sup>1</sup>/<sub>2</sub> per cent of the world-wide gross premiums written for all accounting classes for that year, or £500,000; or
- (b) the gross premiums written for that year in respect of the risk groups in which policies would in accordance with that paragraph be included (except the largest) are less than <sup>1</sup>/<sub>2</sub> per cent of the world-wide gross premiums written for all accounting classes for that year, or £100,000.

(5) Subject to sub-regulations (2) to (4), an insurer may in respect of any accounting class include all business carried on by it in any country in any financial year as a single risk group.

(6) Notwithstanding the provisions of sub-regulations (2) to (4), an insurer may classify all business carried on by it in any country in respect of any accounting class in any financial year as a single risk group, provided that gross premiums written for that year in respect of that business are less than—

- (a) 5 per cent of the world-wide gross premiums written for all accounting classes for that year; or
- (b) £500,000.

(7) Notwithstanding the provisions of sub-regulations (1) to (4), no risk groups need be classified by an insurer in respect of a country if the gross premiums written in respect of business falling within accounting classes 1 to 8 and carried on in that country are—

- (a) in the case of any financial year ending before (the date of the coming into effect of the Regulations), less than—
  - (i) 2 <sup>1</sup>/<sub>2</sub> per cent of the world-wide gross premiums written for all accounting classes for that year; or
  - (ii) £100,000;
- (b) in the case of any financial year ending on or after that date, less than—
  - (i) 1 per cent. of the world-wide gross premiums written for all accounting classes for that year; or
  - (ii) £100,000.

(8) For the purposes of this regulation and regulation 13, home foreign business shall be treated as though it were carried on in a different country from other business carried on in Gibraltar.

### **Additional information on general business (direct and facultative business).**

13.(1) Every insurer which carries on general business shall, with respect to the financial year in question and in relation to each country and each risk group (as classified by it under regulation 12), prepare in accordance with the requirements of Schedule 2—

- (a) Form INS 31 for direct and facultative business, other than business falling within accounting class 2, reported on Forms INS 21, INS 22 and INS 23;
- (b) Form INS 32 for direct and facultative business falling within accounting class 2 reported on Forms INS 21, INS 22 and INS 23; and

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- (c) Form INS 34 for direct and facultative business reported on Forms INS 24 and INS 25.

(2) Where an insurer has reported business with respect to any previous financial year and relating to a country and a risk group in Form INS 31, INS 32 or INS 34 pursuant to sub-regulation (1), it shall continue to report that business for that financial year for the same country and risk group in Form INS 31, INS 32 or INS 34 (as appropriate).

(3) Where any of Forms INS 31, INS 32 or INS 34 has been prepared in respect of the entire business of an insurer, no separate forms need be prepared-

- (a) in the case of an external insurer, in respect of business carried on by it through a branch in Gibraltar; and
- (b) in the case of a Gibraltar deposit insurer, in respect of business carried on by it through a branch in any EEA State where business is carried on.

#### **Additional information on general business (direct and facultative reconciliation business).**

14.(1) Every insurer which carries on general business shall, with respect to the financial year in question and in accordance with the requirements of Schedule 2, prepare-

- (a) Form INS 33 for business reported on Forms INS 21, INS 22 and INS 23 but not reported on Form INS 31 or INS 32; and
- (b) Form INS 35 for business reported on Forms INS 24 and INS 25 but not reported on Form INS 34.

(2) No separate Form INS 33 or INS 35 need be prepared where, in the cases referred to in regulation 13(3)(a) or (b), no separate Forms INS 31, INS 32 or INS 34 need be prepared.

#### **Currencies other than sterling.**

15. Every insurer which, in respect of a financial year, prepares a Form under regulation 11 or 13 containing figures in a currency other than sterling shall prepare Form INS 36 in accordance with the requirements of Schedule 2.

#### **Additional information on direct credit insurance business accepted.**

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16.(1) Without prejudice to regulation 9, every Gibraltar insurer which carries on credit insurance business and every non-EEA insurer which carries on credit insurance business in Gibraltar shall, in accordance with the requirements of Schedule 2, prepare Form INS 38 or, where it elects to account for any business on an underwriting year basis, Form INS 39, in respect of each financial year.

(2) In this regulation, “non-EEA insurer” has the same meaning as in section 2(2) of the Act.

### **Additional information on long term business.**

17. Every insurer which carries on long term business shall, in respect of the financial year in question and in accordance with the requirements of Schedule 3, prepare—

- (a) Forms INS 41 to INS 45 in respect of each revenue account prepared separately under regulation 8(b)(i); and
- (b) summary Forms INS 41 to INS 44 in respect of each summary Form INS 40 prepared under regulation 8(b)(ii).

### **Forms prepared pursuant to regulations 9, 11 and 13 to 17.**

18. The Forms prepared pursuant to regulations 9, 11 and 13 to 17 shall be annexed to the documents referred to in regulations 6, 7 and 8.

### **Intra-group transactions.**

18A.(1) An insurer, which during the financial year in question has agreed to, or carried out, a material connected-party transaction must provide a brief description of that transaction by way of supplementary note to Form INS 20 or Form INS 40.

(2) Description to be provided in accordance with sub-regulation (1) must state—

- (a) the names of the transacting parties;
- (b) a description of the relationship between the parties;
- (c) a description of the transaction;
- (d) the amounts involved;

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- (e) any other elements of the transaction necessary for an understanding of its effect upon the financial position or performance of the insurer; and
- (f) amounts written off in the period in respect of debts due to or from connected parties.

(3) Transactions with the same connected party may be disclosed on an aggregated basis unless separate disclosure is needed for a proper understanding of the effect of the transactions upon the financial position or performance of the insurer.

#### **Additional information on general business: major treaty reinsurers.**

19.(1) Subject to the provisions of regulation 22, an insurer which carries on general business shall annex to the documents referred to in regulations 6, 7 and 8, and relating to the financial year in question, a statement of—

- (a) the full name of each of its major treaty reinsurers and the address of the registered office or of the principal office in the country where it is incorporated (or, in the case of an unincorporated body, of the principal office) of each such reinsurer;
- (b) whether (and, if so, how) the insurer was at any time in the financial year connected with any such reinsurer;
- (c) the amount of the reinsurance premiums payable in the financial year to each such reinsurer in respect of—
  - (i) general business ceded under proportional reinsurance treaties; and
  - (ii) general business ceded under non-proportional reinsurance treaties;
- (d) the amount of any debt of each such reinsurer to the insurer in respect of general business ceded under reinsurance treaties, included at line 75 of Form INS 5;
- (e) the amount of any deposit received from each such reinsurer under reinsurance treaties as included at line 31 of Form INS 7; and
- (f) the amount of any anticipated recoveries from each such reinsurer under reinsurance treaties to the extent that such



recoveries have been taken into account by the insurer in determining the reinsurers' share of technical provisions in respect of claims outstanding as shown at line 61 of Form INS 5; except that, in respect of claims incurred but not reported, such recoveries need only be included to the extent that they are in respect of any specific occurrences for which provisions have been allocated by the insurer,

or a statement that it has no major treaty reinsurer.

(2) For the purposes of this regulation, a major treaty reinsurer of an insurer is another insurer—

- (a) to which (whether alone or with any body corporate which is connected with such other insurer) the insurer has ceded general business under one or more reinsurance treaties—
  - (i) in the case of proportional reinsurance, for which the total amount of the reinsurance premiums payable is equal to not less than 2 per cent of the gross premiums receivable by the insurer in respect of general business; or
  - (ii) in the case of non-proportional reinsurance, for which the total amount of the reinsurance premiums payable is equal to not less than 5 per cent of the total premiums payable by the insurer in respect of all such non-proportional reinsurance,

in the financial year in question or in any of the five immediately preceding financial years of the insurer; or

- (b) in relation to which (whether alone or with any body corporate which is connected with such other insurer) the aggregate of the amounts referred to in sub-regulations (1)(d) and (f) exceeds 5 per cent. of the insurer's general business amount (as calculated in accordance with the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996).

### **Additional information on general business: major facultative reinsurers.**

20.(1) Subject to the provisions of regulation 22, an insurer which carries on general business shall annex to the documents referred to in regulations 6, 7 and 8, and relating to the financial year in question, for each major

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facultative reinsurance contract, a statement in respect of each major facultative reinsurer of–

- (a) its full name and the address of the registered office or of the principal office in the country where it is incorporated (or, in the case of an unincorporated body, of the principal office);
- (b) whether (and, if so, how) the insurer was at any time in the financial year connected with such reinsurer;
- (c) the amount of the reinsurance premiums payable in the financial year;
- (d) the amount of any debt to the insurer included at line 75 of Form INS 5;
- (e) the amount of any deposit received as included at line 31 of Form INS 7; and
- (f) the amount of any anticipated recoveries to the extent that such recoveries have been taken into account by the insurer in determining the reinsurers' share of technical provisions in respect of claims outstanding as shown at line 61 of Form INS 5; except that, in respect of claims incurred but not reported, such recoveries need only be included to the extent that they are in respect of any specific occurrences for which provisions have been allocated by the insurer,

or a statement that it has no major facultative reinsurer.

(2) For the purposes of this regulation, a major facultative reinsurance contract is a contract under which general business has been ceded by the insurer on a facultative basis–

- (a) under which the total amount of premiums payable to any reinsurer (a “major facultative reinsurer”) is equal to not less than ½ per cent. of the gross premiums receivable by the insurer in respect of general business; or
- (b) in relation to which, in respect of any reinsurer (a “major facultative reinsurer”) the aggregate of amounts in sub-regulations (1)(d) and (e) exceeds one per cent. of the insurer's general business amount (as calculated in accordance with the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996).

**Information on major general business reinsurance cedants.**

21.(1) Subject to the provisions of regulation 22, an insurer which carries on general business shall annex to the documents referred to in regulations 6,7 and 8, and relating to the financial year in question, a statement of—

- (a) the full name of each of its major cedants and the address of the registered office or of the principal office in the country where it is incorporated (or, in the case of an unincorporated body, of the principal office) of each such cedant;
- (b) whether (and, if so, how) the insurer was at any time in the financial year connected with any such cedant;
- (c) the amount of the total of the gross premiums receivable in the financial year from each such cedant in respect of general business accepted under reinsurance treaties;
- (d) the amount of any deposit made with any such cedant as included at line 57 of Form INS 5; and
- (e) the amount of any debt of each such cedant in respect of general business accepted under reinsurance treaties, included at line 74 of Form INS 5,

or a statement that it has no major cedant.

(2) For the purposes of this regulation, a major cedant of an insurer is another insurer from which (whether alone or with any body corporate which is connected with such other insurer) the insurer has accepted general business under one or more reinsurance treaties for which the gross premiums receivable exceed the greater of—

- (a) 5 per cent of the gross premiums receivable by the insurer in respect of general business accepted under reinsurance treaties; and
- (b) 2 per cent of the gross premiums receivable by the insurer in respect of general business,

in the financial year in question or in any of the three immediately preceding financial years of the insurer.

**Provisions supplemental to regulations 19 to 21.**

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22.(1) Subject to the provisions of this regulation, for the purposes of regulations 19(1)(b) and (2), 20(1)(b) and 21(1)(b) and (2) above, a body corporate and another person are connected with each other if—

- (a) the other person is—
  - (i) a subsidiary undertaking of the body corporate;
  - (ii) a parent undertaking of the body corporate; or
  - (iii) a subsidiary undertaking of the parent undertaking of the body corporate; or
- (b) one of them is controlled by the other or both are controlled by the same person, but a body corporate shall not be taken to be connected with another person if the insurer furnishing the statement does not know and could not upon reasonable enquiry be expected to find that it is so connected with the other person.

(2) Except as provided in sub-regulation (3), for the purposes of sub-regulation (1)(b), a person shall be taken to control a body corporate if he is a person—

- (a) in accordance with whose directions or instructions the directors of the body corporate or of a body corporate of which it is a subsidiary are accustomed to act; or
- (b) who, either alone or with any associate or associates, is entitled to exercise, or control the exercise of, 15 per cent. or more of the voting power at any general meeting of the body corporate or of a body corporate of which it is a subsidiary.

(3) In relation to an insurer—

- (a) making a statement pursuant to regulation 19 or 20, a reinsurer shall not be taken by virtue of sub-regulation (2) to be connected with another reinsurer; or
- (b) making a statement pursuant to regulation 21, a cedant shall not be taken by virtue of sub-regulation (2) to be connected with another cedant, for the purposes of sub-regulation (2) of the said regulations 19, 20 or 21, as the case may be, unless it is also connected by virtue of sub-regulation (1) with the insurer making the statement.

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- (4) In regulations 19, 20 and 21 and this regulation—
- (a) “full name” means—
    - (i) in the case of a body corporate, its corporate name, and
    - (ii) in the case of an individual or any unincorporated body, the name under which the individual or body lawfully carries on business; and
  - (b) “associate” shall be construed in accordance with section 2(18) of the Act as it has effect for the purpose of determining for the purposes of the Act whether any person is a controller of an insurer other than a Gibraltar insurer.
- (5) The following provisions of Schedule 1 shall apply for the purposes of regulations 19, 20 and 21—
- (a) paragraphs 3 and 4 (which relate to currencies other than sterling);
  - (b) sub-paragraphs (1) and (2) of paragraph 7 (which, among other things, relate to amounts due to the insurer); and
  - (c) paragraph 8 (which provides for amounts to be shown to the nearer £1000).

### **Additional information on derivative contracts.**

23.(1) Every insurer shall, in respect of the financial year in question, annex to the documents referred to in regulations 6, 7 and 8 a statement comprising a brief description of—

- (a) any investment guidelines operated by the insurer for the use of derivative contracts;
- (b) any provision made by such guidelines for the use of contracts under which the insurer had a right or obligation to acquire or dispose of assets which was not, at the time when the contract was entered into, reasonably likely to be exercised and, if so, the circumstances in which, pursuant to that provision, such contracts would be used;
- (c) the extent to which the insurer was during the financial year a party to any contracts of the kind described in paragraph (b);

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- (d) the extent to which any of the amounts recorded in Form INS 5 would be changed if assets which the insurer had a right or obligation to acquire or dispose of under derivative contracts outstanding at the end of the financial year (being, in the case of options, only those options which it would have been prudent to assume would be exercised) had been so acquired or disposed of;
- (e) how different the information provided pursuant to paragraph (d) would have been if such options as were outstanding at the end of the year had been exercised in such a way as to change the amounts referred to in that paragraph to the maximum extent;
- (f) how different the information provided pursuant to paragraphs (d) and (e) would have been if, instead of applying to contracts outstanding at the end of the financial year, those paragraphs had applied to derivative contracts outstanding at such other time during the financial year as would have changed the amounts referred to in those paragraphs to the maximum extent;
- (g) the maximum loss which would be incurred by the insurer on the failure by any one other person to fulfil its obligations under derivative contracts outstanding at the end of the financial year, both under existing market conditions and in the event of other foreseeable market conditions, together with an assessment of whether such maximum loss would have been materially different at any other time during the financial year;
- (h) the circumstances surrounding the use of any derivative contract held at any time during the financial year which did not fall within sub-regulation (2) of regulation 14 of, or (where appropriate) paragraph 14 of Schedule 3 to, the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996; and
- (i) the total value of any fixed consideration received by the insurer (whether in cash or otherwise) during the financial year in return for granting rights under derivative contracts and a summary of contracts under which such rights have been granted.

(2) In this regulation, “derivative contract” includes a contract or asset which has the effect of a derivative contract within the meaning of regulation 14A of the Insurance Companies (Valuation of Assets and

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Liabilities) Regulations 1996 and, for the purposes of sub-regulation (1)(h), such a contract or asset shall be treated as falling within sub-regulation (2) of regulation 14 of, or paragraph 14 of Schedule 3 to, the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1986, as appropriate, if it has the effect of a derivative contract which would fall within that paragraph.

(3) For the purposes of this regulation, an insurer which is a party to—

- (a) a contract for differences; or
- (b) any other contract which is to be, or may be, settled in cash,

shall be taken to have a right or obligation to acquire or dispose of the assets underlying the contract.

### **Additional information on shareholder controllers.**

24. Every Gibraltar insurer shall, in respect of the financial year in question, annex to the documents referred to in regulations 6, 7 and 8—

- (a) a statement naming each person who, to the knowledge of the insurer, has been, at any time during the financial year, a shareholder controller of that insurer; and
- (b) in the case of each person so named, a statement of—
  - (i) the percentage of shares which, to the knowledge of the insurer, he held at the end of the financial year in question in the insurer, or in another company of which the insurer is a subsidiary undertaking; and
  - (ii) the percentage of the voting power which, to the knowledge of the insurer, he was entitled at the end of the financial year in question to exercise, or control the exercise of, at any general meeting of the insurer, or another company of which it is a subsidiary undertaking,

in each case, either alone or with any associate or associates.

### **Periodic actuarial investigation.**

25. For the purposes of section 78 of the Act (periodic actuarial investigation of insurer with long term business) the abstract of the report of the actuary on long term business—

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- (a) shall comply with the requirements of Schedule 4 and shall contain the information (together with such of Forms INS 46 to INS 49 and INS 51 to INS 58 as may be appropriate) specified in that Schedule; and
- (b) except in the case of an EEA deposit insurer, shall also include Form INS 60 and, where appropriate, Form INS 61.

#### **Additional information on general business ceded.**

26. An insurer which carries on general business shall annex to the documents referred to in regulations 6, 7 and 8, and relating to the financial year in question, a statement of the information required by Schedule 5.

#### **Signature of documents.**

27.(1) In respect of any document relating to the business of an insurer, wherever it may be carried on, the persons prescribed for the purposes of section 52(3) of the Act are –

- (a) in any case where there are more than two directors of the insurer, at least two of those directors and, where there are not more than two directors, all the directors; and
- (b) in the case of an abstract under section 78 of the Act, the actuary who made the investigation to which the abstract relates.

(2) In respect of any document relating to business carried on through a branch in Gibraltar by a Swiss general insurance company, an EEA deposit insurer or an external insurer or through branches in any EEA States taken together by a Gibraltar deposit insurer, the persons prescribed for the purposes of section 52(3) of the Act are –

- (a) in any case–
  - (i) the representative referred to in section 24B(1)(a) or 25(4) of the Act or, where the representative is a body corporate, the individual representative referred to in section 25A(5) of the Act; and
  - (ii) an officer or employee of the description specified in section 24B(4)(b) of the Act or, if there is no such officer or employee or he is also the representative referred to above, an employee of the description specified in section 24B(4)(c) of the Act; and



- (b) in the case of an abstract under section 78 of the Act, the actuary who made the investigation to which the abstract relates.

**Certificates.**

28. There shall be annexed to the documents referred to in regulations 6, 7 and 8–

- (a) a certificate in accordance with the requirements of Part I of Schedule 6 which shall be signed by the persons required by regulation 27 to sign the documents to which the certificate relates; and
- (b) in the case of an insurer which has at any time during the financial year in question carried on long term business, a certificate in accordance with the requirements of Part II of Schedule 6 which shall be signed by the appointed actuary.

**Audit and auditor's report.**

29.(1) The documents referred to in regulations 6, 7 and 8, and every statement, analysis, report or certificate annexed thereto pursuant to regulations 18, 19, 20, 21, 23 and 28(a), shall be audited by the auditor of the insurer appointed under section 47 of the Act who shall make and annex to the documents aforesaid a report in accordance with the requirements of Part III of Schedule 6.

(2) An insurer's auditors shall, in preparing their report, carry out such investigations as will enable them to form an opinion as to–

- (a) whether proper accounting records have been kept by the insurer and proper returns adequate for their audit have been received from branches not visited by them, and
- (b) whether the company's individual accounts are in agreement with the accounting records and returns.

(3) If the auditors are of opinion that proper accounting records have not been kept, or that proper returns adequate for their audit have not been received from branches not visited by them, or if the insurer's individual accounts are not in agreement with the accounting records and returns, the auditors shall state that fact in their report.

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(4) If the auditors fail to obtain all the information and explanations which, to the best of their knowledge and belief, are necessary for the purposes of their audit, they shall state that fact in their report.

(5) The auditors of an insurer have a right to access at all times to the insurer's books, accounts and vouchers, and are entitled to require from the insurer's officers such information and explanations as they think necessary for the performance of their duties as auditors.

(6) Sub-regulations (2) to (5) shall apply as if the auditors of an insurer were not under a duty for the purposes of preparing their report to carry out any investigation into information given in Forms INS 31, INS 32 and INS 34 relating wholly or partly to the number of claims notified or the amount of payments made prior to the financial year of the insurer to which the Insurance Companies (Accounts and Statements) Regulations 1996 first applied.

(7) A subsidiary undertaking which is a body corporate incorporated in Gibraltar, and the auditors of such an undertaking, shall give to the auditors of any parent company of the undertaking such information and explanations as they may reasonably require for the purposes of their duties as auditors of that company.

(8) A parent company having a subsidiary undertaking which is not a body corporate incorporated in Gibraltar shall, if required by its auditors to do so, take all such steps as are reasonably open to it to obtain from the subsidiary undertaking such information and explanations as they may reasonably require for the purposes of their duties as auditors of that company.

(9) The reference to the profit and loss account contained in the definition of "individual accounts" includes references to the revenue account.

#### **Information on appointed actuary.**

30.(1) Subject to the provisions of this regulation, there shall be annexed to the documents referred to in regulations 6, 7 and 8, as respects every person who, at any time during the financial year in question, was the appointed actuary to the insurer, a statement of the following information—

- (a) particulars of any shares in, or debentures of, the insurer in which the actuary was interested at any time during that year;
- (b) particulars of any pecuniary interest of the actuary in any transaction between the actuary and the insurer and subsisting

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at any time during that year or, in the case of transactions of a minor character, a general description of such interests;

- (c) the aggregate amount of—
  - (i) any remuneration and the value of any other benefits (other than a pension or other future or contingent benefit) under any contract of service of the actuary with, or contract for services by the actuary to, the insurer; and
  - (ii) any emoluments or pensions as director of the insurer which are required by Schedule 4 to the Insurance Companies (Accounts Directive) Regulations 1997 to be included in a note to the accounts of the insurer under regulation 10 of those Regulations; and any compensation as director of the insurer,  
  
receivable by the actuary in respect of any period in that year;  
and
- (d) a general description of any other pecuniary benefit (including any pension and other future or contingent benefit) received by the actuary from the insurer in that year or receivable by him from the insurer,

together with the statement specified in sub-regulation (2).

(2) The statement last referred to in sub-regulation (1) is a statement that the insurer has made a request to the actuary to furnish to it the particulars specified in that sub-regulation and identifying any particulars furnished pursuant to that request.

- (3) For the purposes of paragraphs (a) to (d) of sub-regulation (1) –
  - (a) references to the actuary include reference to -
    - (i) the spouse and any minor child (including step-child) of the actuary;
    - (ii) any person who is a partner of the actuary;
    - (iii) any person (other than the insurer) of which the actuary is an employee; and
    - (iv) any person (other than the insurer) of which the actuary is a director or which is controlled by him;

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- (b) a person shall be deemed to be interested in shares or debentures of a body corporate if he is interested in them according to the rules set out in Schedule 7; and
- (c) a person shall be deemed to have any interest or benefit if he has a beneficial interest in it.

(4) For the purposes of paragraphs (a) to (d) of sub-regulation (1) and of sub-regulation (3)(a), references to an insurer include references to any body corporate which is the insurer's subsidiary undertaking or parent undertaking and to any other subsidiary undertaking of its parent undertaking.

(5) For the purposes of sub-regulation (3), a person shall be taken to control a body corporate if he is a person—

- (a) in accordance with whose directions or instructions the directors of that body corporate or of a body corporate of which it is a subsidiary are accustomed to act; or
- (b) who, either alone or with any other person falling within paragraph (a) of that sub-regulation, is entitled to exercise, or control the exercise of, 15 per cent or more of the voting power at any general meeting of the body corporate or of a body corporate of which it is a subsidiary.

#### **Transitional provisions.**

31.(1) Every document submitted to the Commissioner pursuant to section 52 of the Act in respect of a financial year of an insurer preceding that financial year of the insurer to which these Regulations first apply shall be in the form in which it would have been if these Regulations had not been made.

(2) Any reference in any provision of these Regulations to a document submitted to the Commissioner or prepared in respect of a financial year of an insurer which is a financial year of the insurer preceding that to which these Regulations first apply shall be construed as a reference to the document so submitted or prepared in accordance with the corresponding provisions of the Regulations hereby revoked.

(3) Business in respect of a financial year of an insurer preceding that financial year of the insurer to which these Regulations first apply which has been reported pursuant to the 1996 Regulations in any of Forms INS 24 to INS 29 shall be deemed to be business accounted for on an underwriting year basis for the purposes of regulation 9.

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(4) Notwithstanding regulation 12, business in respect of a financial year of an insurer preceding that financial year of the insurer to which these Regulations first apply shall continue to be classified into risk groups according to the requirements contained in regulation 10 of the 1996 Regulations.

### **Amendment of the Act.**

32. *Schedule 3 to the Act is replaced.*

### **Revocations.**

33. The Insurance Companies (Accounts and Statements) Regulations 1996 are hereby revoked.

## Financial Services (Insurance Companies)

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**INSURANCE COMPANIES (ACCOUNTS AND STATEMENTS)**  
**REGULATIONS 1998**  
**SCHEDULE 1**

Regulations 6 and 7

**BALANCE SHEET AND PROFIT AND LOSS ACCOUNT**  
**(Forms INS 1 to INS 9)**

**Introduction.**

1.(1) All the Forms included in the part of the return to which this Schedule relates (Forms INS 1 to INS 9) are to be laid out as shown in this Schedule, except that the instructions to Forms need not be reproduced.

(2) All amounts, descriptions or other text required to be shown as supplementary notes to a Form shall not be presented on the face of that Form, but shall be presented as a separate statement. The title of that statement shall identify the Form to which it relates.

**Completion of Forms.**

2.(1) Where "source" appears at the head of a column on a Form, the information to be included in the preceding columns of a particular line is to be taken from those items in the returns to which reference is made on that line in the column headed "source". No entries are to be made in the column headed "source".

(2) No entry should be made in a box which is shaded or is not labelled.

(3) In the Forms "this financial year" means the financial year in question.

**Currency.**

3. The value of any asset or the amount of any liability denominated in a currency other than sterling shall be expressed in sterling as if conversion had taken place at the closing middle rate on the last day for which the appropriate rate is available in the financial year to which the asset or liability relates.

4.(1) The amount of any income or expenditure shall be expressed in sterling using such bases of conversion as are in accordance with generally accepted accounting practice.

(2) The bases of conversion adopted shall be stated by way of supplementary note to Form INS 8 or, if there is no Form INS 8, by way of supplementary note to Form INS 40.

**Presentation of amounts.**

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5. Negative amounts shall be shown between round brackets.
6. Where in any Form an amount which is shown as brought forward from a previous year differs from the corresponding amount shown as carried forward from that year and the difference is not due solely to the use of a different rate to express other currencies in sterling, an explanation of the reason for the difference shall be given by way of a supplementary note to that Form.
- 7.(1) Except to the extent permitted by sub-paragraph (2), amounts due to or from the insurer shall be shown gross.
- (2) In calculating amounts due to or from the insurer—
- (a) amounts due from any person may, unless expressly provided otherwise, be included net of amounts which are due to that person, provided that such amounts may be set off against each other under generally accepted accounting practice; and
- (b) amounts due to any person may, unless expressly provided otherwise, be included net of amounts which are due from that person, provided that such amounts may be set off against each other under generally accepted accounting practice.
- (3) If amounts shown include amounts calculated on the basis set out in sub-paragraph (2), a supplementary note to Form INS 5 to that effect shall be provided.
- (4) This paragraph does not apply to Form INS 9.
8. All amounts are to be shown to the nearer £1,000.

**Premiums.**

- 9.(1) Notwithstanding the requirements of Schedule 1 to the Insurance Companies (Accounts Directive) Regulations 1997, amounts included in Forms INS 3 and INS 4 in respect of—
- (a) gross premiums receivable;
- (b) claims paid;
- (c) claims outstanding; and
- (d) reinsurance recoveries,

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shall be determined in accordance with Schedules 1, 2 and 4 to the Insurance Companies (Solvency Margins and Guarantee Funds) Regulations 1996.

(2) Where any amount included in Form INS 3 or INS 4 pursuant to paragraph (1) differs from the aggregate of the corresponding amounts included in Forms INS 21, INS 22, INS 24 and INS 25, there shall be stated by way of supplementary note to Form INS 3 or INS 4, as the case may be—

- (a) the amount of such difference; and
- (b) an explanation for such difference.

#### **Counterparty exposure.**

10.(1) There shall be given by way of a supplementary note to Form INS 5-

- (a) the maximum extent to which, in accordance with any investment guidelines operated by the insurer, it was permitted to be exposed to any one counterparty during the financial year in question;
- (b) the maximum extent to which, in accordance with such guidelines, it was permitted to be exposed to any one counterparty, other than by way of exposure to an approved counterparty, during the financial year in question; and
- (c) an account of any occasions during the financial year on which either of those amounts was exceeded.

(2) In each case where the exposure of the insurer to a counterparty at the end of the financial year in question exceeds 5 per cent. of its long term business amount or general business amount, as appropriate—

- (a) the amount of that exposure; and
- (b) the nature of the assets held which give rise to that exposure,

shall be stated by way of a supplementary note to Form INS 5.

(3) There shall be stated by way of supplementary note to Form INS 5 the aggregate value of any rights to which paragraph 14 of Part I of Schedule 1 to the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996 applies.

#### **Provision for adverse changes.**



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11. There shall be stated by way of supplementary note to Form INS 6 or INS 7 the methods and assumptions used to determine the amount of any provision made pursuant to regulation 19 of the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996 or, if there is no such provision, the methods and assumptions used to determine that no provision is required.

### **Liabilities.**

12.(1) Subject to sub-paragraph (3), the following information shall be given by way of a supplementary note to Form INS 6 or INS 7—

- (a) in the case of any charge over assets of the insurer, the particulars specified in sub-paragraph (2) or a statement that there are no such charges;
- (b) the total potential liability, and the amount provided for that liability, to taxation on capital gains which might arise if the insurer disposed of its assets, or a statement that there is no such potential liability;
- (c) a brief description of any other liabilities being contingent liabilities not included in Form INS 6 or INS 7 (other than liabilities arising under an inwards contract of insurance or reinsurance) including, where practicable, the amounts or estimated amounts of those liabilities, or a statement that there are no such contingent liabilities;
- (d) a brief description of any guarantee, indemnity or other contractual commitment, effected by the insurer other than in the ordinary course of its insurance business, in respect of the existing or future liabilities of any related companies, including—
  - (i) the maximum liability of the insurer specified in such guarantee, indemnity or contractual commitment or, where no such amount is specified, a statement to that effect;
  - (ii) the amount of any provision made in respect of such liability; and
  - (iii) the amount reported under (c) in respect of such liability,

or a statement that there are no such guarantees, indemnities or contractual commitments;

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### INSURANCE COMPANIES (ACCOUNTS AND STATEMENTS) REGULATIONS 1998

- (e) a description of any other uncertainty where such a description is, in the opinion of the directors, necessary for a proper understanding of the financial position of the insurer.
- (2) The particulars referred to in sub-paragraph (1)(a) are–
- (a) the nature of the charge, including a brief description of the terms which are relevant to securing the prior claim of any person to assets which are subject to the charge;
  - (b) for each line in Form INS 5, the amount included in respect of assets which are subject to the charge; and
  - (c) for each line in Form INS 6 or INS 7, the amount included in respect of liabilities which are secured by the charge.
- (3) Sub-paragraph (1)(a) and (c) may be disregarded by an insurer in the case of–
- (a) one or more charges over assets which are attributable to either the long term or the general business assets and whose aggregate value (as shown on Form INS 5) does not exceed 2 1/2 per cent of the long term or general business amount, as the case may be; or
  - (b) one or more contingent liabilities whose aggregate value does not exceed 2 1/2 per cent. of the long term or general business amount, as the case may be.
- (4) Sub-paragraph (1)(d) may be disregarded by an insurer in respect of one or more guarantees, indemnities or contractual commitments where the aggregate of the maximum liabilities specified in such guarantees, indemnities or contractual commitments does not exceed 2 1/2 per cent of the long term or general business amount, as the case may be.
- (5) For the purposes of this paragraph, “charge” shall include any arrangement whatsoever, whether contractual or otherwise, which operates to secure the prior claim of any person over general creditors to any assets on a winding up of the insurer.

#### **Reconciliation.**

13.(1) For an insurer (other than an insurer incorporated outside Gibraltar) an explanation shall be given by way of supplementary note to Form INS 2 reconciling–

- (a) line 99 of Form INS 5 less line 59 of Form INS 7; and

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- (b) the amount shown under balance sheet item A “capital and reserves” in the company’s accounts prepared pursuant to Schedule 1 to the Insurance Companies (Accounts Directive) Regulations 1997 for the financial year in question.

(2) Where for an insurer (other than an insurer incorporated outside Gibraltar) there are no accounts pursuant to sub-paragraph (1)(b) (or the accounts have not yet been prepared), this shall be stated by way of supplementary note to Form INS 2.

**Derivative contracts.**

14. Any derivative contract entered into by the insurer—

- (a) the value of which is taken into account for the purposes of calculating benefits payable to policy holders under property linked contracts; or
- (b) in order to match its liabilities in respect of the payment of index linked benefits shall be excluded from Form INS 9.

15. Where, in respect of any derivative contract included in Form INS 9, assets have been transferred to or for the benefit of an insurer by way of variation margin there shall be stated by way of supplementary note to Form INS 9—

- (a) the aggregate amount of any liability to repay such assets or equivalent assets;
- (b) for each line in Form INS 5, the amount included in respect of such assets; and
- (c) to what extent any amounts included in Form INS 5 have taken account of any requirement to repay such assets or equivalent assets.

16. If—

- (a) the aggregate value of rights under contracts or in respect of assets, either of which have the effect of derivative contracts, exceeds 2 1/2 per cent of the aggregate value of assets shown at line 89 of Form INS 5; or
- (b) the aggregate amount of liabilities under contracts or in respect of assets, either of which have the effect of derivative contracts, exceeds 2 1/2 per cent of the aggregate of the amounts shown

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in lines 17 to 39 of Form INS 6 or lines 31 to 51 of Form INS 7, as appropriate,

the corresponding value, if not zero, shall be stated (by way of supplementary note to Form INS 9) for each line in Form INS 5, INS 6 or INS 7 and paragraph 15 shall apply to the insurer as if such contracts or assets had been included in Form INS 9.

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**FORM INS 1**

Returns under Insurance Companies Legislation

Form INS 1

**Statement of solvency**

Name of insurer

Global business / Gibraltar branch business / EEA branch business

Financial year ended

	As at the end of this financial year	As at the end of the previous year	Source		
			Form	Line	Column
	1	2			
<b>GENERAL BUSINESS</b>					
<b>Available assets</b>					
Other than long term business assets allocated towards general business required minimum margin	11		See instructions 1 and 2		
<b>Required minimum margin</b>					
Required minimum margin for general business	12		INS 4	48	
Excess (deficiency) of available assets over the required minimum margin (11-12)	13				
<b>LONG TERM BUSINESS</b>					
<b>Available assets</b>					
Long term business admissible assets	21		INS 2	11	
Other than long term business assets allocated towards long term business required minimum margin	22		See instructions 1 and 3		
Total mathematical reserves (after distribution of surplus)	23		See instruction 4		
Other insurance and non-insurance liabilities	24		See instruction 5		
Available assets for long term business required minimum margin (21+22-23-24)	25				
<b>Implicit items admitted under regulation 5 of the Insurance Companies (Solvency Margins and Guarantee Funds) Regulations 1996</b>					
Future profits	31				
Diminishing	32				
Hidden reserves	33				
Total of available assets and implicit items (25+31+32+33)	34				
<b>Required minimum margin</b>					
Required minimum margin for long term business	41		INS 60	59	
Explicit required minimum margin (1/5 x 41, or minimum guarantee fund if greater)	42				
Excess (deficiency) of available assets over explicit required minimum margin (25-42)	43				
Excess (deficiency) of available assets and implicit items over the required minimum margin (34-41)	44				
<b>CONTINGENT LIABILITIES</b>					
Quantifiable contingent liabilities in respect of other than long term business as shown in a supplementary note to Form INS 7	51		See instruction 6		
Quantifiable contingent liabilities in respect of long term business as shown in a supplementary note to Form INS 6	52		See instruction 6		

**Instructions for completion of Form INS 1.**

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1. For a composite insurer, the whole Form shall be completed, with the sum of the entries at lines 11 and 22 being equal to the entry at Form INS 2 line 29.
2. For an insurer transacting only general business, only lines 11 to 13 and line 51 shall be completed, with the entry at line 11 being equal to the entry at Form INS 2 line 29.
3. For an insurer transacting only long term business, only lines 21 to 52 shall be completed, with the entry at line 22 being equal to the entry at Form INS 2 line 29.
4. The entry at line 23 shall be equal to the sum of lines 11 and 63 in Form INS 6.
5. The entry at line 24 shall be equal to the sum of lines 12 and 49 in Form INS 6.
6. The entries at lines 51 to 52 shall not include provision for any liability to tax on capital gains referred to in paragraph 12(1)(b) of Schedule 1.

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**FORM INS 2**

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**Instructions for completion of Form INS 2.**

1. Amounts included at lines 24 to 27 shall be as determined in accordance with regulation 4 of the Insurance Companies (Solvency Margins and Guarantee Funds) Regulations 1996 or as specifically allowed pursuant to an order issued under section 113 of the Act.
2. Line 63 shall be equal to lines INS 5.92.2 to INS 5.95.2 less lines INS 5.92.1 to lines INS 5.95.1 of the form for the Total other than long term business assets category.
3. Line 64 shall be Form INS 7.61.2 less INS 7.61.1.

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**FORM INS 3**

Form INS 3

(Sheet 1)

Returns under Insurance Companies Legislation

General business: Calculation of required margin of solvency – first method and brought forward

Name of Insurer

Global business / Gibraltar branch business / EEA branch business

Financial year ended

			This financial year	Previous year
			1	2
Gross premiums receivable			11	
Premium taxes and levies (included in line 11)			12	
Premium receivable net of taxes and levies (11 – 12)			13	
Premiums for classes 11, 12 or 13 (included in line 13)			14	
Sub-total A (13 + (1/2 x 14))			15	
Adjusted Sub-total A if financial year is not a 12 month period to produce an annual figure			16	
Division of Sub-total A (or adjusted Sub-total A if appropriate)	Other than Health insurance	Up to and including sterling equivalent of 50M EURO x 18/100 Excess (if any) over 50M EURO x 18/100	17	
	Health insurance	Up to and including sterling equivalent of 50M EURO x 6/100 Excess (if any) over 50M EURO x 18/500	18	
	Health insurance	Up to and including sterling equivalent of 50M EURO x 6/100 Excess (if any) over 50M EURO x 18/500	19	
	Health insurance	Up to and including sterling equivalent of 50M EURO x 6/100 Excess (if any) over 50M EURO x 18/500	20	
Sub-total B (17+18+19+20)			21	
Gross premiums earned			22	
Premium taxes and levies (included in line 22)			23	
Premiums receivable net of taxes and levies (22-23)			24	
Premiums for classes 11, 12 or 13 (included in line 24)			25	
Sub-total H (24 + (1/2 x 25))			26	
Adjusted sub-total H if financial year is not a 12 month period to produce an annual figure			27	
Division of Sub-total H (or adjusted Sub-total H if appropriate)	Other than health insurance	Up to and including sterling equivalent of 50M EURO x 18/100 Excess (if any) over 50M EURO x 18/100	28	
	Health insurance	Up to and including sterling equivalent of 50M EURO x 18/100 Excess (if any) over 50M EURO x 18/300	29	
	Health insurance	Up to and including sterling equivalent of 50M EURO x 18/100 Excess (if any) over 50M EURO x 18/300	30	
	Health insurance	Up to and including sterling equivalent of 50M EURO x 18/100 Excess (if any) over 50M EURO x 18/300	31	
Sub-total I (28 + 29 + 30 + 31)			32	



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Form INS 3  
(Sheet 2)

Returns under Insurance Companies Legislation

General business: Calculation of required margin of solvency – first method and brought forward

Name of insurer

Global business / Gibraltar branch business / EEA branch business

Financial year ended

		This financial year 1	Previous year 2
Sub-total J (greater of sub-total B and sub-total I)		40	
Claims paid in period of 3 financial years		41	
Claims outstanding carried forward at the end of the 3 year period	For business accounted for on an underwriting year basis	42	
	For business accounted for on an accident year basis	43	
Claims outstanding brought forward at the beginning of the 3 year period.	For business accounted for on an underwriting year basis	44	
	For business accounted for on an accident year basis	45	
Sub-total C (41+42+43-(44+45))		46	
Amounts recoverable from reinsurers in respect of claims included in Sub-total C		47	
Sub-total D (46-47)		48	
First result:	Sub-total J x (Sub-total D) / (Sub-total C) (or, if 1/2 is a greater fraction, x 1/2)	49	
Provisions for claims outstanding (before discounting and net of reinsurance)		50	
Brought forward amount (INS 4.43.2 x (50.1)/(50.2) or, if less INS 4.43.2)		51	
Greater of lines 49 and 51		52	

**Instructions for completion of Form INS 3**

1. Entries in column 2, lines 17 to 20 and lines 28 to 31 shall be the corresponding entries in column 1 of the form for the previous financial year, even if the amount in Euro in the description of the form has changed.
2. 51.2 shall be INS 3.51.1 from the previous year's return.
3. If the financial year began before 1 January 2004, then the entries in column 2, lines 14, 22 to 32 and 51 shall be blank, and the amounts in column 2, lines 41 to 45 shall relate to a period of 1 financial year.
4. Entries in column 2, lines 17 to 20 and 28 to 31 shall be the corresponding entries in column 1. of the form for the previous financial year, even if the amount of Euro in the description of the lines has changed.

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**FORM INS 4**

Form INS 4

Returns under Insurance Companies Legislation

General business: Calculation of required margin of solvency - second method, and statement of required minimum margin

Name of insurer:

Global business / Gibraltar branch business / EEA branch business

Financial year ended:

		This financial year		Previous year		Source		
		1	2	1	2	Form	Line	Column
Reference period (No. of financial years). Insert "0" if there is no reference period otherwise insert "3" or "12"	<input type="checkbox"/>	<b>11</b>						See instruction 1
Claims paid in reference period		<b>21</b>						
Claims outstanding carried forward at the end of the reference period	For business accounted for on an underwriting year basis	<b>22</b>						
	For business accounted for on an accident year basis	<b>23</b>						
Claims outstanding brought forward at the beginning of the reference period	For business accounted for on an underwriting year basis	<b>24</b>						
	For business accounted for on an accident year basis	<b>25</b>						
Sub-total E (21+22+23-(24+25))		<b>29</b>						
Sub-total F - Conversion of Sub-total E to annual figure (Multiply by 12 and divide by number of months in reference period)		<b>31</b>						
Division of Sub-total F	Other than health insurance	Up to and including sterling equivalent of 35M EURO x 25/100	<b>32</b>					
	Health insurance	Excess (if any) over 35M EURO x 23/100	<b>33</b>					
	Health insurance	Up to and including sterling equivalent of 35M EURO x 25/100	<b>34</b>					
	Excess (if any) over 35M EURO x 23/100	<b>35</b>						
Sub-total G (32 to 35)		<b>39</b>						
Second result (Sub-total G) x (Sub-total D) / (Sub-total C) (or, if 1/2 is a greater fraction, x 1/2)		<b>41</b>						
Higher of First result and Brought Forward Amount		<b>42</b>						INS 3 62
Required margin of solvency (the higher of lines 41 and 42)		<b>43</b>						
Minimum guarantee fund		<b>44</b>						
Required minimum margin (the higher of lines 43 and 44)		<b>49</b>						

**Instructions for completion of Form INS 4**

1. Entries in column 2, lines 32 to 35 shall be the corresponding entries in column 1 of the form for the previous financial year, even if the amount in Euro in the description of the lines has changed.
2. If the insurer has not been in existence long enough to acquire a reference period, lines 21 to 41 shall be ignored.

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3. Claims, provisions and recoveries included in lines 21 to 25 in respect of classes 11, 12 and 13 shall be increased by 50%. Statistical methods may be used to allocate the claims, provisions and recoveries in respect of these classes. If the financial year began before 1 January 2004, then this instruction does not apply to column 2.

**Instructions for completion of Form INS 5**

1. Form INS 5 shall be completed for the total long term business assets of the insurer or branch and for each fund or group of funds for which separate assets are appropriate. The words “Total long term business assets” or the name of the fund shall be shown against the heading “Category of Assets”.
2. Form INS 5 shall be completed in respect of the total assets of the insurer or branch other than any long term business assets. The word “Total other then long term business assets” shall be shown against the heading “Category of Assets”.
3. (a) In the case of the Gibraltar branch of an external insurer (other than a pure reinsurer) Form INS 5 shall be completed for the following categories of assets—

Category

Assets deposited with the Commissioner

Assets maintained in Gibraltar

Assets maintained in Gibraltar and EEA States

- (b) In the case of an EEA branch of a Gibraltar deposit insurer Form INS 5 shall be completed for the following categories of assets—

Category

Assets deposited with the Commissioner

Assets maintained in Gibraltar and EEA States

Assets maintained in Gibraltar and EEA States where business is carried on.

4. In lines 11 to 86—

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- (a) for the purpose of classifying (but not valuing) assets, headings and descriptions used above, wherever they also occur in the balance sheet format in Schedule 1 to the Insurance Companies (Accounts Directive) Regulations 1997, shall have the same meaning as in that Schedule,
  - (b) assets shall be valued in accordance with regulation 4, and
  - (c) assets of any particular description shall be shown after deduction of assets of that description which (for any reason) fall to be left out of account under regulation 15(2)(a) of the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996
5. The aggregate value of those investments which are:
- (i) unlisted investment falling within any of lines 41, 42, 46 and 48 which have been valued in accordance with regulation 6 of the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996; or
  - (ii) listed investments falling within any of lines 41, 42, 46 and 48 which have been valued in accordance with regulation 6 of the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996 and which are not ready realisable; or
  - (iii) units or other beneficial interests in collective investments schemes falling within paragraph (c) of regulation 10(1) of the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996; or
  - (iv) reversionary interests or remainders in property other than land or buildings,
- shall be stated by way of a supplementary note to this form, together with a description of such investments.
6. The aggregate value of those investments falling within lines 46 or 48 which are hybrid securities shall be stated by way of a supplementary note to this form.
7. Amounts in respect of salvage or subrogation included above other than at line 73 shall be stated by way of a supplementary note.
8. The entry at line 85 shall be equal to the sum of lines INS 22.29.3 and lines INS 25.24.99-99.

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9. In lines 93 “Solvency margin deduction for insurance dependants” refers to deductions under regulation 13(2)(c) and (d) of the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996.
10. In line 95 “Assets of a type not valued above” refers to assets left out of account under regulation 3(3) of the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996.
11. Lines 60 to 63 and 85 relate only to general business insurance.
12. Lines 60 to 63 and 85 should be left blank for a Gibraltar branch of an external insurer and the EEA branch of a Gibraltar deposit insurer.
13. Since the technical provisions for claims outstanding shown on Form INS 7 may only be discounted or reduced to take account of investment income in limited circumstances, the amount shown at line 12 of Form INS 7 may need to be increased (see instruction 3 to Form INS 7). In such cases, the reinsurers share shown at line 61 must be adjusted to be consistent with the amount shown in line 12.

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**Instructions for completion of Form INS 6**

1. The form shall be completed for the total long term business liabilities and margins of the insurer or branch and for each fund or group of funds for which separate assets are appropriated. The words "Total long term business assets" or the name of the fund shall be shown against the heading "Category of assets".
2. The entry at line 11 shall equal the sum of lines 21, 43, 44, and 45 of the appropriate Form or Forms INS 58.
3. The entry at line 12 shall equal line 42 of the appropriate Form or Forms INS 58.
4. The entry at line 13 shall equal line 49 of the appropriate Form or Forms INS 58.
5. The entry at line 14 shall equal line 59 of the appropriate Form or Forms INS 40.
6. The entry at line 51 shall be:
  - (a) the value of the admissible assets (as included in line 89 of the appropriate Form INS 5) representing the long term business funds, fund or group of funds to which the Form relates, less
  - (b) the amount of those funds, fund or group of funds, being the sum of the amounts shown at lines 14 and 49.
7. The entry at line 63 shall be the amount specified in the appointed actuary's certificate in accordance with paragraph 8(a)(ii) of Schedule

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6, but only insofar as it relates to the fund, funds or groups of funds to which this Form INS 6 relates.



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**Repealed**  
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**Instructions for completion of Form INS 7**

1. Amounts in lines 11 to 13 and 16 shall be stated gross of reinsurers' share.
2. The aggregate amount of any accrued dividend in respect of cumulative preference shares issued by the company shall be shown by way of a supplementary note to this form.
3. The amount shown in line 12 may only be discounted or reduced to take account of investment income:
  - (a) for class 1 or 2 business; or
  - (b) in respect of annuities.

So, if the technical provisions for claims outstanding for other business are discounted or reduced to take account of investment income, then they must be increased by the difference between the undiscounted and the discounted provisions. If technical provisions are increased the amount of the increase must be shown by way of a supplementary note to this form, together with the corresponding increase in the reinsurer's share shown in line 61 of Form INS 5.

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**Instructions for completion of Form INS 9**

1. Form INS 9 shall be completed in respect of the total general business assets and in respect of the total long term business assets, if any, of the insurer or branch. Form INS 9 shall also be completed for each fund or group of funds referred to in instruction 1 to Form INS 5.
2. Derivative contracts shall be analysed according to the description of assets shown in the second column of Form INS 9 which represents the principal subject of the contract.
3. Derivative contracts shall be reported as assets in column 1 of Form INS 9 if their value to the insurer (gross of variation margin) is positive and as liabilities in column 2 of Form INS 9 if their value (gross of variation margin) to the insurer is negative.
4. All amounts included at lines 11 to 35 of Form INS 9 in respect of derivative contracts shall be determined without making any allowance for variation margin.
5. Amounts in respect of a derivative contract may only be included net of amounts in respect of any other derivative contract if—
  - (a) obligations of the insurer under the contracts may be set off against each other under generally accepted accounting practice; and
  - (b) such other contract has the effect (in whole or in part) of closing out the obligations of the insurer under the first mentioned contract.

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6. The effect of any variation margin upon amounts included at lines 11 to 35 of Form INS 9 shall be shown at line 41.
7. The entry at INS 9.49.1 shall be included in INS 5.44.1.
8. The entry at INS 9.49.2 shall be included at INS 6.47.1 or INS 7.49.1. as appropriate.
9. Rights to recover assets transferred by way of initial margin shall not be shown on Form INS 9.

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**SCHEDULE 2**

Regulations 8 to 16

**GENERAL BUSINESS: REVENUE ACCOUNT AND  
ADDITIONAL INFORMATION**  
(Forms INS 20 to INS 39)

**Introduction.**

1. All the Forms included in the part of the return to which this Schedule relates (Forms INS 20 to INS 36 and INS 38 and INS 39) are to be laid out as shown in this Schedule, except that the instructions to Forms need not be reproduced.
2. The provisions of paragraph 1(2) and paragraphs 2 to 6 of Schedule 1 shall, unless otherwise provided, also apply for the purposes of this Schedule.

**Currency.**

3.(1) Notwithstanding the provisions of paragraph 2, amounts on Forms INS 26 to INS 29 submitted in accordance with regulation 11 and on Forms INS 31, INS 32 and INS 34 submitted in accordance with regulation 13 in respect of business carried on in any country other than Gibraltar shall be shown in the currency of the country concerned, except that figures shall be shown in sterling in those columns and lines which the Forms indicate are always to contain figures expressed in sterling.

(2) For every currency other than sterling in which amounts are shown on the Forms referred to in sub-paragraph (1) an entry shall be made on Form INS 36 to show the rate used to convert those amounts to sterling for inclusion elsewhere in the returns.

(3) Notwithstanding the provisions of paragraph 2, all amounts included in—

- (a) columns 1, 2, 3 and 11 of all Forms INS 23, INS 26 and INS 27;
- (b) columns 3 and 10 of any Form INS 31 or INS 32 prepared in respect of Gibraltar or home foreign business; or
- (c) columns 1 and 8 of any Form INS 34 prepared in respect of Gibraltar or home foreign business,

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shall be expressed in sterling as if conversion of every major currency had taken place at the closing middle rate on the last day for which the appropriate rate is available in the financial year in question.

- (4) For the purposes of sub-paragraph (3), a major currency is—
- (a) in the case of any business carried on in any country other than Gibraltar, the currency of that country;
  - (b) in the case of any other business, United States dollars, Euros and any other currency which the insurer elects to treat as a major currency.
- (5) An insurer need not apply sub-paragraph (3) to amounts shown in any line of any of the Forms mentioned in that sub-paragraph representing an accident year or underwriting year ending before (the date of coming into effect of these Regulations).
- (6) For the purpose of sub-paragraph (1), “the currency of the country concerned”, in the case of a country participating in the European Economic and Monetary Union, means—
- (a) for forms completed in respect of the financial year ending before 31 December 1999, the currency of the country concerned on 31 December 1998;
  - (b) for forms completed in respect of a financial year ending on or after 31 December 1999, the euro (whether or not the amounts reported on those forms relate to accident or underwriting years ending on or after 31 December 1999)
4. All amounts shown in sterling shall be shown to the nearer £1,000. Amounts in any other currency on Forms INS 26 to INS 29, INS 31, INS 32 and INS 34 shall be shown to the nearer 1,000 principal monetary units of that currency.
- 5.(1) Where premiums are written by an insurer or claims are incurred by it under a reinsurance treaty—
- (a) notwithstanding paragraphs 2 to 4, amounts shown on Forms INS 26 to INS 29 may be shown in sterling or in United States dollars or in Canadian dollars or in euros; and
  - (b) if in a financial year the proportion of gross premiums written, or of claims incurred by the insurer or outstanding from the insurer, in any one currency other than sterling, United States dollars or Canadian dollars exceeds 10 per cent of such

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premiums or claims under all such treaties, Forms INS 26 to INS 29 may be prepared in that currency,

and where the provisions of this sub-paragraph have been applied in respect of a reinsurance treaty in relation to a financial year, those provisions shall be applied in the same manner in respect of that treaty in relation to any later financial year.

(2) An explanation by way of supplementary note to the Forms shall be given of the method by which the said average has been determined and of any change from the manner in which Forms INS 26 to INS 29 were prepared in respect of the preceding financial year.

#### **Accounting classes.**

6.(1) Direct insurance and facultative reinsurance business shall be included in the return in accordance with the accounting classes, save that –

- (a) where an insurer only undertakes business in accounting class 4 in respect of risks relating to hovercraft, it may include such business in accounting class 3 if it also undertakes business in that class;
- (b) an insurer may include in accounting class 5 business covering liability for loss of, or damage to, goods in transit which would otherwise be included in accounting class 2, provided that the policy does not cover damage to vehicles except as a related and subsidiary provision within the meaning of section 2(1) of the Act; and
- (c) an insurer may include in accounting class 1 business falling within general business class 1(p).

(2) Non-proportional treaty reinsurance business shall be included in accounting class 9 and proportional treaty reinsurance shall be included in accounting class 10 save that–

- (a) an insurer may include in accounting class 11 treaty business falling within general business classes 1(p), 5, 6, 7, 11 and 12; and
- (b) a company shall include in accounting class 9 proportional retrocessions of non-proportional treaty reinsurance business.

7. Where an insurer includes business in another accounting class under sub-paragraph (1) or (2)(a) of paragraph 6, the following information shall be stated by way of a supplementary note to Form INS 20–



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- (a) the nature of any business included in another accounting class pursuant to the sub-paragraph in question: and
- (b) the reason for such inclusion.

**Premiums.**

8. In Forms INS 23, INS 26, INS 27, INS 31 and INS 32–

- (a) gross premiums earned in respect of an accident year shall be such proportion of gross premiums written as is attributable to risks borne by the insurer during that accident year; and
- (b) the reinsurers' share of premiums earned shall be attributed to the same accident years as the corresponding gross premiums earned, so as to calculate the net earned premium for each accident year.

9. In Forms INS 24, INS 25, INS 28, INS 29 and INS 34 –

- (a) gross premiums written in an underwriting year shall be the amount of such premiums arising in respect of contracts of insurance incepting during that underwriting year, whether or not they are received during that underwriting year: and
- (b) the reinsurers' share of premiums written shall be attributed to the same underwriting years as the corresponding gross premiums written.

10. For the purposes of paragraphs 9 and 13 of this Schedule, where an insurer has acquired policies under a transfer approved by the Commissioner under Schedule 10 to the Act or approved by the competent authority of an EEA State under Article 12 of Council Directive 92/49/EEC, the policies transferred to the insurer shall be taken to have incepted on the date of such transfer.

11. In all Forms to which this Schedule relates, amounts required to be shown in respect of premiums shall be shown before deduction for commissions.

**Claims.**

12.(1) In Forms INS 23, INS 26, INS 27, INS 31 and INS 32, where an amount or number is required to be shown for claims in respect of an accident year, that amount or number shall be determined on the basis of claims arising from incidents occurring during that accident year.

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(2) For the purposes of sub-paragraph (1), an incident giving rise to a claim under a claims-made policy shall be deemed to occur on the earlier of—

- (a) the date on which it is notified in accordance with the terms of that policy; or
- (b) the date on which the period for which cover is provided under that policy expires.

(3) For the purposes of sub-paragraph (1), where an insurer has assumed, pursuant to a contract, responsibility (whether wholly or in part) for the payment or reimbursement of claims made under policies effected by another insurer, all incidents occurring prior to the date of such contract and giving rise to claims under those policies shall be deemed have occurred on the date of such contract.

(4) In the application of sub-paragraph (3), the reference to responsibility assumed by an insurer shall include responsibility assumed as a reinsurer or under a transfer approved by the Commissioner under Schedule 10 to the Act or approved by the competent authority of an EEA State under Article 12 of Council Directive 92/49/EEC; and in the case of such a transfer the date of the contract shall be taken to be the date of the transfer.

13. In Forms INS 24, INS 25, INS 28, INS 29 and INS 34, where an amount is required to be shown for claims in respect of an underwriting year, that amount shall be determined on the basis of claims arising under contracts of insurance incepting during that underwriting year.

14. In all Forms to which this Schedule relates, amounts required to be shown for claims shall not include amounts in respect of claims management costs.

#### **Gibraltar and non-Gibraltar business.**

15.(1) For each accounting class there shall be stated separately for business accounted for on an accident year basis and on an underwriting year basis the following by way of supplementary note to Form INS 20 –

- (a) the total gross premium written and the amounts attributable to Gibraltar and to non-Gibraltar business; and
- (b) the reinsurers' amount in respect of each of the amounts required to be stated under (a).

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(2) For the purposes of this Schedule gross premiums written shall be shown or included as Gibraltar premiums in the case of direct insurance or inwards facultative reinsurance, the contract of insurance was made in Gibraltar or if, in the case of a reinsurance treaty, the cedant was an insurer having its head office in Gibraltar; and "non-Gibraltar premiums" shall be construed accordingly.

### **Transfers of general business.**

16.(1) If during the financial year, policies already effected by another insurer have been transferred to the insurer, it shall state, in respect of each accounting class, the following by way of supplementary note to Form INS 23 and INS 24 –

- (a) the date of the transfer;
- (b) whether the transfer was approved by the Commissioner under Part II of Schedule 10 to the Act or approved by the competent authority of an EEA State under Article 12 of Council Directive 92/49/EEC or was effected by novation;
- (c) any amounts included in premiums and claims in respect of consideration for the transfer;
- (d) amounts required to be stated under (c) analysed by risk group and business category;
- (e) the earliest and latest dates upon which the relevant policies incept; and
- (f) whether or not any of the policies has a duration of longer than 12 months and, if so, the date by which all policies will have expired

(2) Sub-paragraph (1) shall not apply in respect of any transfer by way of novation unless the amounts mentioned in sub-paragraph (1)(c) exceed in aggregate 2 1/2 per cent. of the insurer's gross premium income for the financial year in question.

### **Unearned premiums.**

17. In Forms INS 21 and INS 25, the basis on which unearned premiums are calculated and the reason for adopting this basis shall be stated by way of supplementary note.

### **Provision for unexpired risks.**

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18.(1) The amount included for the provision for unexpired risks in any Form INS 22 or INS 25 prepared in respect of an accounting class shall be determined without taking into account any surplus expected to arise on the unexpired risks falling within other accounting classes.

(2) Where in determining the amount of the overall provision for unexpired risks (line 13 in Form INS 7 less line 62 in Form INS 5) credit has been taken for any aggregate surplus expected to arise on the unexpired risks falling in any accounting class, the amount of that credit shall be included as a negative amount at line 19 of Form INS 22 or line 23 of Form INS 25, as appropriate, for that accounting class.

19. Where the amount included at column 3 line 19 (provision for unexpired risks) in any Form INS 22 or at column 99-99 of line 23 (provision for unexpired risks) in any Form INS 25 has been determined after taking into account expected investment return, the following shall be stated by way of supplementary note—

- (a) the provision for unexpired risks before taking such investment return into account;
- (b) the rates of investment return assumed; and
- (c) the average interval between the end of the financial year in question and the date at which claims are expected to be settled in cash.

#### **Cessation of business.**

20.(1) If the insurer has effected no new contracts of insurance of any one or more classes of general business during the financial year, the date on which the last new contract of each such class was effected shall be stated by way of supplementary note to Form INS 20.

(2) For the purposes of this paragraph and paragraph 21, a “new contract of insurance” is any contract of insurance effected by the insurer other than in fulfilment of its obligations under subsisting contracts of insurance.

#### **Claims management costs.**

21.(1) In Forms INS 22 and INS 24, the basis used for the determination of amounts for claims management costs payable in the financial year in question and carried forward to the following financial year shall be stated by way of supplementary note.

(2) If, in respect of any accounting class—

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- (a) no amount for claims management costs is shown as being carried forward to the following financial year; and
- (b) an amount for net claims is shown as being carried forward to that year,

the reason for anticipating that there will be no claims management costs incurred during the following financial years shall be included in the note required by sub-paragraph (1).

(3) If, within an accounting class, an insurer has ceased to effect new contracts of insurance during the financial year in question, the basis upon which any additional costs arising as a result of such cessation have been determined or the reason for anticipating that no such additional costs shall be incurred shall be included in the note required by sub-paragraph (1).

(4) Where the amount in respect of claims management costs carried forward included in any Form INS 22 or INS 24 has been determined after taking into account expected investment return, there shall be stated by way of supplementary note to that Form INS 22 or INS 24—

- (a) the rates of investment return assumed; and
- (b) the average interval between the end of the financial year in question and the date by which the claims management costs are expected to be expended.

### **Acquisition costs.**

22. The basis used for the determination of amounts for acquisition costs (other than commission) payable in the financial year in question and carried forward to the next financial year, as shown at line 22 of Form INS 22 and line 42 of Form INS 24, shall be stated by way of a supplementary note to those Forms.

### **Underwriting year accounting.**

23.(1) With reference to the financial year in question and in respect of each accounting class, the following information shall be stated by way of supplementary note to Form INS 24 –

- (a) the reason for accounting for such business on an underwriting year basis;

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- (b) the basis for distinguishing between such business and any other business falling within the same accounting class accounted for on an accident year basis;
- (c) the accounting policy adopted for determining the provision for claims outstanding; and
- (d) if the information provided in (a) to (c) differs in respect of risks incepted in the financial year in question from risks of a similar description incepted in previous financial years, the reason for that difference.

(2) Where the provision for claims outstanding is set in respect of any business using the non-annual method, the note required by sub-paragraph (1)(a) shall include the following information—

- (a) the reason for using the non-annual method;
- (b) the basis for distinguishing between such business and other business accounted for on an underwriting year basis falling within the same accounting class;
- (c) the normal period for which an underwriting year is left open or, if that period differs for different types of business within an accounting class—
  - (i) the basis for distinguishing between the types of business; and
  - (ii) the normal period for each type; and
- (d) where an underwriting year is left open for longer than the normal period, the reason for not closing the year.

(3) For the purposes of this Schedule—

- (a) “non-annual method” refers to the method described by paragraph 50 of Schedule 1 to the Insurance Companies (Accounts Directive) Regulations 1997; and
- (b) A year is “open” with respect of any business incepting during its period if the provision for outstanding claims in respect of that business is set using the non-annual method and if so set previously has not now been replaced in accordance with the requirements of paragraph 51(4) of Schedule 1 to the Insurance Companies (Accounts Directive) Regulations 1997, and

“closed year” and “closing a year” shall be construed accordingly.

**Business managed together.**

24.(1) For the purposes of Forms INS 25 and INS 29, risks may be regarded as managed together if–

- (a) they incept in the same financial year and are accounted for using the non-annual method; and
- (b) they may be treated as managed together under generally accepted accounting practice.

(2) Where any amount is shown on Form INS 25 or INS 29 for the transfer of anticipated surplus, the following shall be stated by way of supplementary note to that Form–

- (a) a description of the business in respect of which the anticipated surplus arises and of the business in respect of which the deficit to be offset arises (including in the case of Form INS 25 the risk groups or business categories into which such business falls); and
- (b) the reason for treating the business as managed together.

**Application of accounting practice.**

25.(1) Amounts in respect of inwards and outwards contracts of insurance shall be classified for inclusion in Forms INS 20 to INS 39 according to their economic substance in accordance with generally accepted accounting practice.

(2) Where amounts in respect of an inwards or outwards contract of insurance have been excluded from the revenue account, the following shall be shown by way of supplementary note to Form INS 20 –

- (a) a description of the terms of that contract;
- (b) a description of the accounting treatment adopted and an explanation for adopting that treatment;
- (c) a statement of the amounts paid and received during the financial year under that contract; and
- (d) a statement of the amounts in respect of that contract included in each Form prepared under this Schedule or Schedule 1.

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(3) An insurer may elect to show the information required by sub-paragraph (1) in respect of groups of contracts which were effected in the same financial year with substantially the same contract terms and in respect of which the same accounting treatment has been adopted.

#### **Discounting.**

26.(1) Sheet 2 of Form INS 30 need only be completed if the provision for claims outstanding being discounted (before deduction for discounting) exceeds 25 per cent, of the total provision for claims outstanding (before deduction for discounting).

(2) Where in accordance with sub-paragraph (1) no Sheet 2 is prepared—

- (a) lines 21 and 29 of Sheet 1 need not be completed; and
- (b) lines 11 to 20 need only be completed in respect of those currencies for which the provision for claims outstanding being discounted (before deduction for discounting) exceeds 25 per cent. of the total provision for that currency for claims outstanding (before deduction for discounting).

(3) For the purposes of Form INS 30 a major currency is a currency in respect of which the provision for claims outstanding (before deduction for discounting) is not less than 10 per cent of the total provision for claims outstanding (before deduction for discounting).

(4) In Form INS 30 the value of an asset or liability which would be treated as an asset or liability in a particular currency for the purposes of regulation 33 of the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996 (disregarding regulation 38(1)) shall be shown in that currency.

(5) The following shall be stated by way of supplementary note to Form INS 30—

- (a) the risk groups and business categories where adjustments for discounting have been made; and
- (b) in respect of each such risk group or business category—
  - (i) the methods used in calculating the deduction for discounting;
  - (ii) the rate of interest used for the calculation of present values;



- (iii) the expected average interval between the date for settlement of claims being discounted and the end of the financial year in question; and
- (iv) the criteria adopted for estimating the period that will elapse before claims are settled.

**Reinsurance.**

27.(1) Where the reinsurers' share of claims incurred (as stated in Form INS 22 or INS 25) includes amounts expected to be recovered from reinsurers more than twelve months after the payment of the underlying gross claims by the insurer, the following shall be stated by way of supplementary note to Form INS 22 or INS 25 (as appropriate)–

- (a) the amount of such recoveries; and
- (b) the accounting treatment which has been adopted in respect of discounting such recoveries.

**Risk groups.**

28.(1) Subject to sub-paragraph (2), the name given in Forms INS 31, INS 32 and INS 34 to a risk group shall include a description of the risks within an accounting class included in that risk group.

(2) Where the name required by sub-paragraph (1) is not sufficient to identify the nature of the objects exposed to such risks and the nature of the cover provided against such risks, such information shall be stated by way of supplementary note.

(3) Subject to sub-paragraph (1), the name given to a risk group shall remain the same when that risk group is reported in subsequent financial years.

**Continuation sheets.**

29. Continuation sheets to Forms INS 31 and INS 34 need only be prepared in respect of accounting class 7.

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**Instructions for completion of Form INS 22**

1. Amounts included at lines 11 to 18 are to be shown undiscounted and related adjustments for discounting are to be shown at lines 31 to 39.
2. The values in column 4 are calculated as follows:
  - for lines 11 to 18 values in columns 2+3-1;
  - for lines 21 to 29 and lines 41 to 42 values in columns 1+2-3;

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for line 19, lines 31 to 39 and lines 51 to 52 values in columns 3-1.

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3. Amounts shown at lines 11 to 13, lines 15 to 17 and lines 31 and 32 shall exclude amounts in respect of claims management costs.

### Instructions for completion of Form INS 23

1. All figures are to be shown net of the reinsurers' share.
2. The accident years shown at lines 11 to 20 shall correspond to this financial year and the nine previous financial years respectively.
3. Columns 1 to 9 are to be shown before deduction for discounting.
4. All amounts shown shall exclude claims management costs.
5. The percentage shown at column 12 shall be the ratio of the columns 3 + 4 + 5 + 6 - 2 to column 2.
6. The percentage shown at column 13 shall be the ratio of columns 1 + 3 + 4 + 5 + 6 to column 11.
7.  $INS\ 23.29.5 + INS\ 23.29.6 = INS\ 22.13.3 + INS\ 22.17.3;$   
 $INS\ 23.29.7 + INS\ 23.29.8 = INS\ 22.13.1;$   
 $INS\ 23.29.10 = INS\ 22.31.3 - INS\ 22.32.3;$  and  
 $INS\ 23.29.4 = INS\ 22.13.2 + INS\ 22.17.2.$
8. Line 20 need not be completed when this Form is submitted in respect of the first financial year ended on or after 31 December 1998.
9. Columns 1, 11 and 13 need not be completed in respect of accident years ended before 31 December 1996.

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10. The percentages shown at columns 12 and 13 are to be expressed as percentages to one place of decimals.
11. Business reported on any Form INS 33 may be reported on this form at line 22 and not lines 11 to 21.

**Instructions for completion of Form INS 24**

1. The underwriting years shown between the columns headed “29 29” and “99 99” shall correspond (in reverse order) to this financial year and the previous nine financial years respectively.
2. Amounts shown in lines 21 to 29 shall exclude claims management costs.
3. For accounting classes 1 to 8 and 10 amounts in respect of underwriting years ended before 1 July 1996 may be included in the prior underwriting years column.
4. The amounts shown at lines 11 to 49 shall be the amounts payable or receivable during this financial year.

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**Instructions for completion of Form INS 25**

1. The underwriting years shown between the columns headed "29 29" and "99 99" shall correspond (in reverse order) to this financial year and the previous nine financial years.
2. Lines 11 to 15, 19 to 21 and 29 shall be completed for open years and lines 11 to 18 and 21 to 29 for closed years.
3. Line 29 shall equal line 53 less 54 on Form INS 24.
4. Lines 11 to 15 are to be shown before adjustment for discounting.
5. Lines 11 to 14, 16 and 17 shall exclude claims management costs.
6. For accounting classes 1 to 8 and 10 amounts in respect of financial years ended before 1 July 1996 may be included in the prior underwriting years column.
7. Amounts may only be included at line 19 in so far as they arise from the offset of anticipated surpluses and deficits on business managed together (as defined by paragraph 24 of Schedule 2).

**Instructions for completion of Form INS 26**

1. All figures are to be shown net of the reinsurers' share.
2. The accident years shown at lines 11 to 20 shall correspond to this financial year and the nine previous financial years respectively.
3. Columns 1 to 9 are to be shown before deduction for discounting.
4. All amounts shown shall exclude claims management costs.
5. The percentage shown at column 12 shall be the ratio of the columns 3+4+5+6-2 to column 2.

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6. The percentage shown at column 13 shall be the ratio of columns 1+3+4+5+6 to column 11.
7. The aggregate of the sterling equivalent of an entry on Form INS 26 for all business categories within an accounting class shall equal the corresponding entry on Form INS 23 for that accounting class.
8. The percentages shown at columns 12 and 13 are to be expressed as percentages to one place of decimals.
9. The amounts shown in line 21 shall be analysed on continuation sheets by accident year.
10. "Category" shall be completed by inserting one of the letters "a" to "h" according to which of the paragraphs of regulation 10(1) describes the business category to which the form relates.

**Instructions for completion of Form INS 27**

1. All figures are to be shown gross of the reinsurers' share.
2. The accident years shown at lines 11 to 20 shall correspond to this financial year and the nine previous financial years respectively.
3. Columns 1 to 9 are to be shown before deduction for discounting.
4. All amounts shown shall exclude claims management costs.
5. The percentage shown at column 12 shall be the ratio of the columns 3+4+5+6-2 to column 2.



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6. The percentage shown at column 13 shall be the ratio of columns 1+3+4+5+6 to column 11.
7.  $INS\ 27.29.5 + INS\ 27.29.6 = INS\ 22.11.3 + INS\ 22.15.3$ ;  
 $INS\ 27.29.7 + INS\ 27.29.8 = INS\ 22.11.1$ ;  
 $INS\ 27.29.10 = INS\ 22.31.3$ ; and  
 $INS\ 27.29.4 = INS\ 22.11.2 + INS\ 22.15.2$ .
8. The percentages shown at columns 12 and 13 are to be expressed as percentages to one place of decimals.
9. The amounts shown in line 21 shall be analysed on continuation sheets by accident year.
10. The box marked "Business category" shall be completed by inserting one of the letters "a" to "h" according to which of the paragraphs of regulation 10(1) describes the business category to which the form relates.

#### Instructions for completion of Form INS 28

1. The underwriting years shown between the columns headed "29 29" and "99 99" shall correspond (in reverse order) to this financial year and the previous nine financial years.
2. Amounts shown in lines 21 to 29 shall exclude claims management costs.
3. For accounting class 10 (other than business categories (c) and (d) and such other categories as have been reported previously on Form INS 29 of the 1996 Regulations) amounts in respect of underwriting years ended before 1 July 1996 may be included in the prior underwriting years column and instruction 4 shall not apply to such amounts.
4. The amounts shown in the first column shall be analysed on continuation sheets by underwriting year (save that amounts in respect

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of underwriting years beginning prior to 1 July 1996 may be shown in aggregate).

5. “Category” shall be completed by inserting one of the letters “a” to “h” according to which of the paragraphs of regulation 10(1) describes the business category to which the form relates.
6. The amounts shown at lines 11 to 49 shall be the amounts payable or receivable during this financial year.

#### **Instructions for completion of Form INS 29**

1. The underwriting years shown between the columns headed “29 29” and “99 99” shall correspond (in reverse order) to this financial year and the previous nine financial years.
2. Lines 11 to 15, 19 to 21 and 29 shall be completed for open years and lines 11 to 18 and 21 to 29 for closed years.
3. Line 29 shall equal line 53 less 54 on Form INS 28.
4. Lines 11 to 15 are to be shown before adjustment for discounting.
5. Lines 11 to 14, 16 and 17 shall exclude claims management costs.
6. For accounting class 10 (other than business categories (c) and (d) and such other categories as have been reported previously on Form INS 29 of the 1996 Regulations) amounts in respect of underwriting years ended before 1 July 1996 may be included in the prior underwriting years column and instruction 7 shall not apply to such amounts.

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7. The amounts shown in the first column shall be analysed on continuation sheets by underwriting year (save that amounts in respect of underwriting years beginning prior to 1 July 1996 may be shown in aggregate).
8. "Category" shall be completed by inserting one of the letters "a" to "h" according to which of the paragraphs of regulation 10(1) describes the business category to which the form relates.
9. Amounts may only be included at line 19 in so far as they arise from the offset of anticipated surpluses and deficits on business managed together (as defined by paragraph 24 of Schedule 2).

### Instructions for completion of Form INS 30

1. The entry at—

INS 30.31.1 shall equal INS 5.11.1

INS 30.32.1 shall equal INS 5.46.1 + the appropriate part of INS 5.84.1

INS 30.33.1 shall equal INS 5.46.1 + the appropriate part of INS 5.84.1

INS 30.34.1 shall equal INS 5.47.1 + the appropriate part of INS 5.84.1

INS 30.35.1 shall equal INS 5.42.1 + INS 5.48.1 + the appropriate part of INS 5.84.1

INS 30.36.1 shall equal INS 5.41.1 + INS 5.43.1

INS 30.37.1 shall equal INS 5.50.1 + the appropriate part of INS 5.84.1

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INS 30.49.1 shall equal INS 5.87.1 + INS 5.89.1 - INS 5.60.1 -  
INS 5.61.1 - INS 5.62.1 - INS 5.63.1 - INS 5.85.1

2. The hypothecated assets shown in column 2 shall not be less than (but need not equal) the provision for outstanding claims being discounted (column 6 less column 7 on sheet 1). Where specific assets are not hypothecated to cover the provision for outstanding claims being discounted column 2 shall equal column 1.
3. The income in column 3 shall be the amounts before deduction of tax which would be received in the next financial year on the assumption that—
  - (i) the assets are held throughout that year and
  - (ii) the factors which affect income remain unchanged but account shall be taken of any changes in those factors known to have occurred.
4. The yield in column 4 shall be—
  - (i) for securities with a redemption value the rate of interest which, when used to obtain a present value of expected future income or capital payments, gives the current asset value; and
  - (ii) for all other assets the ratio of the income included in column 3 to the value included in column 2;

or where appropriate an average of the above weighted by reference to the values included in column 2.
5. The methods and assumptions used in determining the yield in accordance with instruction 4 above shall be stated by way of supplementary note to this Form.
6. Where a particular asset is required to be taken into account only to a specified extent by the application of admissibility limits, the expected income and capital payments from that asset shall be included only to the same extent.
7. The treatment of expected income payments from any asset where such payment is in default shall be stated by way of supplementary note to this Form.
8. In column 8 “Unwind in discount in the next financial year” refers to the expected reduction in the deduction for the discounting between—

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- (i) that shown at the end of this financial year; and
  - (ii) that expected to be shown at the end of the next financial year but in respect of claims incurred prior to the end of this financial year.
9. Columns 4 and 9 to 11 shall be expressed as a percentage to one place of decimals.
  10. In the above instructions income excludes capital gains or losses or value adjustments.
  11. The discount rate in column 11 shall be the average rate of interest at which the provisions are being discounted, weighted by the provisions contained in column 6.
  12. The references in the Form to “outstanding claims” and “technical provisions” are to those amounts net of reinsurance.

#### **Instructions for completion of Form INS 31**

1. All figures are to be shown gross of the reinsurers’ share and before any deduction for discounting.
2. The accident years at lines 11 to 20 shall correspond to this financial year and the nine previous financial years respectively.
3. All amounts shown shall exclude claims management costs.
4. The percentage shown at column 11 shall be the ratio of the sum of columns 3 to 6 to column 10.

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5. Columns 10 and 11 need not be completed in respect of accident years ended before 31 December 1996.
6. The percentage shown at column 11 are to be expressed as percentages to one place of decimals.
7. For risk groups falling in accounting class 7 the amounts shown in line 21 shall be analysed by accident year on continuation sheets.
8. Columns 1 and 2 need not be completed in respect of accounting classes 3, 4 and 5.

**Instructions for completion of Form INS 32**

1. All figures are to be shown gross of the reinsurer's share and before any deduction for discounting.
2. The accident years at lines 11 to 20 shall correspond to this financial year and the nine previous financial years respectively.
3. All amounts shown shall exclude claims management costs.
4. The percentage shown at column 11 shall be the ratio of the sum of columns 3 to 6 to column 10.
5. Columns 10 to 13 need not be completed in respect of accident years ended before 31 December 1996.
6. The number of vehicle years insured in any accident year is the aggregate of the product for each contract of insurance of the period (being the period during that accident year when the contract was in force) and the number of vehicles insured under the contract. Figures

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are to be rounded to the nearest thousand-vehicle years only after aggregating component figures.

7. The percentage shown at column 13 shall be the ratio of the sum of the columns 1 and 2 to the product of 1000 and column 12.
8. The percentages shown at columns 11 and 13 are to be expressed as percentages to one place of decimals.

### **Instructions for completion of Form INS 33**

1. All figures are to be shown gross of the reinsurers' share and before any deduction for discounting.
2. All amounts shown shall exclude claims management costs.
3. Only business accounted on an accident year basis but not reported on Forms INS 31 or INS 32 shall be included on this form.
4. "Gross earned premiums" refers to all amounts reported in column 1 of lines 11 to 19 of Form INS 21, but only to the extent such premiums have not been reported in Forms INS 31 or INS 32.

### **Instructions for completion of Form INS 34**

1. All figures are to be shown gross of the reinsurers' share and before any deduction for discounting.

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2. The underwriting years at lines 11 to 20 shall correspond to this financial year and the nine previous financial years respectively.
3. All amounts shown shall exclude claims management costs.
4. The percentage shown at column 9 shall be the ratio of the sum of columns 1 to 4 to column 8.
5. Columns 8 and 9 need not be completed in respect of financial years ended before 31 December 1996.
6. The percentages shown at column 9 are to be expressed as percentages to one place of decimals.
7. For risk groups falling in accounting class 7 the amounts shown in line 21 shall be analysed by underwriting year on continuation sheets.

**Instructions for completion of Form INS 35**

1. All figures are to be shown gross of the reinsurers' share and before any deduction for discounting.
2. All amounts shown shall exclude claims management costs.
3. Only business accounted on an underwriting year basis but not reported on Form INS 34 shall be included on this Form.
4. "Gross written premiums" refers to all amounts reported in column 99-99 of line 11 of Form INS 24, but only to the extent such premiums have not been reported in Form INS 34.



**Instructions for completion of Form INS 36.**

1. Where any of Forms INS 26 to INS 29 or INS 31, INS 32 or INS 34 contains a figure in a currency other than sterling, the rate of conversion of those figures into sterling shall be stated in column 1 to this form.
2. Where the rate of conversion differs according to whether it applies to income and expenditure items or asset and liability items, the former only is to be the rate included.

**Instructions for completion of Form INS 38**

Completion of line 14 is optional. Where insurers do not take account of investment income in determining their underwriting result, it should be left blank.

**Instruction for completion of Form INS 39**

Completion of line 7 is optional. Where insurers do not take account of investment income in determining their underwriting result, it should be left blank.

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**SCHEDULE 3**

Regulations 8 and 17

**LONG TERM BUSINESS: REVENUE ACCOUNT AND  
ADDITIONAL INFORMATION**  
(Forms INS 40 to INS 45)

1. All the Forms included in the part of the return to which this Schedule relates (Forms INS 40 to INS 45) are to be laid out as shown in this Schedule, except that the instructions to Forms need not be reproduced.
2. The provisions of paragraph 1(2) and paragraphs 3 to 6 of Schedule 1 shall, unless otherwise provided, also apply for the purposes of this Schedule. All amounts shall be shown in sterling to the nearer £1,000 except valuation unit prices which shall be shown to the same accuracy as required under Schedule 4. Percentages shall be shown to two decimal places.
3. For the purposes of this Schedule, a contract shall be regarded as a Gibraltar contract if, in the case of direct insurance or facultative reinsurance accepted, the contract was made in Gibraltar or if, in the case of a reinsurance treaty, the cedant was an insurer having its head office in Gibraltar; and “non-Gibraltar contracts” shall be construed accordingly.
4. Where an insurer maintains more than one long term business fund, there shall be stated by way of a supplementary note to Form INS 40 the principles and methods applied to apportioning the investment income, increase or decrease in the value of assets brought into account, expenses and taxation between the different funds.
5. Where arrangements have been made for the provision of management services to an insurer by another company (whether an insurer or not)—
  - (a) the first mentioned insurer shall state, by way of a supplementary note to Form INS 40 relating to the financial year of the insurer during any part of which those arrangements are in force; and
  - (b) the other company (being an insurer) shall state, by way of a supplementary note to Form INS 40 relating to the financial year of that insurer during any part of which those arrangements are in force,

that the arrangements have been so in force in the financial year and naming the parties to them.

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**Instructions for completion of Form INS 40**

1. The entry at INS 40.11.1 shall be equal to the sum of INS 41.19.3 and INS 41.29.3,  
the entry at INS 40.21.1 shall be equal to INS 42.59.3 and  
the entry at INS 40.22.1 shall be equal to INS 41.49.3.
2. Any item of income which cannot properly be allocated to lines 11, 12, 13 or 14 shall be entered in line 15, and similarly, any item of expenditure which cannot properly be allocated to lines 21, 22, 23 or 24 shall be entered in line 25. Particulars of such items shall be specified in a supplementary note.
3. Where a company decides to allocate to the long term business the whole or any part of investment income and/or net capital gains arising from assets not attributable to its long term business, the amounts in question shall be shown as a transfer in line 26 and particulars shall be specified in a supplementary note.
4. Where a transfer is made to the non technical account, the entry at line 26 will show amounts which have been included in line 47 of Form INS 58. Transfers from or to other funds shall be included in line 15 or 25, with transfers to reserves associated with a transfer of contracts from one fund to another specified in a supplementary note.
5. The entry at line 12 is to exclude value re-adjustments on investments and gains on the realisation of investments, which shall be shown in lines 13 or 14 as appropriate.
6. The entry at line 11 is to exclude any change in the provision for unearned premiums.
7. The entry at line 21 is to exclude claims management costs, which should be included in line 22, and any change in the provision for claims.

**Instructions for completion of Form INS 41**

1. Lines 11, 13, 15, 17 and 19 will include all single premium amounts where there is no expectation of continuing premiums being paid at regular intervals.
2. Lines 12, 14, 16, 18 and 29 will include premiums payable at regular intervals during the policy year, including repeated or recurrent single premiums where the level of premium is defined.

**Instructions for completion of Form INS 43**

1. The basis on which the assets have been valued is to be stated in a supplementary note.
2. The aggregate value of rights (gross of variation margin) and the aggregate amount of liabilities (gross of variation margin) under derivative contracts (or in respect of contracts or assets which have the effect of a derivative contract) shall each be stated in a supplementary note. The corresponding figures net of variation margin shall also be stated. For this purpose, rights and liabilities shall not be set off against one another unless
  - (i) such rights and liabilities may be set off against each other in accordance with generally accepted accounting practice; and
  - (ii) such set off results (in whole or in part) from the closing out of obligations under a contract.
3. Where there is a liability to repay variation margin and there are no arrangements for netting of amounts outstanding or the arrangements would not permit the accounting of such amounts on a net basis in accordance with generally accepted accounting practice, it shall be so stated in a supplementary note.

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4. The total of the net asset value in column 8 less the total of column 3 shall equal line 59 of Form INS 44.

**Instructions for completion of Form INS 44**

1. Double counting of items arising from cross investment between internal linked funds is to be eliminated.
2. Any item of income which cannot properly be allocated to lines 11, 12 or 13 shall be entered in line 14, and similarly, any item of expenditure which cannot properly be allocated to lines 21, 22, 23, 24 or 25 shall be entered in line 26. Particulars of such items shall be specified in a supplementary note.
3. The gross value of units created shall be shown in line 11. The gross value of units cancelled shall be shown in line 21.

**Instructions for completion of Form INS 45**

1. Column 3 shall show the provisions for tax on unrealised capital gains as a percentage of the taxable unrealised capital gain. Similarly, column 4 shall show the provisions of tax on realised capital gains as a percentage of the taxable realised capital gain.

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**Repealed**  
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2. The liquidity percentage shown in column 5 shall be the sum of the values of approved securities, short-term deposits and cash held by the fund, less any liabilities included in column 6 or 7 of Form INS 43, shown as a percentage of the net asset value in column 8 of Form INS 43.
  
3. Where there is more than one series of units for any internal linked fund the valuation price of each series of unit will be given in column 6 together with the name of that series of unit.

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**SCHEDULE 4**

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Regulation 25

**ABSTRACT OF VALUATION REPORT PREPARED BY THE**  
**APPOINTED ACTUARY**  
(Forms INS 46 to INS 60)

All the Forms included in the part of the return to which this Schedule relates (Forms INS 46 to INS 49, INS 51 to INS 58 and INS 60) are to be laid out as shown in the Schedule, except that the instructions to Forms need not be reproduced.

For the purposes of this Schedule—

- (a) the “report period” means the period from the date to which the latest previous investigation under section 78 of the Act related to the valuation date (as defined in paragraph 1); and
- (b) the provisions of paragraph 1(2), paragraph 2(2) and paragraphs 3 to 6 of Schedule 1 and paragraph 3 of Schedule 3 shall, unless otherwise provided, apply.

All amounts in the Forms shall be shown in sterling to the nearer £1,000 except valuation unit prices which shall be shown to the accuracy used in the valuation. Yields shall be shown as percentages to two decimal places.

The following information shall be given, the answers being numbered to accord with the numbers of corresponding paragraphs of this Schedule.

1. The date to which the investigation relates (the “valuation date”).
2. The date to which the latest previous investigation under section 78 of the Act related.
3. A statement that the valuation has been made in conformity with regulation 21 of the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996 or, where this was not the case, such qualification, amplification or explanation as necessary.
- 4.(1) Subject to sub-paragraph (2), for each category of non-linked contract which—
  - (a) comprises accumulating with-profits policies, a full description of the benefits, including—

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- (i) the circumstances in which, and the method by which, an adjustment to the identifiable current benefit attributable to a policy might be made on the payment of any claim, including by full or partial surrender, or in determining the amount of any charges deducted from the policy;
  - (ii) where the discounted value of the liability in respect of current benefits including vested bonuses shown in column 12 of Form INS 52 is less than the full amount of the current benefit shown in column 11 and the discounted value assumes the exercise of any discretionary adjustments of the type referred to in (a)(i), a general description of such adjustments made during the report period;
  - (iii) any guaranteed investment returns or bonus rates;
  - (iv) any guaranteed surrender values; and
  - (v) any material options;
- (b) comprises policies (other than those included in (a)) which provide for benefits to be determined on the basis of interest accrued (at a rate to be determined from time to time) in respect of premiums paid, a full description of the benefits, including—
- (i) the method used to calculate surrender values;
  - (ii) any guaranteed investment returns;
  - (iii) rates of interest applied during the report period;
  - (iv) any guaranteed surrender values; and
  - (v) any material options;
- (c) does not fall within (a) or (b), and which is not sufficiently described by the entry in column 1 of Form INS 51, a full description of the benefits, including any premium rate guarantees and material options.
- (2) Information required under sub-paragraph (1) need not be provided for any category of contract—
- (a) where no contracts were effected by the insurer during the report period; and



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- (b) which has been included in Form INS 51 or Form INS 52 under the miscellaneous headings specified in instruction 8 (vi) or 8 (x) to Forms INS 51, INS 52, INS 53 and INS 54.

5.(1) Subject to sub-paragraph (3), for each category of linked contract—

- (a) the name given to that category;
- (b) the type of contract, classified according to the categories set out in instructions 3 to 8 of the instructions for completion of Forms INS 51, INS 52, INS 53 and INS 54;
- (c) a statement of the frequency of premiums;
- (d) a brief description of the benefits under the contract, including any eligibility to participate in profits, any guarantees and any material options;
- (e) details of any guaranteed investment returns;
- (f) a description of the way in which the insurer recovers out of policies its costs (including acquisition expenses and commission, renewal expenses and commission and the costs attributable to the provision of policy benefits). Where the policy provides for the allocation of units, the annual rate of any management charges shall be given. Where the amount of premiums deemed to be invested after allowing for the effect of any charges is greater than the amount of the premiums, an explanation shall be given;
- (g) details of any restrictions on increases in charges;
- (h) the method used to calculate surrender or transfer values;
- (i) whether benefits are (or may be) determined (whether wholly or in part) by reference to the value of an internal linked fund, or to the value of assets or an index. Where the link is to the value of assets or an index, those assets or that index shall be specified and details of the relationship between their value and benefits payable to policyholders shall be given;
- (j) a brief description of any other features of the contract not disclosed above which are material to the method and basis of valuation;
- (k) whether the contract was open to new business in the year to the valuation date; and

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(1) any increases in the rates of charges applied generally to contracts during the report period, including charges for the provision of policy benefits met by the cancellation of units notionally allocated to contracts.

(N.B. Where the terms and conditions and the method and basis for determining the amount of the long term liabilities are not materially different for a number of categories of contract, only one description need be given pursuant to this sub-paragraph, provided that the name of each such category is given in the insurer's response to (a)).

(2) For each category of linked contract which contains a with-profits option, the information required by paragraph 4(1)(a) shall also be given.

(3) Information required under sub-paragraphs (1)(a) to (k) and (2) above need not be provided for any category of contract—

- (a) where no contracts were effected by the insurer during the report period; and
- (b) which has been included under the miscellaneous heading in Form INS 53 or INS 54.

(4) A description of the method, or if there is more than one method of the methods and the types of unit to which each applies, used for the creation and cancellation of units in internal linked funds and determining unit prices for the allocation of units to, and the cancellation of units from, policies.

(5) A description of the method, or if there is more than one method of the methods and the types of unit to which each applies, used to determine the provision for tax on realised and unrealised capital gains and the percentage or percentages of these gains deducted or provided for during the report period.

(6) Wherever units of the type referred to in paragraph 5 of Part I of Schedule 3 to the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996 are held by an internal linked fund, or where property linked benefits are linked to such units, the rate of discount, commission or other allowance made to the insurer on the purchase, sale or holding of units and the extent to which the policy holder benefits from such discount, commission or other allowance.

6.(1) The general principles and methods adopted in the valuation, including specific reference to the following—

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- (a) the method by which account has been taken of derivative contracts or contracts or assets having the effect of derivative contracts in the determination of the amount of the long term liabilities;
- (b) the method by which due regard has been given to the reasonable expectations of policyholders, as required by regulation 21 of the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996, and by which account has been taken of the custom and practice of the insurer in the manner and timing of the distribution of profits or the grant of discretionary additions over the duration of each policy, as required by regulation 22(6) of the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996;
- (c) where the net premium method has been used, whether and to what extent it has been modified, for what purposes any such modification has been made and whether any modifications on account of zillmerising conform to regulation 25 of the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996;
- (d) whether any negative reserves arose and the steps taken to ensure that no contract of insurance was treated as an asset, as required by regulation 30 of the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996;
- (e) whether any specific reserve has been made for future bonuses and, if so, at what rate or rates;
- (f) the basis of the provision made for any prospective liability to taxation on unrealised capital gains;
- (g) in the case of linked contracts and contracts falling within (a) and (b) of paragraph 4(1), the basis of the reserve made for any investment performance guarantees; and
- (h) the basis of the reserve made for any guarantees and options (other than investment performance guarantees included in (g)).

(2) For the purposes of this paragraph where, in determining the provisions referred to in sub-paragraph (1)(f) or the reserves referred to in sub-paragraph (7) or (8) of paragraph 7, account has been taken of the fact that the fund has been brought into Form INS 58 at book value in accordance with regulation 3(6) of the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996, that fact should be stated.

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7.(1) Unless shown in Form INS 51, INS 52, INS 53 or INS 54, the rates of interest and tables of mortality and morbidity assumed in the valuation of each category of contract.

(2) If the tables used have not been published, full details of the rates of mortality or morbidity used.

(3) A general description of how the tables of mortality and morbidity assumed in the valuation of the various categories of contract have regard to the State of the commitment.

(4) Details of any allowance made for future reductions in the rates of mortality in the tables of mortality assumed in the valuation of annuity contracts.

(5) Details of any allowance made, and the amount of any reserve held, for any possible detrimental impact of significant changes in the incidence of disease or developments in medical science on the mortality and morbidity experience of the insurer in the tables of mortality and morbidity assumed in the valuation of contracts.

(6) A description of all the scenarios of future changes in the value of assets which have been tested in order to take account of the nature (including currency) and terms of the assets held in determining the amount of the long term liabilities in accordance with regulation 32 of the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996 identifying that scenario which produces the most onerous requirement (whether or not a reserve is thereby required).

(7) The amount of any reserve made pursuant to regulation 32(a) of the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996, together with a brief description of the method used and assumptions made to calculate any such reserve.

(8) In respect of that scenario described under sub-paragraph (6) which produces the most onerous requirement (whether or not a reserve is thereby required), the amount of any reserve made pursuant to regulation 32(b) of the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996, together with—

- (a) a description of the changed assumptions made (other than the changed interest rate stated in Form INS 57) in calculating such requirement;

- (b) a brief description of the method used to calculate such requirement; and
- (c) resulting from the application of such changed assumptions–
  - (i) the change in the aggregate amount of the long term liabilities; and
  - (ii) the aggregate amount by which the assets allocated to match such liabilities in the scenario have changed in value from the amount of those assets shown in Form INS 5.

(9) A general description of how the rates of interest assumed in the valuation of the various categories of contract with liabilities denominated in currencies other than sterling have taken into account the currency of the liabilities.

8. In respect of non-linked contracts–

- (a) where appropriate, the proportion of the office premiums explicitly or implicitly reserved for expenses and profits for each type of insurance (as shown in column 8 of Form INS 51 or column 10 of Form INS 52);
- (b) the method by which a reserve has been made for expenses after premiums have ceased or where no future premiums are payable or where the method of valuation does not take credit for future premiums as an asset;
- (c) where a prospective method of valuation has not been used, details of the tests made of the adequacy of the method used;
- (d) where, in valuing contracts falling within the circumstances described in regulation 24(1) of the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996, future premiums brought into account are not in accordance with that regulation, such additional information as is necessary to demonstrate whether the mathematical reserves determined in the aggregate for each of the main categories of contract are greater than an amount for each such category calculated in accordance with regulations 23 to 32 of those Regulations.

Provided that where the mathematical reserves (after deduction of reinsurance cessions) determined in the aggregate for all categories of contracts referred to in sub-paragraph (d) represent less than 5 per cent. of the total mathematical reserves (after deduction of reinsurance cessions) for

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all non-linked contracts, it shall be sufficient for the actuary to state that the mathematical reserves for each such category of contracts are not less than the mathematical reserves that would be determined on a net premium reserving basis which, in that case, shall be specified by the actuary in the abstract.

9. For each category of linked contract—

- (a) all assumptions made in calculating the valuation net liability in columns 12 and 13 of Forms INS 53 and INS 54; and
- (b) where an explicit reserve has not been made for meeting the expenses likely to be incurred in future in fulfilling the existing contracts on the basis of specific assumptions in regard to the relevant factors, details of the basis used in testing the adequacy of the reserves to satisfy regulation 28(1) of the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996.

10.(1) The assumed levels of inflation of expenses and the bases used in the valuation to allow for such future inflation.

(2) The aggregate amount, grossed up for taxation where appropriate, arising during the twelve months after the valuation date from implicit and explicit reserves made in the valuation to meet expenses in fulfilling contracts in force at the valuation date, and a general description of the sources of such amounts.

(3) The method and basis of calculation of the requirement (whether or not a reserve is thereby required) in respect of the expenses of continuing to transact new business during the twelve months following the valuation date and the amount of the reserve so calculated.

(4) The method and basis of calculation of the requirement (whether or not a reserve is thereby required) to provide for the costs of closure to new business, if the insurer were to cease to transact new business twelve months after the valuation date and the amount of the reserve so calculated.

11.(1) A schedule of the sum of the mathematical reserves (other than liabilities for property linked benefits) and the liabilities in respect of the deposits received from reinsurers as shown in Form INS 6, analysed by reference to the currencies in which the liabilities are expressed to be payable, together with the value of the assets, analysed by reference to currency, which match such liabilities.

(2) In the schedule required by sub-paragraph (1), liabilities totalling up to 2 per cent. of the total required to be analysed may be grouped together as “other currencies”, and the assets matching those liabilities need not be analysed provided that the proportion of such liabilities which are matched by assets in the same currency is stated.

12.(1) For long term business ceded on a facultative basis to a reinsurer who is not authorised to carry on insurance business in Gibraltar at any time during the report period—

- (a) the aggregate of premiums payable by the insurer to all such reinsurers (sub-divided according to financial years, if appropriate) and the aggregate amount deposited at the valuation date under any deposit back arrangement; and
- (b) the amount of any such premiums payable by the insurer to reinsurer with whom the insurer is connected and the aggregate amount deposited at the valuation date under any deposit back arrangement.

(2) For each treaty of reinsurance where the insurer is the cedant and under which business is in force at the valuation date—

- (a) the name of the reinsurer;
- (b) whether the reinsurer is authorised to carry on insurance business in Gibraltar;
- (c) whether the insurer and the reinsurer are connected;
- (d) an indication of the nature and extent of the cover given under the treaty;
- (e) the premiums payable by the insurer under the treaty during the report period;
- (f) the amount deposited at the valuation date in respect of the treaty under any deposit back arrangements;
- (g) the extent to which provision has been made for any liability of the insurer to refund any amounts of reinsurance commission in the event of lapses or surrender of the contract; and
- (h) whether the treaty is closed to new business.

(3) For each financing arrangement—

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- (a) the amount of any undischarged obligation of the insurer and a brief description of the conditions for the discharge of such obligation; and
  - (b) a description of how, if at all, all such undischarged obligations have been taken into account in the valuation.
- (4) In this paragraph–
- (a) “deposit back arrangement”, in relation to any contract of reinsurance, means an arrangement whereby an amount is deposited by the reinsurer with the cedant;
  - (b) “financing arrangement” means any contract entered into by the insurer, in respect of contracts of insurance effected by the insurer, which has the effect of increasing the amount of assets included at line 34 of Form INS 1, representing assets of the insurer which are available to meet its required minimum margin for long term business, and which includes terms for–
    - (i) the transfer of assets to the insurer or the creation of a debt to the insurer (or both); and
    - (ii) either an obligation for the insurer to return (with or without interest) some or all of such assets or a provision for the diminution of such debt, in each case, in specified circumstances; and
  - (c) paragraphs (1), (2) and (3)(a) of regulation 22 (which relate to connected persons) shall have effect for the purposes of this paragraph as they have effect for the purposes of the regulations therein mentioned.
13. Where any rights of any policy holders to participate in profits relate to profits from particular parts of a long term business fund–
- (a) a revenue account in the format of Form INS 40 for each such part except where such information is provided elsewhere; and
  - (b) the principles and methods applied in apportioning the investment income, increase or decrease in the value of assets brought into account, expenses and taxation between each part, where these particulars are not provided elsewhere.



14.(1) The principles on which the distribution of profits among policy holders and shareholders is based as described in any of the following documents—

- (a) the constitution of the insurer;
- (b) board resolutions of the insurer;
- (c) any policy issued by the insurer;
- (d) any advertisement issued by or on behalf of the insurer; and
- (e) any other relevant document.

(2) A broad statement of the insurer's aims in relation to the distribution of profits among policy holders, including its aims in relation to—

- (a) policies which mature or are surrendered and claims arising by death;
- (b) the appropriate and equitable treatment of groups of participating policies; and
- (c) smoothing.

(3) A description of the methods used in order to ensure that the aims described in sub-paragraph (2) above are achieved.

(4) Subject to sub-paragraph (5), if different principles or bonus policies apply to different categories of with-profits policies issued by the insurer, the information in sub-paragraphs (1) to (3) shall be given in respect of each category.

(5) Categories of with-profits policies which, apart from this sub-paragraph, would require separate information in accordance with sub-paragraph (4) need only be listed under this sub-paragraph, and the information in sub-paragraphs (1) to (3) need not be supplied, provided that—

- (a) the aggregate amount of established surplus allocated to policy holders in all such categories is less than 10 per cent. of the aggregate amount of established surplus allocated to all policy holders (as reported at line 46 of Form INS 58);
- (b) the amount of established surplus allocated to policy holders in any one such category is less than 5 per cent. of the aggregate

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amount of established surplus allocated to all policy holders (as reported at line 46 of Form INS 58); and

- (c) none of the categories was introduced during the report period.

15.(1) Particulars of the bonus allocated to each category of contract, including the basis of calculation and the circumstances and the form in which the bonus is payable, together with—

- (a) where the rates of bonus allocated depend on the original term of the contract or on the period of years a contract has been in force, specimen rates at 5-year intervals of original term or duration, as the case may be;
- (b) where the rates of bonus allocated depend on the age of the life assured, specimen rates at 10-year intervals of age;
- (c) where the rates of bonus allocated depend on the date of each previous premium payment, specimen rates at 5-year intervals of time since the premium was paid, and for premiums paid in each of the 5 years ending with the report period; and
- (d) in all other cases, full details of the rates of bonus allocated.

(N.B. Where the rates of bonus allocated depend on a formula or a series of formulae, then the formula or formulae should be listed instead of the specimen rates. Wherever appropriate, rates of bonus are to be expressed as a fraction of the attribute of the contract to which they are related, e.g. as rates per £1,000 of the sum assured and existing bonuses.)

(2) Information required under sub-paragraph (1) need not be provided for any category of contract—

- (a) where no contracts were effected by the insurer during the report period; and
- (b) which has been included under the miscellaneous heading in Forms INS 51, INS 52, INS 53 or INS 54.

16. A statement of the practice regarding any bonus payments (in addition to those for which the insurer has become contractually liable) to be made on claims arising in the period up to the next investigation, including the basis of calculation and the form in which the bonus is payable, together with—

- (a) where the rates of bonus depend on the original term of the contract or on the period of years a contract has been in force, specimen rates at 5-year intervals of original term or duration, as the case may be;
- (b) where the rates of bonus depend on the age of the life assured, specimen rates at 10-year intervals of age;
- (c) where the rates of bonus depend on the date of each previous premium payment, specimen rates at 5-year intervals of time since the premium was paid, and for premiums paid in each of the 5 years ending with the report period; and
- (d) in all other cases, full details of the rates of bonus.

(N.B. Where the rates of bonus depend on a formula or a series of formulae, then the formula or formulae should be listed instead of the specimen rates. Wherever appropriate, rates of bonus are to be expressed as a fraction of the attribute of the contract to which they are related, e.g. as rates per £1,000 of the sum assured and existing bonuses.)

17. Separate statements in the form set out in Form INS 46 summarising changes in long-term business for all non-group contracts. For group contracts only the number of contracts in force at the end of the report period is to be given in a supplementary note to the appropriate statement.

18. Separate statements in the form set out in Form INS 47 showing an analysis of new long-term business.

19.(1) Separate statements of long term business assets (other than assets held to match property linked or index linked liabilities) in the form set out in Forms INS 48 and INS 49 in respect of each fund or group of funds for which separate assets are appropriated.

(2) A brief description of the extent to which any of the amounts recorded in Form INS 48 would be changed if assets which the insurer had a right or obligation to acquire or dispose of under derivative contracts or contracts having the effect of derivative contracts outstanding at the end of the financial year (being, in the case of options, only those options which it would have been prudent to assume would be exercised) had been so acquired or disposed of.

(3) A brief description of how different the information provided pursuant to sub-paragraph (2) would have been if such options as were outstanding at the end of the year had been exercised in such a way as to change the amounts referred to in that paragraph to the maximum extent.

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(4) A brief description of how different the information provided pursuant to sub-paragraphs (2) and (3) would have been if, instead of applying to contracts outstanding at the end of the financial year, those sub-paragraphs had applied to derivative contracts outstanding at such other time during the financial year as would have changed the amounts referred to in those sub-paragraphs to the maximum extent.

20.(1) Separate statements in the form set out in Forms INS 51, INS 52, INS 53 and INS 54 and separate analyses of unit liabilities in the form set out in Forms INS 55 and INS 56 in respect of each separate fund or part of a fund for which a surplus is determined under section 78 of the Act.

(2) The analyses of unit liabilities shall also include the liabilities in respect of any amounts deposited with the insurer under a deposit back arrangement as defined in paragraph 12(4)(a) of this Schedule which are either unit liabilities in respect of property linked benefits or investment liabilities in respect of index linked benefits.

(3) In the event that the liability for a specific fund link is wholly reinsured so that entries in columns 8 and 9 of Form INS 55 are omitted in accordance with paragraph 7 of the instructions for the completion of that form a statement, if such be the case, to the effect that the provisions of section 64B of the Act have been complied with in accordance with any published guidance in relation to the liabilities so reinsured.

21.(1) Separate statements in the form set out in Form INS 57 for each fund or group of funds for which separate assets are appropriated in respect of all long term liabilities except—

- (a) the unit liabilities in respect of property linked benefits as shown in column 12 of Form INS 53;
- (b) the investment liabilities in respect of index linked benefits as shown in column 12 of Form INS 54; and
- (c) any reserve in respect of provisions made for tax on unrealised capital gains in arriving at the valuation price of internal linked funds; and
- (d) the liabilities in respect of any amounts deposited with the insurer under a deposit back arrangement as defined in paragraph 12(4)(a) of this Schedule which are either unit liabilities in respect of property linked benefits or investment liabilities in respect of index linked benefits.

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(2) A general description of the method by which the yield on assets other than equity shares and land was adjusted in accordance with regulation 26(7) of the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996.

(3) For assets which are equity shares or land, a description of the categories into which such assets were divided for the purposes of regulation 26(7) of the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996, together with the method and basis by which the yield on such assets was adjusted in accordance with that regulation.

22. Separate statements of the results of the valuation in the form set out in Form INS 58 in respect of each separate fund or part of a fund for which a surplus is determined under section 78 of the Act.

23.(1) A statement of the required minimum margin for long term business in the form set out in Form INS 60 and of the required margin of solvency for Class IV business and supplementary accident and sickness insurance in the form set out in Form INS 3 and INS 4, in accordance with instruction 8 for completion of Form INS 60. When completing Forms INS 3 and INS 4, the accounting conventions appropriate for general business should be followed but reasonable approximations may be used if they are unlikely to result in an underestimate of the required margin of solvency.

(2) If the gross annual office premiums for Class IV business and supplementary accident and sickness insurance in force on the valuation date do not exceed 1 per cent, of the gross annual office premiums in force on that date for all long term business, Forms INS 3 and INS 4 need not be completed provided it can be stated that the entry in line 10 of Form INS 60 exceeds the amount that would be obtained if Forms INS 3 and INS 4 were to be completed. In this circumstance, the method of estimating the entry in line 10 of Form INS 60, together with a statement of the gross annual office premiums in force at the valuation date in respect of Class IV business and supplementary accident and sickness insurance, shall be given.

### Instructions for completion of Form INS 46

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1. Information is to be gross of reinsurance ceded and shall be provided separately for Gibraltar business and non-Gibraltar business, and in each case for non-linked and linked contracts.
2. The figures for annual premiums shall include repeated or recurrent single premiums where the level of premium is defined.
3. For hybrid linked contracts, movements between linked and non-linked business shall be shown in lines 13 and 27 as appropriate.
4. Only claims payments which result in the termination of a contract providing cover for other insured events should be shown in line 22.

**Instructions for completion of Form INS 47**

1. New business shall be shown gross of reinsurance ceded and shall include increases to premiums on existing policies, and in dealing with such increases, columns 2 and 5 shall be left blank.
2. Single premium contracts shall consist of those contracts under which there is no expectation of continuing premiums being paid at regular intervals. Additional single premiums paid in respect of existing individual contracts shall be included.
3. Regular premium contracts shall include those contracts under which premiums are payable at regular intervals during the policy year, including repeated or recurrent single premiums where the level of premium is defined.
4. Information shall be shown separately and totalled within each section in the sequence specified below:
  - (i) Gibraltar direct written business
  - (ii) Gibraltar reinsurance accepted
  - (iii) non-Gibraltar direct written business

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- (iv) non-Gibraltar reinsurance accepted
5. The information shall be shown separately and totalled within each type of business in the sequence specified below:
- (i) life assurance and general annuity business
  - (ii) pension business
  - (iii) permanent health business
  - (iv) other business
6. The information is to be further analysed and sub-totalled in the sequence specified below:
- (i) accumulating with-profits policies
  - (ii) non-linked with-profits policies
  - (iii) non-linked non-profit policies
  - (iv) index linked contracts
  - (v) other linked contracts
- and where a policy falls within more than one of the above categories, it shall be placed in the first appropriate category.
7. Within each sub-division required under paragraphs 5 and 6 above, the appropriate types of insurance from the following list are to be shown separately.
- (i) whole life assurance
  - (ii) endowment assurance
  - (iii) pure endowment assurance
  - (iv) term assurance
  - (v) other assurance (to be specified)
  - (vi) deferred annuity

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- (vii) annuity in payment
  - (viii) other annuity (to be specified)
  - (ix) permanent health insurance
  - (x) capital redemption assurance
  - (xi) annuity certain
  - (xii) group pension
  - (xiii) group life
  - (xiv) group permanent health
  - (xv) other group (to be specified)
8. In the case of group contracts, the information to be given is to relate to new contracts and increments under existing contracts. The amount of the increment under an existing contract shall be taken to be the increase in the annual premium shown in Form INS 51, INS 52, INS 53 or INS 54 as appropriate, over the previous level shown in those Forms. Decreases in any year for an existing contract are to be ignored.

**Instructions for completion of Form INS 48**

1. Where Form INS 5 is for the same fund or group of funds the entry at
- INS 48.11.1 shall equal INS 5.11.1  
INS 48.12.1 shall equal INS 5.45.1 + the appropriate part of INS 5.84.1



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INS 48.13.1 shall equal INS 5.46.1 + the appropriate part of INS 5.84.1

INS 48.14.1 shall equal INS 5.47.1 + the appropriate part of INS 5.84.1

INS 48.15.1 shall equal INS 5.42.1 + INS 5.48.1 + the appropriate part of INS 5.84.1

INS 48.16.1 shall equal INS 5.41.1 + INS 5.43.1

INS 48.17.1 shall equal INS 5.50.1 + the appropriate part of INS 5.84.1

INS 48.29.1 shall equal INS 5.87.1 + INS 5.89.1 - INS 5.58.1 - INS 5.59.1

2. The word "Total" or the name of the fund shall be shown against the heading "Category of assets".
3. The appropriate part of the entry at INS 5.84.1 to be included in lines 12 to 15 of this form is that part which represents accrued interest on assets included in the relevant line of this form. The amounts so included in each line shall be stated in a supplementary note.
4. The expected income is to be given as the amounts before deduction of tax which would be received in the next financial year on the assumption that the assets will be held throughout the year and that the factors which affect income will remain unchanged but account shall be taken of any changes in those factors known to have occurred by the valuation date (in particular changes of the type (a), (b), (c) or (d) denoted in regulation 26(5) of the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996). The expected income shown in this Form shall be that determined before any adjustments considered necessary because of regulation 26(7).
5. Where a particular asset is required to be taken into account only to a specified extent by the application of the admissibility limits, the expected income from that asset shall be included only to the same extent.
6. The treatment of the expected income from any asset where the payment of interest is in default and the amount of interest involved shall be stated in a supplementary note.
7. The entries at INS 48.12.3, INS 48.13.3, INS 48.14.3 and INS 48.15.3 shall be equal to INS 49.19.2, INS 49.29.2, INS 49.19.5 and INS 49.29.5 respectively. The yields to be inserted in column 3 for other categories of asset shall be the running yields. The entry at INS 48.29.3 shall be the weighted average of the yields in column 3, where the weight given to each asset is the value of that asset applicable for

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entry into column 1; assets not producing income shall be included in the calculation.

8. Where the yield in column 3 for a type of asset shown in line 17, 18 or 19 above (assumed to be zero for assets in line 19) is significantly different from the weighted average of the yields for each asset of that type determined in accordance with regulation 26(6) of the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996, then the latter yield figure shall be shown in a supplementary note. For this purpose, the weighted average of the yields means an average yield weighted by the value of each asset of that type as entered in column 1.
9. Where an entry at INS 5.87.1 has resulted from excess exposure to a counterparty or excess concentration with a number of counterparties, the aggregate value of the assets of the insurer giving rise to exposure to such counterparties shall be stated in a supplementary note, together with the expected income from those assets.

#### **Instructions for completion of Form INS 49**

1. The word "Total" or the name of the fund shall be shown against the heading "Category of assets".
2. The gross redemption yield in columns 2 and 5 for each asset shall be calculated as in regulation 26(3), (4) and (6) of the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996, leaving out of account any adjustment considered necessary because of regulation 26(7). Where a number of assets with different gross redemption yields are held, the weighted average gross redemption yield shall be calculated using as weights the value of the asset applicable for entry into columns 1 and 4 respectively.
3. The value of admissible higher yielding assets to be shown in columns 3 and 6 shall be the value of the admissible assets shown in Form INS 5 where the gross redemption yield on those assets exceeds the gross redemption yield shown in columns 2 and 5 respectively by at least 1.5%.

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4. Where securities may be redeemed over a period at the option of the guarantor or the issuer, they shall be classified on the assumption that they will be redeemed at the latest possible date or, if it is assumed that they will be redeemed at any earlier date, a supplementary note shall be provided explaining what assumption has been made.
5. The entries at INS 49.19.1, INS 49.19.2, INS 49.19.4, INS 49.19.5, INS 49.29.1, INS 49.29.2, INS 49.29.4 and INS 49.29.5 shall be equal to the values at INS 48.12.1, INS 48.12.3, INS 48.14.1, INS 48.14.3, INS 48.13.1, INS 48.13.3, INS 48.15.1 and INS 48.15.3 respectively.
6. The entries at INS 49.19.2, INS 49.19.5, INS 49.29.2 and INS 49.29.5 shall be the weighted average of the yields in columns 2 and 5 as appropriate for lines 11 to 18 and 21 to 28 respectively, where the weight given to each yield is the value shown in columns 1 and 4 respectively.

**Instructions for completion of Forms INS 51, INS 52, INS 53 and INS 54**

1. Separate valuation summaries shall be completed in respect of each separate fund or part of a fund for which a surplus is determined. The name of the fund or part of a fund shall be shown against the heading "Category of surplus".
2. Separate totals for column 5 on Form INS 51 and columns 5, 6, and 7 on Forms INS 52, INS 53 and INS 54 shall be shown for sums assured, for annuities per annum and for other measures of benefit.
3. Information shall be shown separately and totalled for each of the following:
  - (i) Gibraltar business
  - (ii) non-Gibraltar business
4. The information shall be shown on separate pages and totalled for each type of business in the sequence specified below.

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- (i) life assurance and general annuity business
  - (ii) pension business
  - (iii) permanent health business
  - (iv) other business
5. "Type of business" shall be completed by the insertion of "L&GA", "Pens", "PHI" or "Other" respectively for each of the types (i), (ii), (iii) and (iv) specified above.
6. The information is to be further analysed and sub-totalled for :
  - (i) direct written business
  - (ii) reinsurance accepted
  - (iii) reinsurance cededand totals net of reinsurance ceded are also to be shown.

Provided that where any information to be provided in accordance with sub-paragraph (iii) duplicates any information required to be provided in accordance with instructions 7, 8 and 9 in respect of sub-paragraphs (i) or (ii), then for the purpose of sub-paragraph (iii), the total of the reinsurance ceded may be shown in respect of the duplicated information.
7. The information shall be further analysed and sub-totalled within each basis of participation in profits in the sequence specified below:
  - (i) with-profits policies
  - (ii) non-profit policies
8. Within each subdivision required under paragraphs 4, 6 and 7 above the appropriate types of insurance from the following list shall be shown separately:
  - (i) whole life assurance
  - (ii) endowment insurance
  - (iii) pure endowment insurance

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- (iv) term assurance
- (v) other assurance (to be specified)
- (vi) miscellaneous assurance
- (vii) deferred annuity
- (viii) annuity in payment
- (ix) other annuity (to be specified)
- (x) miscellaneous annuity
- (xi) permanent health insurance
- (xii) capital redemption assurance
- (xiii) annuity certain
  
- (xiv) group pension
- (xv) group life
- (xvi) group permanent health
- (xvii) other group (to be specified)

and particulars shall also be shown of any subsidiary provisions within general business class 1 or 2 which by virtue of section 5(1)(b) of the Act are to be taken to be included in long term business of any class. (Supplementary accident and sickness insurance).

9. A further sub-division into each separate category of contract is required as follows:

Forms INS 51 and INS 52 - each category of contract which is valued on a different valuation basis;

Form INS 53 - each category of contract which provides different guarantees or options, and each category of unit link. For the purpose of determining the category of the unit link, all authorised unit trusts may be considered to be one category and all internal linked funds may be considered to be one category.

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Form INS 54 - each category of contract which provides different guarantees or options and each category of index. Where the link is to a proportion of an index each different proportion shall be treated as a different category.

10. Any contract which consists of a combination of different types of insurance, as described in instruction 8 above, shall be treated as a number of separate contracts each dealing with one of the different types of insurance so combined and the amount by which the total number of contracts shown in column 4 of any valuation summary exceeds the actual number of contracts to which that valuation summary relates shall be stated in a supplementary note.
11. For linked contracts with both property linked and index linked benefits, each benefit shall be shown on Form INS 53 or INS 54 as appropriate, and a note shall be attached describing the manner in which details relating to the number of contracts and the amounts of benefits, premiums and other liabilities have been treated. Where the number of contracts is overstated in aggregate, the amount of the overstatement shall be stated in a supplementary note.
12. For linked contracts which are also accumulating with-profits policies, that part of the benefits which are with profits shall be shown on Form INS 52 and the remainder of the benefits on Form INS 53 and/or INS 54 as appropriate, and a note shall be attached describing the manner in which details relating to the number of contracts, and the amounts of benefits, premiums and other liabilities have been treated. Where the number of contracts is overstated in aggregate, the amount of the overstatement shall be stated in a supplementary note.
13. Reserves calculated on an aggregate basis (including reserves for taxation on capital gains, for investment performance guarantees or other special reserves) or adjustments shall be shown on separate lines in the mathematical reserves column and the particulars of such reserves or adjustments shall be specified.
14. Contracts the nature of which or the method of valuation of which makes it impossible or inappropriate to give the information in the exact form required by Forms INS 51, INS 52, INS 53 or INS 54, shall be shown on a separate valuation summary with appropriately modified column headings and the reason for the modification stated in a supplementary note.
15. Contracts of any description may be grouped together under any "miscellaneous" headings provided that the mathematical reserves for business shown under all such headings in any one valuation summary

do not exceed 5 per cent of the total mathematical reserves for all business shown in that valuation summary.

### **Instructions for completion of Form INS 55**

1. "Category of surplus" shall be completed in accordance with instruction 1 of the instructions for completion of Forms INS 51, INS 52, INS 53 and INS 54.
2. Separate forms should be prepared in respect of internal linked funds and directly held assets.
3. A separate line shall be used for each asset to which benefits are linked and each different type of unit of each internal linked fund. Columns 5, 6, 7, 8, 9 and 10 shall be sub-totalled for each fund link and totalled for all links.
4. The aggregate of the total figures shown for column 8 (excluding any amount shown in column 8 pursuant to instruction 8 below) and 9 each form prepared in respect of a separate fund or part of a fund shall equal the appropriate figure shown as the total of column 12 of Form INS 53.
5. For links to directly held assets, column 6 shall not be used.
6. For internal linked funds, the total of column 5 shall equal the total of column 8 of the summarised Form INS 43, and the total of column 6 shall equal the total of column 3 of the summarised Form INS 43.
7. Where the liability shown in column 11 of Form INS 53 for a specific fund link is wholly reinsured with a reinsurer being an insurer licensed under the Act, so that the entries in columns 8 and 9 of this form would otherwise be identical, the entries in respect of that fund link shall be aggregated and shown on a separate line with the name of fund link to be shown in column 1 as "wholly reinsured".

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8. Any amounts included in this analysis in accordance with paragraph 20 of this Schedule, being unit liabilities in respect of property linked benefits deposited with the insurer under a deposit back arrangement, shall (for each internal linked fund or directly held asset), be shown in column 8 on a separate line with the name of the unit type to be shown in column 2 as “amounts deposited back”.

#### Instructions for completion of Form INS 56

1. “Category of surplus” shall be completed in accordance with instruction 1 of the instructions for completion of Forms INS 51, INS 52, INS 53 and INS 54.
2. Assets and liabilities in column 2 shall be listed individually except that where a group of assets of similar type is held which is intended to mirror the performance of an index, a description of the type of assets held may be given. Liabilities shall be shown between round brackets and are to be fully described.
3. A separate sub-total of assets and liabilities shall be used for each index link and for each combination of assets and liabilities matching the company’s liability under any deposit back arrangement. Links to different percentages of an index shall be treated as different index links.
4. For each index link, the sub-totalled values in column 2 (excluding those held in respect of any deposit back arrangement) shall match the appropriate entries in column 12 of Form INS 54 net of reinsurance ceded.
5. Assets and liabilities arising from derivative contracts (or contracts or assets which have the effect of a derivative contract) shall be shown separately. Amounts shall be shown net of variation margin in column 2 and gross of variation margin in column 3. Rights to recover assets transferred by way of initial margin shall not be shown on Form INS 56.
6. Where there is a liability to repay variation margin and there are no arrangements for netting of amounts outstanding or the arrangements



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would not permit the accounting of such amounts on a net basis in accordance with generally accepted accounting practice, it shall be so stated in a supplementary note.

7. Any provision for adverse changes shall be determined in accordance with regulation 19 of the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996 and shown in a supplementary note.

### Instructions for completion of Form INS 57

1. The word "Total" or the name of the fund shall be shown against the heading "Category of assets".
2. Separate forms shall be prepared for sterling and non-sterling liabilities.
3. Separate forms are required for with profit and non-profit contracts within the following types of business
  - (i) life assurance and annuity business
  - (ii) pension business
  - (iii) permanent health business
  - (iv) other business.
4. Separate forms shall be prepared for each rate of interest used in the valuation in pursuance of regulation 26(12) of the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996 and may include all contracts valued at the same rate subject to instructions 2 and 3 to this Form. Contracts valued at a lower rate of interest but subject to the same apportionment of assets may also be included provided that the rationale for such inclusion is given in a supplementary note. Each of the valuation rates of interest used shall be itemised against the heading "Valuation rate(s) of interest". The

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highest valuation rate of interest used shall be shown in line 31 or 32 as appropriate.

5. The forms specified above shall exclude the liabilities described in paragraph 21(1)(a) to (d) of Schedule 4, and must cover at least 90% of the remaining long term liabilities.

The balance of the remaining long term liabilities shall be shown in a separate form in which lines 31 and 32 shall be left blank, and details of the contracts covered by the form shall be given in a supplementary note. The word "Balance" shall be shown against the heading "Valuation rate(s) of interest".

6. A summary of all the separate forms shall be produced as a separate form in which lines 31 and 32 shall be left blank. The word "Total" shall be shown against the heading "Valuation rate(s) of interest".
7. The risk adjusted yield in columns 2 and 6 for each asset included in column 1 and 5 respectively shall be that calculated as in regulations 26(3) to (6) of the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996, taking account of any adjustment considered necessary because of regulation 26(7). Where a number of assets with different risk adjusted yields are held, the weighted average risk adjusted yield shall be calculated using as weights the value of the asset applicable for entry into columns 2 and 6.
8. The value of each asset included in column 1 shall be the value attributed to it in Form INS 5 and the assets will be grouped according to instruction 1 to Form INS 48 including adjustments in respect of accrued interest as required by that instruction.
9. Where the valuation has been carried out at a net rate or rates of interest the figure in line 31 shall be the net rate grossed up at the corresponding effective rate of tax in respect of the highest valuation rate of interest used in the Form.
10. The mathematical reserve in line 33 will include any increase in reserve resulting from the bonus declaration for the year and shall be net of reinsurance ceded.
11. The entries shown in columns 3, 4, 5 and 6 shall be those applicable to the scenario described in the answer to paragraph 7(8) of Schedule 4. The entries in column 3 shall be the value of the assets shown in column 1 according to the changed assumptions of that scenario. The entries in column 4 shall be the value of assets on the changed assumptions for each type of asset notionally re-allocated to cover the

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mathematical reserve or other liability, net of reinsurance, in the resilience scenario. The entries in column 5 shall equal the sum of the entries in columns 3 and 4.

12. The entries in line 29, column 1 shall equal the entries in line 33, column 1. The entries in line 29, column 5 shall not be less than the entries in line 33, column 5.

### Instructions for completion of Form INS 58

1. Separate statements shall be completed in respect of each separate fund or part of a fund for which a surplus is determined. The name of the fund or part of a fund shall be shown against the heading "Category of surplus".

The entry at line 11 shall be equal to the entry at line 59 in Form INS 40 for the relevant fund or part of fund.

2. Where interim, mortuary or terminal bonuses are determined in advance of a valuation and are paid in anticipation of surplus arising at the valuation, the amounts of such bonus actually paid in the period up to the valuation date shall be entered in lines 12 and 41. To the extent that it is the practice of the company to make special provision for the cost of such bonuses payable on future claims out of surplus arising at a valuation, such amounts shall be treated as amounts allocated to policyholders at the valuation in question and included in line 44, and the actual amounts paid shall not appear at lines 12 and 41 at future valuations. An appropriate supplementary note shall identify the various items where necessary.
3. Where policies have been transferred from one fund/part of fund to another, the associated transfer of reserves shall not be included as a "transfer" in this form. Where any other transfer has been made, only one positive figure shall be inserted in either line 15 or line 34 (depending on the direction of the net transfer) leaving the other line

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blank. Corresponding entries shall be made in either the block comprising lines 13 and 14 or the block comprising lines 32 and 33, as appropriate.

4. Where the entry in line 14 or line 33 represents more than one transaction, each transfer shall be separately identified in a supplementary note.
5. Line 61 is line 46 expressed as a percentage of line 48.
6. For each fund/part of fund, the entry at line 18 shall equal the total liabilities shown in column 12 of Form INS 51, and the entries at lines 17, 19 and 20 shall equal the total liabilities shown in column 15 of Forms INS 52, INS 53 and INS 54 respectively.
7. The figure at lines 39 and 59 shall equal the figure at line 29.
8. The figure at line 47 shall equal the figure at line 15.

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Form INS 60

Returns under Insurance Companies Legislation  
 Long term business: Required minimum margin  
 Name of insurer  
 Global business / Gibraltar branch business / EEA branch business  
 Financial year ended

Class	Column 1, 2 and 3		Column 4, 5 and 6		Column 7, 8 and 9		Column 10 and 11		Column 12 and 13		Column 14 and 15		
	4%	1%	4%	1%	4%	1%	4%	1%	4%	1%	4%	1%	
Referent factor (fraction 1)	2	3	4	5	6	7	8	9	10	11	12	13	14
11													
12													
13													
14													
15													
16													
17													
19													
20													
21													
22													
23													
29													
31													
32													
39													
49													
51													
59													
61													
69													

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**Instructions for completion of Form INS 60**

1. The appropriate factors specified in paragraphs 1(2)(a), 2(3), 2(4) and 2(5) of Schedule 3 to the Insurance Companies (Solvency Margins and Guarantee Funds) Regulations 2004.
2. For a pure reinsurer, the factor of 0.85 shall be replaced by 0.50.
3. Capital at risk shall be shown after distribution of surplus.
4. Line 39 equals line 32 x [line 21 x 0.1% + line 22 x 0.15% + line 23 x 0.3%] for Classes I, II and IX or line 32 x line 29 x 0.3% for Class III, VII and VIII.
5. Any additional mathematical reserves shown in Form INS 6 line 63 (made in accordance with instruction 7 for the completion of that Form) shall be included at columns 11 or 12, as appropriate.
6. For Class V business, the amount of the required margin of solvency shall be stated in a supplementary note to the Form and shall be included in line 51.
7. For business of classes III, VII and VIII, as specified in paragraph 2(4) of the Insurance Companies (Solvency Margin and Guarantee Funds) Regulations 2004, the entry at line 20 is 25% of the financial year's net administrative expenses pertaining to business for which the insurer bears no investment risk and the allocation to cover management expenses is not fixed for a period exceeding five years.
8. For supplementary accident and sickness insurance and class IV business taken together, Forms INS 3 and INS 4 shall be completed and appended to Form INS 60 (unless the Forms would be blank or paragraph 23(2) of Schedule 4 permits the insurer not to complete the Forms). Lines 44 and 49 of Form INS 4 should be left blank. For the purposes of these Forms "health insurance" is health insurance based on actuarial principles that meets the conditions set out in paragraph 9 of Schedule 1 to the Insurance Companies (Solvency Margin and Guarantee Funds) Regulations 2004. The entry at line 51 of Form INS 60 must equal the entry at line 43 of Form INS 4 plus the amount to be included for class V business (see instruction 6).

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**SCHEDULE 5**

Regulation 26

**GENERAL BUSINESS: ADDITIONAL INFORMATION ON  
BUSINESS CEDED**

For the purposes of regulation 26, an insurer which carries on general business shall, in respect of the financial year in question, prepare a statement of the following information.

1. Subject to paragraph 2, for each contract entered into or modified during the financial year in question under which general business has been ceded by the insurer on a non-facultative basis, the insurer shall prepare a statement of-

- (a) the type of business covered by reference to risk groups or business categories, as appropriate. If only part of a risk group or business category is covered, a description of that part shall be given;
- (b) the type of cover, including such details of the terms and conditions of the contract as are necessary for a proper understanding of the nature of the cover;
- (c) details of any limits on cover as are necessary for a proper understanding of the contract, including any event limits, limits on the amount of business ceded, limits on the number of reinstatements and aggregate limits; and
- (d) the period of cover.

2.(1) Where a contract of reinsurance has been modified during the financial year in question-

- (a) no information need be supplied pursuant to paragraph 1 in respect of a contract of reinsurance which was entered into before the beginning of the financial year of the insurer to which these Regulations first apply; and
- (b) in any other case, the information to be supplied pursuant to paragraph 1 shall be limited to any changes to the information previously supplied pursuant to that paragraph in respect of that contract.



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3. For every contract reported pursuant to paragraph 1, whether in the return for the financial year in question or any previous return, the insurer shall also prepare, if relevant, a statement of—

- (a) in the case of contracts which are subject to no or a limited number of reinstatements, any contract not previously reported pursuant to this sub-paragraph under which it is anticipated that such limit will be exhausted by claims (including claims incurred, but not reported, in respect of any specific occurrence for which provisions have been allocated);
- (b) the percentage of cover, if in excess of 10 per cent. and if such information has not already been included in the accounts and statements of the insurer for any previous financial year, which has been ceded to reinsurers which have ceased to pay claims to their reinsureds in full, whether because of insolvency or for any other reason; and
- (c) if the percentage specified in sub-paragraph (b) has increased by more than 10 percentage points since the previous financial year in which it was included in the insurer's return, a statement of that percentage unless, in the opinion of the directors, the likelihood of any claim being incurred under that policy is minimal.

4.(1) For each business category or risk group, or part thereof, in respect of which separate non-facultative reinsurance cover has been obtained, the insurer shall prepare a statement of the maximum net probable loss to the insurer from any one contract of insurance effected by it and from all such contracts taken together.

(2) For the purposes of sub-paragraph (1), the maximum net probable loss is the maximum loss (net of reinsurance) arising from any one incident, or any one series of incidents from the same originating cause, which—

- (a) the directors, at the time they decided upon the reinsurance cover to be obtained in respect of the financial year in question, reasonably contemplated to be of a type which might take place during that financial year; or
- (b) has actually occurred during the financial year in question.

(3) The disclosure required by sub-paragraph (1) shall be given in respect of all business categories, risk groups, or parts thereof, of the insurance business carried on by the insurer whether or not the insurer has purchased any reinsurance cover for that business category, risk group, or

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part thereof; and in sub-paragraph (2) deciding upon the reinsurance cover includes deciding not to obtain any reinsurance cover.

5. For each accounting class and separately for contract of facultative and non-facultative reinsurance ceded in respect of the financial year in question (as shown in Forms INS 21 and INS 24), the amount of the reinsurers' share of gross premiums shall be stated.

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Regulations 28 and 29

**CERTIFICATES BY DIRECTORS AND ACTUARY AND REPORT  
OF THE AUDITORS**

**PART I**

**Certificate by directors etc.**

1. Subject to paragraph 7, the certificate required by regulation 28(a) shall state—

- (a) in relation to the part of the return comprising Forms INS 1 to INS 9, INS 20 to INS 45 (including the supplementary notes thereto) and the statements required by regulations 19 to 21, 23, 24 and 26 that—
  - (i) the return has been prepared in accordance with the Regulations;
  - (ii) proper accounting records have been maintained and adequate information has been obtained by the insurer; and
  - (iii) an appropriate system of control has been established and maintained by the insurer over its transactions and records;
- (b) that reasonable enquiries have been made by the insurer for the purpose of determining whether any person and any body corporate are connected for the purposes of regulations 19, 20 and 21;
- (c) that in respect of the company's business which is not excluded by regulation 38 of the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996, the assets held throughout the financial year in question enabled the company to comply with regulations 33 to 37 (matching and localisation) of those Regulations; and
- (d) in relation to the statement required by regulation 30—
  - (i) that for the purpose of preparing the statement, proper accounts and records have been maintained; and

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- (ii) that the information given has been ascertained in conformity with that regulation.

2. Subject to paragraph 7, the certificate required by regulation 28(a) shall also, in the case of an insurer which is required by section 59 of the Act to maintain a margin of solvency, EEA margin of solvency or Gibraltar margin of solvency, state that the required margin has been so maintained throughout the financial year in question.

3. Subject to paragraph 7, the certificate required by regulation 28(a) shall also state, separately in respect of long term business and of general business-

- (a) in the case of—
  - (i) an EEA deposit insurer, that the value of the admissible assets of the long term business or of the general business carried on by the insurer through a branch in Gibraltar was maintained throughout the financial year in question at not less than amount of the liabilities of that business; and
  - (ii) a Swiss general insurance company, that the value of the admissible assets of the general business carried on by the insurer through a branch in Gibraltar was maintained throughout the financial year in question at not less than the amount of the liabilities of that business;
- (b) in the case of an external insurer (other than a pure reinsurer)—
  - (i) that the insurer has kept throughout the financial year in question admissible assets representing the required Gibraltar minimum margin of an amount at least equal to the appropriate guarantee fund or minimum guarantee fund, whichever was the greater, within Gibraltar and has kept throughout that year admissible assets representing the remainder of that minimum margin within Gibraltar and the EEA States; and
  - (ii) that the deposit made in accordance with section 25(1)(c) of the Act has been maintained throughout that year at a level equal to at least the minimum as defined in regulation 2 of the Insurance Companies (Deposits) Regulations 1996; and

- (c) in the case of a Gibraltar deposit insurer—
- (i) that the insurer has kept throughout the financial year in question admissible assets representing the required EEA minimum margin of an amount at least equal to the appropriate guarantee fund or minimum guarantee fund, whichever was the greater, within the EEA States concerned and has kept throughout that year admissible assets representing the remainder of that minimum margin within the EEA States concerned and the other EEA States; and
  - (ii) that the deposit made in accordance with section 25(2) of the Act has been maintained throughout that year at a level equal to at least the minimum as defined in regulation 2 of the Insurance Companies (Deposits) Regulations 1996.

4. Subject to paragraph 7, if the insurer carries on long term business, the certificate required by regulation 28(a) shall also state—

- (a) except in the case of an insurer which has no shareholders and carries on no business whatsoever other than long term business, that the requirements of sections 73, 75 and 83 to 86 of the Act have been fully complied with and in particular that, subject to the provisions of sections 83 and 86 of the Act, assets attributable to long term business, the income arising therefrom, the proceeds of any realisation of such assets and any other income or proceeds allocated to the long term business fund or funds have not been applied otherwise than for the purpose of the long term business;
- (b) that any amount payable from or receivable by the long term business fund or funds in respect of services rendered by or to any other business carried on by the insurer or by a person who, for the purposes of section 73 of the Act, is connected with it or is a subordinate company of it has been determined and where appropriate apportioned on terms which are believed to be no less than fair to that fund or those funds, and any exchange of assets representing such fund or funds for other assets of the insurer has been made at fair market value;
- (c) that all guarantees given by the insurer of the performance by a related company which would fall to be met by any long term business fund have been disclosed in the return, and that the

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fund or funds on which each such guarantee would fall has been identified therein;

- (d) in respect of any internal linked fund or funds maintained by an insurer, that the investment policy and practice of the insurer was during the financial year in question consistent with any representations made to policy holders or potential policy holders of the insurer;
- (e) in the case of an insurer having its head office in Gibraltar, a pure reinsurer, a Gibraltar deposit insurer or an external insurer, being an insurer which has financial, commercial or administrative links with any other insurer carrying on insurance business, that the return in respect of long term business is not distorted by agreements between the companies concerned or by any arrangements which could affect the apportionment of expenses and income; and
- (f) in the case of an insurer to which section 75A of the Act applies, that the insurer has fully complied with the requirements of that section..

5. Subject to paragraph 7, where the directors are satisfied that—

- (a) the systems of control established and maintained by the insurer in respect of its business complied, at the end of the financial year in question, with any published guidance and it is reasonable to believe that those systems continued to so comply subsequently and will continue to so comply in future; or
- (b) the return has been prepared in accordance with any published guidance,

it shall be so stated, by listing such guidance, in the certificate required by regulation 28(a).

6. Except in the case of an insurer whose head office is in an EEA State or a Swiss general insurance company, the certificate required by regulation 28(a) shall also, subject to paragraph 7, state that proper accounting records have been maintained in Gibraltar in respect of business carried on through a branch in Gibraltar.

7.(1) Where, in the opinion of those signing the certificate, the circumstances are such that any of the statements required by paragraphs 1 to 6 cannot truthfully be made, the relevant statements shall be omitted.

(2) Where, by virtue of sub-paragraph (1), any statements have been omitted from the certificate, this fact shall be stated in a note.

**PART II**

**Certificate by appointed actuary.**

8. The certificate required by regulation 28(b) above to be signed by the appointed actuary—

- (a) shall state—
  - (i) if such be the case, that in the appointed actuary's opinion proper records have been kept by the insurer adequate for the purpose of the valuation of the liabilities of its long term business;
  - (ii) if such be the case, that the sum of the mathematical reserves and the deposits received from reinsurers as shown in Form INS 6, together, if the case so requires, with an amount specified in the certificate (being part of the excess of the value of the admissible assets representing the long term business funds over the amount of those funds shown in Form INS 6), constitute proper provision at the end of the financial year in question for the long term liabilities (including all liabilities arising from deposit back arrangements, but excluding other liabilities which had fallen due before the end of the financial year) including any increase in those liabilities arising from a distribution of surplus as a result of an investigation as at that date into the financial condition of the long term business; and
  - (iii) if such be the case, that, for the purposes of (ii), the liabilities have been assessed in accordance with Part III of the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996 in the context of assets valued in accordance with Part II of those Regulations, as shown in Form INS 5;
  - (iv) by way of a list, the professional guidance notes that have been complied with; and
  - (v) if such be the case, that in the appointed actuary's opinion premiums for contracts entered into during the financial year and the income earned thereon are

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sufficient, on reasonable actuarial assumptions, and taking into account the other financial resources of the insurer that are available for the purpose, to enable the insurer to meet its commitments in respect of those contracts and, in particular, to establish adequate mathematical reserves; and

- (b) shall state the amount of the required minimum margin, required EEA minimum margin or required Gibraltar minimum margin, as the case may be, applicable to the insurer's long term business immediately following the end of the financial year in question (including any amounts resulting from any increase in liabilities arising from a distribution of surplus as a result of the investigation into the financial condition of the long term business).

9. If the appointed actuary considers it necessary, such qualification, amplification or explanation as may be appropriate shall be added to the certificate.

### PART III

#### **Auditors' report.**

10.(1) The report required by regulation 29 shall state—

- (a) in the auditors' opinion, whether Forms INS 1 to INS 9, INS 20 to INS 45 (including the supplementary notes thereto) and information furnished pursuant to regulations 19 to 21 and 23 have been properly prepared in accordance with the provisions of these Regulations;
- (b) in the auditors' opinion, and according to the information and explanations they have received—
  - (i) whether the certificate required to be signed in accordance with regulation 28(a), otherwise than in relation to statements to which sub-paragraph (2) relates, has been properly prepared in accordance with these Regulations; and
  - (ii) subject to paragraph 11, whether it was or was not unreasonable for the persons giving the certificate to have made the statements therein (other than statements to which sub-paragraph (2) relates); and



- (c) the extent to which, in giving their opinion, the auditors have relied—
  - (i) in the case of an insurer carrying on long term business, on the certificate of the actuary given in accordance with the requirements of Part II of this Schedule with respect to the mathematical reserves and required minimum margin, required EEA minimum margin or required Gibraltar minimum margin, as the case may be, of the insurer; and
  - (ii) in the case of an insurer including implicit items on Form INS 1, on the identity and value of any implicit items as they have been admitted in accordance with regulation 5 of the Insurance Companies (Solvency Margins and Guarantee Funds) Regulations 1996.

(2) The statements to which this sub-paragraph relates are those required by:—

- (a) regulations 24, 26 and 30;
- (b) sub-paragraph (d) of paragraph 4; and
- (c) paragraph 5, but only in so far as it relates to published guidance which either states that compliance with the guidance need not be audited or which relates to controls with respect to money laundering.

11. To the extent that the information and explanations they have received do not allow the auditors to express an opinion on whether it was or was not unreasonable for the persons giving the certificate required to be signed in accordance with regulation 28(a) to have made the statement required by paragraph 5, the auditors shall add to their report such qualification, amplification or explanation as may be appropriate.

12. Where the auditors refer in their report or in any note attached thereto to any uncertainty, the report shall state whether, in the auditors' opinion, that uncertainty is material to determining whether the insurer has available assets in excess of its required minimum margin, required EEA minimum margin or required Gibraltar minimum margin, as the case may be.

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**SCHEDULE 7**

Regulation 30(3)(b)

**RULES FOR INTERPRETATION OF REGULATION 30(3)(b)**

1.(1) A reference to an interest in shares or debentures is to be read as including any interest of any kind whatsoever in shares or debentures.

(2) Accordingly, there are to be disregarded any restraints or restrictions to which the exercise of any right attached to the interest is or may be subject.

2. Where property is held on trust and any interest in shares or debentures is comprised in the property, any beneficiary of the trust who (apart from this paragraph) does not have an interest in the shares or debentures is to be taken as having such an interest, but this paragraph is without prejudice to the following provisions of this Schedule.

3.(1) A person is taken to have an interest in shares or debentures if—

- (a) he enters into a contract for their purchase by him (whether for cash or other consideration), or
- (b) not being the registered holder, he is entitled to exercise any right conferred by the holding of the share or debentures, or is entitled to control the exercise of any such right.

(2) For purposes of sub-paragraph (1)(b), a person is taken to be entitled to exercise or control the exercise of a right conferred by the holding of shares or debentures if he—

- (a) has a right (whether subject to conditions or not) the exercise of which would make him so entitled, or
- (b) is under an obligation (whether or not so subject) the fulfilment of which would make him so entitled.

(3) A person is not by virtue of sub-paragraph (1)(b) taken to be interested in shares or debentures by reason only that he—

- (a) has been appointed a proxy to vote at a specified meeting of a company or of any class of its members and at any adjournment of that meeting, or

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- (b) has been appointed by a corporation to act as its representative at any meeting of a company or of any class of its members.

4. A person is taken to be interested in shares or debentures if a body corporate is interested in them and—

- (a) that body corporate or its directors are accustomed to act in accordance with his directions or instructions, or
- (b) he is entitled to exercise or control the exercise of one-third or more of the voting power at general meetings of that body corporate.

5. Where a person is entitled to exercise or control the exercise of one-third or more of the voting power at general meetings of a body corporate, and that body corporate is entitled to exercise or control the exercise of any of the voting power at general meetings of another body corporate (“the effective voting power”), then, for purposes of paragraph 4(b), the effective voting power is taken to be exercisable by that person.

6.(1) A person is taken to have an interest in shares or debentures if, otherwise than by virtue of having an interest under a trust—

- (a) he has a right to call for delivery of the shares or debentures to himself or to his order, or
- (b) he has a right to acquire an interest in shares or debentures or is under an obligation to take an interest in shares or debentures;

whether in any case the right or obligation is conditional or absolute.

(2) Without prejudice to paragraph 1, rights or obligations to subscribe for shares or debentures are not to be taken, for purposes of sub-paragraph (1), to be rights to acquire, or obligations to take, an interest in shares or debentures.

7. Persons having a joint interest are deemed each of them to have that interest.

8. It is immaterial that shares or debentures in which a person has an interest are unidentifiable.

9. So long as a person is entitled to receive, during the lifetime of himself or another, income from trust property comprising shares or debentures, an interest in the shares or debentures in reversion or remainder, are to be disregarded.

10. A person is to be treated as uninterested in shares or debentures if, and so long as, he holds them under the law in force in Gibraltar as a bare trustee or as a custodian trustee.

11. There is to be disregarded an interest of a person subsisting by virtue of any unit trust scheme which is an authorised unit trust scheme within the meaning of the Financial Services Act 1989.

12. Delivery to a person's order of shares or debentures in fulfilment of a contract for the purchase of them by him or in satisfaction of a right of his to call for their delivery, or failure to deliver shares or debentures in accordance with the terms of such a contract or on which such a right falls to be satisfied, is deemed to constitute an event in consequence of the occurrence of which he ceases to be interested in them, and so is the lapse of a person's right to call for delivery of shares or debentures.