

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

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INSURANCE COMPANIES ACT 1987

INSURANCE COMPANIES (ACCOUNTS AND STATEMENTS)
REGULATIONS 1996

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INSURANCE COMPANIES ACT 1987

**INSURANCE COMPANIES (ACCOUNTS AND STATEMENTS)
REGULATIONS 1996**

In exercise of the powers conferred on it by section 118 of the Insurance Companies Act 1987, and of all other enabling powers, and for the purpose of transposing into the national law of Gibraltar Council Directive 73/239/EEC, as amended by Council Directives 87/343/EEC and 92/49/EEC, and Council Directive 79/267/EEC, as amended by Council Directive 92/96/EEC, the Government has made the following regulations-

Title and commencement.

1. These regulations may be cited as the Insurance Companies (Accounts and Statements) Regulations 1996 and shall come into effect on the 1st day of July 1996.

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 the 1st day of July 1996.

(2) Where the Commissioner has directed, pursuant to paragraph 7(2) of Part I 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 shall otherwise require, -

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

"additional amount for unexpired risks" means the amount set aside by an insurer at the end of its financial year, in addition to any unearned premiums, which is considered necessary to meet the cost of claims and expenses of settlement arising from risks to be borne by the insurer after the end of the financial year under contracts of insurance entered into before the end of that year;

"admissible asset" means an asset which is not required by regulation 3(3) of the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996 to be left out of account for the purposes specified in regulation 3(1) of those regulations;

"appointed actuary" means the person appointed as actuary to an insurer under section 76;

"asset" includes part of an asset;

"authorised unit trust scheme" has the meaning given to it by the Financial Services Act 1989;

"branch" has the same meaning as in section 2(8);

"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 outstanding" means, unless otherwise specified, the amount set aside by the insurer as at the beginning or end of the financial year as being an amount likely to be sufficient to meet -

- (a) claims in respect of incidents occurring -
 - (i) in the case of an amount set aside as at the beginning of the financial year, before the beginning of that year, and
 - (ii) in the case of an amount set aside as at the end of the financial year, before the end of that year,

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

- (b) expenses (such as, for example, legal, medical, surveying or engineering costs) which have been incurred but not yet recorded as paid or which are likely to be incurred by the insurer, whether through the employment of its own staff or otherwise, and are directly attributable to the settlement of individual claims which relate to incidents occurring before the beginning or the end of the financial year (as the case may be), whether or not the individual claims in question are those mentioned in paragraph (a),

less any recoverable amounts;

"claims paid", in relation to general business, means unless otherwise specified the amount that is recorded in the insurer's books as at the end of its financial year as paid by it (whether or not payment has been effected in that year) in full or partial settlement of -

- (a) claims including claims relating to business accounted for over a longer period than a financial year, and
- (b) expenses (such as for example, legal, medical, surveying or engineering costs) which are incurred by the insurer, whether through the employment of its own staff or otherwise, and are

directly attributable to the settlement of individual claims, whether or not the individual claims in question are those mentioned in paragraph (a),

less any recoverable amounts;

"claims payable", in relation to long term business, means the amount due to be paid by an insurer during a financial year in respect of claims whether or not paid during that year;

"commission payable" means, in relation to a financial year of an insurer, the amounts, whether or not paid during that year, which are recorded during that year as due to intermediaries and cedants in respect of the inception, amendment or renewal of contracts of insurance;

"contract for differences" means a contract which falls within paragraph 9 of Schedule 1 to the Financial Services Act 1989;

"contract of insurance" includes a contract of reinsurance;

"credit insurance business" means all insurance business falling within general business class 14 of Part I of Schedule 1 to the Act that is not reinsurance;

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

"direct and facultative" refers to direct insurance business and inwards facultative reinsurance business;

"EEA insurer" has the same meaning as in section 2(2);

"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);

"EEA State" has the same meaning as in section 2(2);

"equalisation reserve" has the same meaning as in section 87B;

"expenses for settling claims" means that part of an insurer's expenses which has been incurred in respect of general business in the settlement of claims other than expenditure which falls to be included under claims paid;

"expenses for settling claims outstanding" means the amount set aside by an insurer at the end of its financial year as being an amount likely to be sufficient to meet that part of the insurer's expenses which is likely to be incurred in respect of general business in the settlement of claims in respect of incidents occurring before the end of that year other than expenses which fall to be included under claims outstanding;

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

"fund" in relation to general business recorded as commencing in any financial year of an insurer but accounted for over a period longer than that financial year, means, during such period, an amount not less than the aggregate amount of the premiums receivable during that period (net of reinsurance premiums payable) reduced by the aggregate amount of claims paid (net of reinsurance recoveries), expenses for settling claims, commission (net of reinsurance commission receivable) and premium taxes in respect of that business and any management expenses attributable to the management of the fund and, after the end of such period, means such amount as is considered necessary to discharge the remaining obligations (net of reinsurance) in respect of that business;

"future contract" means a contract which falls within paragraph 8 of Schedule 1 to the Financial Services Act 1989;

"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);

"Gibraltar insurer" has the same meaning as in section 2(2);

"gross premiums" in relation to an insurer and a financial year -

- (a) means premiums after deduction of discounts, refunds and rebates of premium but before deduction of premiums for reinsurance ceded and before deduction of commission payable by the insurer, and
- (b) includes premiums receivable by the insurer under reinsurance contracts accepted by the insurer;

"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 insurance business written in Gibraltar primarily relating to risks situated outside Gibraltar but excluding business in accounting classes 3, 4 or 5 and business where the risk commences in Gibraltar;

"incepted" refers to the time when the liability to risk of an insurer under a contract of insurance commenced and, for this purpose, a contract providing permanent open cover shall be deemed to commence on each anniversary date of the contract, "inception" and "incepting" shall be construed accordingly;

"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 which is determined by the insurer by reference to the value of those linked assets;

"licensee" means a licensed insurer;

"linked assets" means long-term business assets of an 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 benefits" means benefits provided for under any contract the effecting of which constitutes the carrying on of long term insurance business, and which are determined by reference to the value of, or the income from, property of any description (whether or not specified in the contract) or by reference to fluctuations in, or an index of, the value of property of any description (whether or not specified in the contract);

"linked contract" means a contract falling within Class III of long term business as specified in Schedule 2 to the Act and "non-linked contract" shall be construed accordingly;

"loss portfolio" means an amount payable by a reinsurer to a cedant in consideration of the release of the reinsurer from all or part of the liability arising under a contract of reinsurance in respect of claims incurred prior to a fixed date; and for the purposes of these regulations a loss portfolio shall, unless otherwise specified, be treated by the reinsurer as a refund of premiums receivable and shall be treated by the cedant as a refund of reinsurance premiums payable;

"management expenses" means expenses incurred in the administration of an insurer or its business which are not commission payable and, in the case of general business, are not included in claims paid, claims outstanding, expenses for settling claims and expenses for settling claims outstanding;

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

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

"non-proportional reinsurance treaty" means a reinsurance treaty which is not a proportional reinsurance treaty;

"option" means an option which falls within paragraph 7 of Schedule 1 to the Financial Services Act 1989 or a warrant;

"outstanding claims portfolio" means an amount payable by a cedant to a reinsurer in consideration of the reinsurer accepting liability arising under a contract of reinsurance in respect of all or part of reinsurance claims incurred and arising prior to a fixed date; and for the purposes of these regulations an outstanding claims portfolio shall, unless otherwise specified, be treated by the cedant as reinsurance premiums payable and shall be treated by the reinsurer as premiums receivable;

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

"permanent health contracts" means contracts falling within class IV of long term business as specified in Schedule 2 to the Act;

"premiums" includes the consideration for the granting of an annuity;

"premium portfolio" means an amount payable by a reinsurer to a cedant in consideration of the release of the reinsurer from all or part of the liability arising under a contract of reinsurance for claims occurring after a fixed date under all or certain underlying contracts incepting prior to that date, and for the purposes of these regulations a premium portfolio shall, unless otherwise specified, be treated by the reinsurer as a refund of premiums receivable and shall be treated by the cedant as a refund of reinsurance premiums payable;

"premiums receivable" means -

- (a) in the case of a linked contract the liability under which has been valued on the basis of premiums actually received by the insurer in a financial year, the amount of premiums received in respect of that contract, and
- (b) except as provided for in paragraph (c), in any other case, the premiums recorded in the insurer's books in respect of a financial year as due to it in respect of contracts commencing in that year or contracts commencing in earlier financial years but not accounted for in the insurer's revenue account prior to that financial year, whether or not received by the insurer during that financial year, after deducting discounts, refunds and rebates of premiums as recorded in respect of the same

period; and for the purpose of determining whether a premium is due no account shall be taken of any credit arrangements made in respect thereof;

- (c) for the purposes of preparing Form INS 38 or INS 39 as required by regulation 23, the premiums recorded in the insurer's books in respect of a financial year as due to it in respect of contracts relating to credit insurance business commencing in that year or commencing in earlier financial years but not accounted for in the insurer's revenue account prior to that financial year, whether or not received by the insurer during that financial year, after deducting discounts, refunds and rebates of premiums as recorded in respect of the same period and after deducting premiums for reinsurance ceded in respect of that period; and for the purpose of determining whether a premium is due no account shall be taken of any credit arrangements made in respect thereof;

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

"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;

"pure reinsurer" 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 income during a financial year, means, unless otherwise specified, such amounts as become due to the insurer, whether or not received by the insurer during that year, including (where appropriate) income which has accrued;

"recoverable amounts" means, for the purposes of claims outstanding and claims paid, the amounts recoverable by an insurer (whether or not received) in respect of the claims mentioned under those

expressions or other claims, including amounts recoverable by way of salvage, amounts recoverable from third parties, and amounts recoverable from other insurers but excluding amounts recoverable in respect of reinsurance ceded by the insurer;

"reinsurance" and "reinsurer" include retrocession and retrocessionaire, respectively;

"reinsurance commission receivable" means amounts due to an insurer during a financial year from reinsurers, whether or not received by the insurer during that year, in respect of reinsurance premiums payable by the insurer;

"reinsurance premiums payable"-

- (a) means the premiums recorded in an insurer's books during a financial year as due by it to reinsurers in respect of reinsurance contracts commencing in that year or reinsurance contracts commencing in earlier financial years but not accounted for in the insurer's revenue account prior to that financial year, whether or not paid by the insurer during that financial year, after deducting discounts, refunds and rebates of premiums as recorded in the same period, and for the purpose of determining whether a premium is due no account shall be taken of any credit arrangements made in respect thereof, and
- (b) in the case of general business, includes, unless otherwise specified, unearned premium portfolios and outstanding claims portfolios payable by the insurer under reinsurance contracts ceded by the insurer, after deduction of any premium portfolios or loss portfolios refunded to the insurer by reinsurers;

"related company" has the same meaning as in Part 1 of the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996;

"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 minimum

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

"subordinated", in relation to a loan to an insurer, means a loan which in the event of the winding up of the insurer is repayable by the insurer only after all other liabilities of the insurer, other than those in respect of share capital, have been paid in full;

"Swiss general insurance company" has the same meaning as in the Act;

"unearned premiums" means the amount set aside by an insurer at the end of its financial year out of premiums in respect of risks to be borne by the insurer after the end of the financial year under contracts of insurance entered into before the end of that year;

"unearned premium portfolio" means an amount payable by a cedant to a reinsurer in consideration of the reinsurer accepting liability for all or part of the liability arising under a contract of reinsurance for claims occurring after a fixed date under all or certain underlying contracts incepting prior to that date; and for the purposes of these Regulations an unearned premium portfolio shall, unless otherwise specified, be treated by the cedant as reinsurance premiums payable and shall be treated by the reinsurer as premiums receivable;

"zillmerising" has the same meaning as in the Insurance Companies (Solvency Margins and Guarantee Funds) Regulations 1996.

(2) For the purposes of these regulations, the rate of conversion from the ECU to the pound sterling shall be subject to a minimum of 41.66 pence per ECU.

(3) For the purposes of supplying any information under any Schedule to these regulations (or in any Form therein) required by these regulations to be completed) required to be supplied by reference to valuation regulations, words and expressions used in any such Schedule (or in any such Form therein) shall, unless otherwise specified, have the meanings assigned to them in such valuation regulations.

(4) 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 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.

(5) In these regulations, any reference to long term business or to general business shall, -

- (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; and
- (b) in relation to a Gibraltar deposit insurer, be taken to refer to its entire long term business or 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 requirements in respect of, -

- (c) accounts prepared in respect of its entire long term business or entire general business, and
- (d) 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.

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 or a liability of the insurer shall be the value or amount of that asset or liability as determined in accordance with any applicable valuation regulations;
- (b) where there are no applicable valuation regulations, then,
 - (i) in the case of an asset of the insurer other than a linked asset, the value given shall be the value which the asset would have if valuation regulations were applicable, and
 - (ii) in the case of a linked asset of the insurer, 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 and submitted pursuant to sections 50, 52 and 53 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 under section 50(1) shall comply with the requirements of Schedule 1 and shall be in Forms INS 1 to INS 8 completed (as may be appropriate) as specified in sub-regulations (2) to (7).

(2) Form INS 1 shall be completed by every Gibraltar insurer, external insurer, Gibraltar deposit insurer and pure reinsurer.

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

(4) Forms INS 3 and INS 4 shall be completed by every Gibraltar insurer, external insurer, Gibraltar deposit insurer and pure reinsurer which carries on general business.

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

- (a) by every Gibraltar insurer, external insurer, Gibraltar deposit insurer and pure reinsurer which carries on long term business in respect of -
 - (i) the total assets representing the fund or funds maintained by it in accordance with section 75; and
 - (ii) the 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 EEA deposit insurer in respect of long term business carried on by it through a branch in Gibraltar in respect of -
 - (i) the assets of the insurer relating to that business representing the fund or funds maintained by it in accordance with section 75, and
 - (ii) the assets of the insurer relating to that business appropriated by it in respect of each long term business fund or group of funds for which separate assets have been appropriated;
- (c) by every Gibraltar insurer, external insurer, Gibraltar deposit insurer and pure reinsurer in respect of its total assets other than long term business assets;
- (d) by every EEA deposit insurer and every Swiss general insurance company in respect of general business carried on by it through a branch in Gibraltar in respect of the assets, other than long term business assets, of the insurer relating to that business;
- (e) 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.
- (f) 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) For each Form INS 5 which an insurer is required to complete, it shall complete Form INS 6 in respect of the same business.

(7) Form INS 7 shall be completed by every insurer which carries on long term business.

(8) Form INS 8 shall be completed by every insurer except an insurer not trading for profit which carries on only long term business.

Profit and Loss Account.

7. The profit and loss account required to be prepared by every insurer under section 50(1) shall comply with the requirements of Schedule 1 and shall be prepared in Form INS 9.

Revenue Account.

8. The revenue account required to be prepared by every insurer under section 50(1) -

- (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;

- (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 for long term insurance business.

Additional information on general business (accounting classes).

9. Every insurer which carries on general business shall, in respect of each financial year and in accordance with the requirements of Schedule 2, prepare -

- (a) Forms INS 21, INS 22 and INS 23 in respect of each of the accounting classes 1 to 8 save that where, in respect of any of the accounting classes 3, 4 and 5, the insurer elects to account for any business on a three-year basis it shall prepare Forms INS 24 and INS 25 instead of Forms INS 21, INS 22 and INS 23 in respect of that business;
- (b) Forms INS 24, INS 25 and INS 26 in respect of accounting class 9; and
- (c) Forms INS 27 and INS 28 in respect of accounting class 10.

Risk groups for general business.

10. (1) Every insurer which carries on general business shall, in the manner provided in sub-regulation (2) and for the purpose of completing the forms specified in regulation 11, classify the business carried on by it in each country into risk groups by reference to accounting classes 1 to 8 as

appropriate but excluding, for that purpose, any risks relevant to treaty reinsurance business under accounting classes 3, 4 and 5.

(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 given by the insurer so however that -

- (a) if the insurer carries on private motor vehicle insurance business it shall, in relation to accounting class 2 and in such manner as it considers appropriate, so classify its risks that -
 - (i) policies in respect of private motor car risks are not included in the same risk group as policies in respect of other risks, and
 - (ii) 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;
- (b) subject to paragraph (a), if the directors are of the opinion that the risks insured by the insurer within an accounting class in any one country are not significantly dissimilar in the manner aforesaid, there shall be only one risk group for those risks:

Provided that if there is only one risk group for an accounting class, it shall be classified by reference to the particular type of business within the accounting class which is carried on by the insurer.

(3) For the purposes of this regulation and regulations 11 and 12, home foreign business shall be treated as though it was carried on in a different country from other business carried on in Gibraltar.

Additional information on general business (risk groups).

11. Subject to regulation 12, every insurer which carries on general business shall, with respect to each financial year and in relation to each country, each

year of origin and each risk group (as classified by it under regulation 10) prepare in accordance with the requirements of Schedule 2 -

- (a) Forms INS 31 and INS 33 in respect of accounting classes 1 to 8 save that where, in respect of any of the accounting classes 3, 4 and 5, the insurer elects to account for any business on a three year basis it shall prepare Forms INS 34 and INS 35 instead of Forms INS 31 and INS 33 in respect of that business;
- (b) Form INS 32 in respect of accounting class 2:

Provided that where any Form referred to above 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 the business carried on by it through any branch situated in Gibraltar, and
- (b) in the case of a Gibraltar deposit insurer in respect of the business carried on by it through any branch in any EEA State where business is carried on.

Provisions supplemental to regulation 11.

12. (1) No Forms need to be prepared under regulation 11 with respect to any financial year of an insurer -

- (a) in relation to any country, if the aggregate of the insurer's gross premiums for that year in respect of general business (direct and facultative) carried on by it in that country was less than 2.5% of the aggregate of its gross premiums for the year in respect of general business (including inward reinsurance treaties) carried on by it in all parts of the world (including that country);
- (b) in relation to any accounting class of business carried on in any country, if the aggregate of the insurer's gross premiums for that year in respect of that class (direct and facultative) carried on in that country was less than £100,000;

- (c) if the aggregate of the insurer's gross premiums for that year in respect of its general business (direct and facultative) carried on in Gibraltar was less than £100,000:

Provided that -

- (i) paragraphs (a) and (b) shall not apply to general business carried on through a branch in Gibraltar by a Swiss general insurance company or by an external insurer nor, in the case of a Gibraltar deposit insurer or an EEA deposit insurer, shall they apply to general business carried on through a branch in the EEA State concerned;
- (ii) where an insurer has prepared any Forms pursuant to regulation 11 with respect to any financial year in relation to a country, year of origin and risk group it shall, notwithstanding the provisions of this paragraph, prepare in respect of each subsequent financial year during which there are any liabilities relevant to the business to which the forms relate Forms INS 33, INS 34 and INS 35 (as appropriate) in accordance with the requirements of Schedule 2 in respect of that business.

(2) An insurer which, by virtue of sub-regulation (1), has not prepared forms under regulation 11 in respect of any of its general business (direct and facultative) shall, in accordance with the requirements of Schedule 2 prepare in respect of any such business carried on in Gibraltar and prepare separately in respect of any such business carried on elsewhere Forms INS 31 and INS 33 in respect of each of accounting classes 1 to 8 save that where, in respect of any of the accounting classes 3, 4 and 5, the insurer elects to account for any business on a three year basis it shall prepare Forms INS 34 and INS 35 instead of Forms INS 31 and INS 33 in respect of that business.

Currencies other than sterling.

13. Every insurer which prepares any Forms under regulation 11, 21 or 22 in respect of a financial year which contain figures in a currency other than sterling shall prepare Form INS 36 in accordance with the requirements of Schedule 2.

Additional information on general business (co-insurance).

14. Every insurer which has participated in a Community co-insurance operation (as defined in section 2(2)) otherwise than as the leading insurer (as so defined) in any financial year shall prepare Form INS 37 in accordance with the requirements of Schedule 2.

Additional information on long term business.

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

- (a) Forms INS 41 to INS 43 and INS 44, and
- (b) such of Forms INS 45 to INS 51 as are appropriate.

Forms prepared pursuant to regulations 9 and 11 to 15.

16. The Forms prepared pursuant to regulations 9 and 11 to 15 shall be annexed to the documents referred to in regulations 6, 7 and 8.

Additional information on general business ceded under reinsurance treaties.

17. (1) Subject to the provisions of regulation 20, an insurer which carries on general business in a financial year shall annex to the documents referred to in regulations 6, 7 and 8 and relating to that financial year a statement of -

- (a) the full name of each of its major 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; and
- (c) the amount -
 - (i) of the reinsurance premiums payable in the financial year to each major reinsurer in respect of general business ceded under reinsurance treaties, and

- (ii) of any debt of the reinsurer to the insurer in respect of general business ceded under reinsurance treaties at the end of the financial year included at line 53 of Form INS 5,

or a statement that it had no major reinsurers.

(2) For the purposes of this regulation, a major reinsurer of an insurer is another insurer to which (whether alone or with any body corporate which is connected with such other insurer) the insurer has ceded general business reinsurance under one or more reinsurance treaties -

- (a) in the case of proportional reinsurance, for which the total amount of the reinsurance premiums payable is equal to not less than 2% of the gross premiums receivable by the insurer in respect of general business, or
- (b) in the case of other reinsurance, for which the total amount of the reinsurance premiums payable is equal to not less than 5% of the total premiums payable by the insurer in respect of all such other reinsurance,

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

Additional information on general business ceded under facultative reinsurance contracts.

18. Subject to the provisions of regulation 20, an insurer which carries on general business shall annex to the documents referred to in regulations 6, 7 and 8 and relating to each financial year of the insurer a statement of -

- (a) the full name of each reinsurer under a facultative reinsurance contract included in the number inserted in column 7 or in column 9 of Form INS 30 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; and

- (c) the amount of the total premiums payable in the financial year to each such reinsurer in respect of general business ceded under facultative reinsurance contracts and included in column 8 or column 10, as the case may be, of that Form.

Information on major general business reinsurance cedants.

19. (1) Subject to the provisions of regulation 20, an insurer which carries on general business shall annex to the documents referred to in regulations 6, 7 and 8 and relating to each financial year of the insurer 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; and
- (c) the amount of the total of the gross premiums receivable by the insurer from each such cedant in respect of general business treaty reinsurance accepted in the financial year to which the return relates,

or a statement that it has no such cedant.

(2) For the purposes of this regulation, a major cedant of an insurer is another insurer from which (whether from that insurer alone or from that insurer and any body corporate which is connected with that insurer) the insurer has accepted general business treaty reinsurance in respect of which the gross premiums receivable exceed the greater of -

- (a) 5% of the gross premiums receivable by the insurer in respect of general business treaty reinsurance, and
- (b) 2% 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 17, 18 and 19.

20. (1) Subject to the provisions of this regulation, for the purposes of regulations 17(1)(b) and (2), 18(b) and 19(1)(b) and (2), a body corporate and another person are connected with each other if -

- (a) the other person is -
 - (i) a subsidiary of the body corporate;
 - (ii) a holding company of the body corporate; or
 - (iii) a subsidiary of the holding company 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 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 who in accordance with sub-regulation (4)(b) is to be treated as one with that person, is entitled to exercise, or control the exercise of, one-third 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 17, 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 19, 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 regulation 17 or 19, as the case may be, unless it is also connected by virtue of sub-regulation (1) with the insurer making the statement.

(4) In regulations 17, 18 and 19 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) the following persons shall be treated as one, that is to say, -
 - (i) an individual and his wife and minor child (including step-child), and
 - (ii) an individual and any body corporate of which the individual is a director.

(5) The following provisions of Schedule 1 shall apply for the purposes of regulations 17(1)(c) and (2), 18 and 19, that is to say, -

- (a) paragraphs 3 and 4 (which relate to currencies other than sterling); and
- (b) sub-paragraphs (1) and (2) of paragraph 7 (which, among other things, relate to amounts due to the insurer) with the substitution in sub-paragraph (1) for the words "sub-paragraphs (2) and (3)" of the words "sub-paragraph (2)".

Additional information on general business accepted under reinsurance treaties (proportional and non-proportional).

21. (1) Every insurer which carries on general business shall, for the purposes of this regulation, allocate its general business treaty reinsurance accepted (but, in the case of proportional reinsurance business, only in respect of classes 5, 6, 11 and 12 and, if accounted for on a three-year basis, class 7) to separate categories including -

- (a) casualty (including classes 1, 2 and 13);
- (b) property (including classes 4, 8 and 9);
- (c) aviation (including classes 5 and 11); and
- (d) marine (including classes 6 and 12);

and shall, in respect of each financial year and in accordance with the requirements of Schedule 2 prepare Form INS 29 (which shall be annexed to the documents referred to in regulations 6, 7 and 8) showing the information specified in respect of each such category of reinsurance business accepted:

Provided that -

- (i) instead of allocating business within a class or classes referred to in any one of paragraphs (a) to (d) to a category therein mentioned, an insurer may allocate all its reinsurance business within that class or those classes to a separate category comprising only that class or those classes; and
- (ii) the number of categories to which business is allocated in accordance with this sub-regulation shall not exceed ten.

(2) For the purposes of sub-regulation (1) -

- (a) acceptance of proportional retrocessions of non-proportional treaty reinsurance business shall be treated as non-proportional treaty reinsurance business unless -

- (i) the insurer is unable to show information relating to it on Form INS 29; and
 - (ii) the information is shown on Form INS 27A in respect of all such business as a single category separate from other categories and an explanation is given in a note annexed to the form of why the information is so given; and
- (b) all reinsurance treaties accepted, other than those included in the categories mentioned in paragraphs (a) to (d) of sub-regulation (1), under which it may reasonably be foreseen that a substantial proportion of claims will be settled more than ten years after the inception of the business shall be allocated to one or more separate categories including only such treaties.

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

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

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

(4) Unless an explanation is given in a note annexed to Form INS 29 for allocation of the information in question to a different category -

- (a) where information relating to an underwriting year of a reinsurance treaty accepted has been shown in a return in respect of a financial year, information relating to that underwriting year of the treaty shall be included in the same category in each relevant later financial year; and
- (b) where a reinsurance treaty accepted relates to risks which are of a description similar 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 descriptions of risk in similar proportions, information relating to that reinsurance treaty shall be included in the same category as information relating to the earlier treaty.

(5) Subject to sub-regulation (7), where the gross premiums receivable by an insurer in a financial year in respect of general business reinsurance treaties do not exceed 2.5 per centum of the gross premiums receivable by the insurer in that year in respect of general business, no information shall be shown on Form INS 29 relating to reinsurance treaties.

(6) Subject to sub-regulation (7), where the gross premiums receivable by an insurer in a financial year in respect of general business reinsurance treaties falling within a category in respect of which information is required to be shown on Form INS 29 do not exceed the lesser of £100,000 and 2.5 per centum of the gross premiums receivable by the insurer in that year in respect of general business treaty reinsurance accepted in that year, no information shall be shown on Form INS 29 relating to reinsurance treaties included in any such category.

(7) Where an insurer has, in respect of any financial year, shown information on Form INS 29 relating to any reinsurance business then, notwithstanding the provisions of sub-regulation (5) or (6), as the case may be, information relating to that business shall be shown on Form INS 29 in respect of each relevant later financial year.

(8) Where information is shown on Form INS 29 in relation to a reinsurance treaty accepted before the first financial year of the insurer in respect of which Form INS 29 is required to be prepared, information relating to that treaty in respect of business incepted in earlier financial years

- (a) may be aggregated instead of being shown separately in respect of each such financial year, and
- (b) may, in the case of business incepted before 1st July 1995 for which the information is not available, be shown as an estimate.

Additional information on general business accepted under reinsurance treaties (proportional).

22. (1) Without prejudice to regulation 9, this regulation has effect in relation to all proportional treaty reinsurance business accepted in respect of which, in relation to a financial year of an insurer, information is not shown on Form INS 29 pursuant to regulation 21.

(2) Every insurer which carries on general business shall, for the purposes of this regulation, allocate its general business proportional treaty reinsurance accepted to separate categories including -

- (a) casualty (including classes 1, 2 and 13); and
- (b) property (including classes 4, 8 and 9),

and shall in respect of each financial year and in accordance with the requirements of Schedule 2 prepare Form INS 27A (which shall be annexed to the documents referred to in regulations 6, 7 and 8) showing the information specified in respect of each such category of proportional reinsurance business:

Provided that -

- (i) instead of allocating business within a class or classes referred to in either of paragraphs (a) and (b) to a category therein mentioned, an insurer may allocate all its reinsurance business within that class or those classes to a separate category comprising only that class or those classes; and
- (ii) the number of categories to which business is allocated in accordance with this sub-regulation shall not exceed ten.

(3) For the purposes of sub-regulation (2), all reinsurance treaties accepted, other than those included in the categories mentioned in paragraphs (a) and (b) of that sub-regulation, under which it may reasonably be foreseen that a substantial proportion of claims will be settled more than ten years after the inception of the business shall be allocated to one or more separate categories including only such treaties.

(4) Sub-regulations (3) to (7) of regulation 21 shall have effect for the purposes of this regulation as they have effect for the purposes of that

regulation with the substitution for reference to Form INS 29 to reference to Form INS 27A.

Additional information on direct credit insurance business accepted.

23. (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 a three-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).

Additional information on derivative contracts.

24. (1) Every insurer which is required to complete Form INS 6 pursuant to regulation 6(6) shall, in respect of each financial year, annex to the documents referred to in regulations 6, 7 and 8 a statement comprising a summary of -

- (a) investment guidelines operated by the insurer during the relevant financial year for the use of derivative contracts;
- (b) the extent to which -
 - (i) any of the amounts recorded in Form INS 5; and
 - (ii) in the case of an insurer carrying on long term business, any of the amounts recorded in Form INS 45,

would be materially changed if assets which the insurer had agreed to acquire or dispose of under derivative contracts outstanding at the end of the relevant financial year (in the case of options, being only those options which it is prudent to assume will be exercised) had been so acquired and disposed of;

- (c) where a summary required by paragraph (b) would have been materially different if the requirement had applied to derivative

contracts outstanding at any other time during the relevant financial year, the extent of that difference;

- (d) the maximum loss which would be incurred by the insurer (its "exposure") in the event of failure by any one other person to fulfil its obligations under derivative contracts outstanding at the end of the relevant financial year, both under existing market conditions and in the event of other foreseeable market conditions, together with an assessment of whether such exposure would have been materially different at any other time during the relevant financial year; and
- (e) the circumstances surrounding the use of any instrument which -
 - (i) is (wholly or in part) a derivative contract or a contract having equivalent effect; and
 - (ii) does not fall within regulation 14(3) of, or (where appropriate) paragraph 14 of Schedule 3 to, the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996.

(2) For the purposes of this regulation, any reference to "the relevant financial year" shall mean, in the case of a financial year of the insurer ending on or before 30th June 1997, the period from 1st July 1996 to the end of the relevant financial year only.

Additional information on shareholder controllers.

25. Every Gibraltar insurer shall, in respect of each financial year, 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 that year, a shareholder controller of that insurer; and
- (b) in the case of each person who is a shareholder controller of that insurer at the end of that year, a statement of -

- (i) the percentage of shares he holds at that time in the insurer, or in another company of which the insurer is a subsidiary undertaking; and
- (ii) the percentage of the voting power which he is entitled at that time 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.

General business.

26. Every insurer which carries on general business shall, in respect of each financial year and in accordance with the requirements of Schedule 2, prepare a statement of business of that class in Form INS 30.

Periodic actuarial investigation.

27. For the purposes of section 78 the abstract of the report of the actuary on long term business -

- (a) shall comply with the requirements of Schedule 4 and shall contain the information (together with such of Forms INS 55 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.

Signature of documents.

28. (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(2) are -

- (a) in any case -
 - (i) 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

(ii) a chief executive, if any, of the insurer or (if there is no chief executive) the secretary, if any; and

(b) in the case of an abstract under section 78, 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(2) are -

(a) in any case -

(i) the representative referred to in section 24B(1) or 25(4) or, where the representative is a body corporate, the individual representative referred to in section 25A(5); and

(ii) an officer or employee of the description specified in section 24B(4)(b) or, if there is no such officer or employee or he is also the representative or individual representative referred to above, an employee of the description specified in section 24B(4)(c); and

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

Certificates.

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

(a) a certificate in accordance with Part I of Schedule 5 which shall be signed by the persons required by regulation 28 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 carried on long term business a certificate in accordance with the requirements of Part II of Schedule 5 which shall be signed by the appointed actuary.

Audit and auditors' report.

30. (1) The documents referred to in regulations 6, 7 and 8, and every statement, analysis, report or certificate annexed thereto pursuant to regulations 16, 17, 19, 21, 22, 24 and 29(a) shall be audited by the auditor of the insurer appointed under section 47 who shall make and annex to the documents aforesaid a report in accordance with the requirements of Part III of Schedule 5.

(2) A company'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 company 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 the 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 company's individual accounts are not in agreement with the accounting records and returns, the auditors shall state that fact in their report.

(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) Sub-regulations (2) to (4) shall apply as if the auditors of a company were not under a duty for the purposes of preparing their report to carry out any investigation into information given in Forms INS 33 and INS 35 relating wholly or partly to the number of claims notified or the amount of payments made prior to the financial year of the company to which the Insurance Companies (Accounts and Statements) Regulations 1996 first applied.

(6) 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.

(7) 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.

Information on appointed actuary.

31. (1) Subject to the provisions of this regulation, a company shall annex to the documents referred to in regulations 6, 7 and 8 and relating to each financial year of the company as respects every person who, at any time during the year, was the appointed actuary to the company, a statement of the following information, that is to say, -

- (a) particulars of any shares in, or debentures of, the company 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 company and subsisting 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 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 company, and
 - (ii) any emoluments, pensions or compensation as a director of the company,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 company 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 company 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 minor child (including step-child) of the actuary;
- (ii) any person who is a partner of the actuary;
- (iii) any person (other than the company) of which the actuary is an employee; and
- (iv) any body corporate (other than the company) of which the actuary is a director or which is controlled by him.

(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 6.

(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), reference to a company includes reference to any body corporate which is the company's subsidiary or holding company and to any other subsidiary of its holding company.

(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, one-third 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.

32. (1) Every document submitted to the Commissioner pursuant to section 52 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 and have the contents which it would have had if these regulations had not been made.

(2) An insurer shall not be required to include in any account or balance sheet prepared in accordance with these regulations any information relating to the financial year of the insurer immediately preceding that financial year of the insurer to which these regulations shall first apply by virtue of regulation 2(1).

SCHEDULE 1

Regulations 6 and 7

**BALANCE SHEET AND PROFIT AND LOSS ACCOUNT
(FORMS INS 1 TO INS 9)**

1. Introduction.

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.

2. Completion of Forms.

(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.

3. Currency.

Except as provided in paragraph 4, the following 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 figures relate -

- (a) the value of any asset or liability expressed in a currency other than sterling;
- (b) amounts of premiums and other income receivable in a currency other than sterling;
- (c) amounts of claims and other expenditure payable in a currency other than sterling.

4. Currency - exception to paragraph 3.

Notwithstanding the provisions of paragraph 3, amounts of income and expenditure in currencies other than sterling relating to business which is -

- (a) long term business, or
- (b) general business carried on in Gibraltar in accounting classes 3, 4, 5, 9 or 10, or
- (c) home foreign business,

may be expressed in sterling using other bases of conversion provided that a note is included in the returns stating the bases employed.

5. Negative Amounts.

Negative amounts shall be shown between round brackets.

6. Amounts brought forward.

Where any 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 fact that a different rate has

been used to express other currencies in sterling, a note of explanation shall be included in the return.

7. Amounts due to or from the insurer.

(1) Amounts due to or from the insurer shall be shown as gross amounts except to the extent permitted by sub-paragraphs (2) and (3).

(2) In calculating amounts due to the insurer, amounts due from any one person may be included net of amounts due to that person and, in calculating amounts due from the insurer, amounts due to any one person may be included net of amounts due from that person.

(3) For the purpose of sub-paragraph (2) amounts due from or to any person through an intermediary may be regarded as due from or to that intermediary.

(4) If amounts shown include amounts calculated on the basis set out in sub-paragraphs (2) and (3), a note to that effect shall be included and if more than 25 per centum of any such amount shown as due to the insurer is due from or through any one intermediary, or from or through any one intermediary and any of its connected companies, a note shall be included to that effect.

(5) In this paragraph, a company is connected with another company if it is -

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

8. Rounding to nearest £1,000.

All amounts are to be shown to the nearest £1,000.

9. Contingent Liabilities.

(1) Contingent liabilities are normally to be included under the appropriate headings in Form INS 7 in respect of long term business and Form INS 8 in respect of other business.

(2) The matters referred to in the following sub-paragraphs are to be stated by way of a note to Forms INS 7 or INS 8 -

- (a) particulars of any charge on the assets of the insurer to secure the liabilities of any other person (other than liabilities arising under a contract of insurance) including, where practicable, the amount secured;
- (b) whether any provision has been made for any liability to tax on capital gains which might arise if the insurer disposed of its assets and, if so, the amount of the provision;
- (c) the general nature of any other contingent liabilities not included in the manner specified in sub-paragraph (1) (other than a liability arising under a contract of insurance) and, where practicable, the amounts or estimated amounts of those liabilities.

SCHEDULE 2

Regulations 8, 9, 11, 12,
13, 14, 21, 22, 23 and 26

**GENERAL BUSINESS - REVENUE ACCOUNT AND ADDITIONAL
INFORMATION (FORMS INS 20 TO INS 39)**

1. Introduction.

All the Forms included in the part of the return to which this Schedule relates (Forms INS 20 to INS 39) are to be laid out as shown in this Schedule except that Form INS 30 need only be in the general form shown.

2. Application of Schedule 1.

The provisions of paragraphs 2 to 6 of Schedule 1 shall, unless otherwise provided, also apply for the purposes of this Schedule.

3. Currency.

Notwithstanding the provisions of paragraph 2, amounts on Form INS 29 submitted in accordance with regulation 21 and on Forms INS 31, INS 33, INS 34 and INS 35 submitted in accordance with regulation 11 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. For every currency other than sterling in which amounts are shown on these Forms 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.

4. Rounding to nearest £1,000.

All amounts shown in sterling shall be shown to the nearest £1,000. Amounts in any other currency on Forms INS 29, INS 31, INS 33, INS 34 and INS 35 shall be shown to the nearest 1,000 principal monetary units of that currency.

5. Reinsurance treaties.

(1) Where premiums are receivable by an insurer or claims are paid by it under a reinsurance treaty, -

- (a) notwithstanding paragraphs 2 to 4, amounts shown on Form INS 29 may be shown in sterling or in United States dollars or in Canadian dollars or in an appropriately weighted average of European currencies; and
- (b) if in a financial year the proportion of gross premiums receivable, or of claims paid by the insurer, or outstanding from the insurer, in any one currency other than sterling, United States dollars or Canadian dollars exceeds ten per centum of such premiums or claims under all such treaties, Form 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 in a note annexed to the Form shall be given of the method by which the said average has been determined and of any change

from the manner in which Form INS 29 was prepared in respect of the preceding financial year.

6. Accounting Classes.

(1) Direct insurance and facultative reinsurance shall be included in the returns in accordance with the accounting classes save that -

- (a) where an insurer undertakes business in accounting class 4 only in respect of risks relating to hovercraft, it may account for such business in accounting class 3 if it also undertakes business in that class; and
- (b) an insurer may include in accounting class 5 business covering liability for loss or damage to or of 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).

(2) Treaty reinsurance within accounting classes 3, 4 and 5, when accounted for on a three-year basis, shall also be included in the returns in the appropriate class.

(3) Treaty reinsurance business other than that for which provision is made in accounting classes 3, 4 and 5 shall be included in accounting classes 9 or 10.

7. Gibraltar and non-Gibraltar premiums.

For the purpose of this Schedule a premium receivable shall be shown or included as a Gibraltar premium if, 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 premium" shall be construed accordingly.

8. Premiums - one-year business.

In Forms INS 20, INS 21 and INS 31 the amounts of premiums receivable shall be recorded in relation to the date on which the contract of insurance was incepted. However, in relation to business which is included in the

reconciliation return in Form INS 31 or which is obtained through an agent of the insurer outwith Gibraltar (and not directly by the insurer or a branch of the insurer), the amounts in Forms INS 20, INS 21 and INS 31 may be shown by reference to a date later than that on which the contract was incepted but not later than the date on which the insurer or a branch of the insurer recorded that the risk had been accepted.

9. Claims - one-year business.

In Forms INS 20, INS 22, INS 23 and INS 33 where an amount or a number is required to be shown in respect of claims arising from incidents occurring in a specified period or attributed to a specified year of origin, the incidents which shall be included shall be determined by the date on which the incident giving rise to the claim occurred (or is believed by the insurer to have occurred). However claims included in the reconciliation return in Form INS 33 may be regarded, for the purposes of completing Forms INS 20 and INS 22, as though they all resulted from incidents occurring in the financial year to which the returns relate.

10. Premiums and claims - three year business.

In Forms INS 24, INS 25, INS 26, INS 29, INS 34, INS 35 and INS 39 where an amount is required to be shown in respect of insurance business or reinsurance incepted in a year or in respect of treaties commencing in a year, or in respect of claims attributable to a year of origin, the allocation of business to the year shall be determined in each case by the date on which the contract commenced and "underwriting year" shall have the same meaning. However in respect of accounting classes 3, 4 and 5 the year may be determined by a date later than that on which the contract commenced but not later than that on which the policy was issued and if this is done a note shall be included in the return stating the basis on which the year has been determined.

11. Premiums and claims - proportional treaty reinsurance business.

In Forms INS 27, INS 27A and INS 28 where an amount is required to be shown by reference to the financial year in which insurance business written under a treaty is closed, the year of closing shall be determined by the date on which all relevant accounting information is advised by the cedant to the reinsurer. Business may also be regarded as closed in a financial year if -

- (a) the relevant information has been advised by the cedant after the end of the financial year but before the returns are prepared, or
- (b) the relevant information has not been advised by the cedant but the business relates to a treaty having an effective date of commencement or renewal prior to the beginning of the financial year.

12. Reconciliation of returns - general business reinsurance.

An explanation shall be given -

- (a) in a note annexed to Form INS 27A prepared pursuant to regulation 9 reconciling all amounts shown on that Form with amounts shown on each Form INS 27A prepared pursuant to regulation 22 and with amounts shown on each Form INS 29, and
- (b) in a note annexed to Form INS 29 reconciling all amounts (in whatever currency) shown on that Form with amounts shown on each Form INS 24 and each Form INS 27.

13. Commission - Forms INS 21 and INS 22 .

In Form INS 21, amounts of premiums receivable are to be shown gross of commission. If, because of market practice, it is customary for an insurer to account for business net of commission, an estimated gross figure must be shown and the amount recorded as commission payable on Form INS 22 shall include the difference between the net figure and the estimated gross figure. Where an estimated figure is used an explanation of the basis on which the estimate has been calculated shall be included in a note.

14. Commission - Forms INS 24 and INS 25.

In Form INS 24, the amounts of premium shown at lines 11, 12, 13, 14 and 19 (and accordingly also at lines 1, 2 and 4 of Form INS 29) are normally to be shown gross of commission. If, because of market practice, it is customary for an insurer to account for business net of commission, the amount shown in those lines may be net of the commission which would have appeared in line 32. Where premiums are shown net of commission in Form

INS 24 the premium income concerned shall be grossed up by an appropriate amount and shown in lines 71 to 79 on Form INS 25.

15. Unearned premiums.

In Form INS 21 the basis on which the unearned premiums are calculated shall be stated by way of a supplementary note. If the basis is less accurate than the twenty-fourths method the reason for its adoption shall be included in the note.

16. Reconciliation returns.

(1) In this Schedule "reconciliation return" means the abbreviated returns in Forms INS 31, INS 33, INS 34 and INS 35 which are prepared under regulation 12(2) in respect of business which is excluded from the full requirements of regulation 11.

(2) The headings of the reconciliation return shall be completed so as to show against "Country" -

- (a) "Gibraltar Reconciliation" in the case of a Form completed in respect of business carried on in Gibraltar;
- (b) "Non-Gibraltar Reconciliation" in any other case.

(3) All amounts in the reconciliation return shall be shown in sterling.

(4) The reconciliation return in Form INS 31 shall include only premiums receivable in the financial year.

SCHEDULE 3

Regulations 8 and 15

**LONG TERM BUSINESS - REVENUE ACCOUNT AND
ADDITIONAL INFORMATION (FORMS INS 40 TO INS 51)**

1. Information on long term business is to be given in the Form set out in INS 40 to INS 51.
2. All amounts shall be shown in sterling. In Forms INS 40 to INS 42 amounts shall be shown to the nearer £1,000. In Forms INS 43 to INS 51 amounts may be shown to the nearer £1,000. Amounts in currencies other than sterling should be converted in accordance with the provisions of paragraphs 3 and 4 of Schedule 1.
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, 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, a statement shall be annexed to Form INS 40 giving 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 a company by another company (whether an insurer or not) -
 - (a) the first mentioned company shall annex to Form INS 40 relating to the financial year of the company during any part of which those arrangements are in force, and
 - (b) the other company (being an insurer) shall annex to Form INS 40 relating to the financial year of that insurance company during any part of which those arrangements are in force,

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

6. Forms of return as set out in Forms INS 41 and INS 42 are to be completed separately in respect of each fund in respect of which a separate revenue account is required to be prepared in Form INS 40.

7. Information is to be given in the form set out in Form INS 43 for all non-group contracts and is to be gross of reinsurance ceded. Separate statements are to be given for Gibraltar business and non-Gibraltar business and in each case for non-linked contracts and linked contracts. For group contracts only the number of contracts in force at the end of the year and the estimated number of persons covered thereunder are to be given in a note to the appropriate statement.

8.(1) Separate statements are to be given in the form set out in Form INS 44 for Gibraltar business and non-Gibraltar business and the information on each statement is to be totalled except for columns 4 and 7. The amounts are to be given gross of reinsurance ceded.

(2) The information is to be analysed and sub-totalled within each type of business in the sequence specified below, that is to say, -

- (a) life assurance business;
- (b) general annuity business;
- (c) pension business;
- (d) permanent health business;
- (e) capital redemption business.

(3) The information is to be further analysed and sub-totalled within each basis of participation in profits in the sequence specified below, that is to say, -

- (a) non-linked contracts: with participation in profits;
- (b) non-linked contracts: without participation in profits;
- (c) linked contracts.

(4) Within each sub-division required under sub-paragraphs (2) and (3) the appropriate types of insurance from the following list are to be shown separately-

- (a) whole life assurance;
- (b) endowment assurance;
- (c) pure endowment assurance;
- (d) term assurance;
- (e) other assurance (to be specified);
- (f) deferred annuity;
- (g) annuity in payment;
- (h) other annuity (to be specified);
- (j) group pension;
- (k) group life;
- (l) other group (to be specified);
- (m) permanent health insurance;
- (n) capital redemption assurance;
- (p) annuity certain.

(5) In the case of group contracts the information to be given is to relate only to new contracts and is to be exclusive of increments under existing contracts.

9. Separate statements of the expected income from non-linked assets are to be given in the forms set out in Forms INS 45 and INS 46 in respect of each fund or group of funds for which separate assets are appropriated.

10. Forms of return as set out in Forms INS 47 and INS 48 are to be completed in respect of assets matching liabilities in respect of property linked benefits other than holdings in internal linked funds. The information in Form INS 48 is to be sub-divided and totalled according to the names of the categories of linked contract under which the liabilities in respect of property linked benefits are matched by such assets. The basis on which the assets have been valued is to be stated in a note to the Forms.

11. Forms of return as set out in Forms INS 49, INS 50 and INS 51 are to be completed in respect of internal linked funds operated by the insurer. The basis on which the assets have been valued and the total amount of unrealised capital gain or loss relating to each internal linked fund are to be given in a separate statement.

SCHEDULE 4

Regulation 27

**ABSTRACT OF VALUATION REPORT PREPARED BY THE
APPOINTED ACTUARY (FORMS INS 55 TO INS 58 AND INS 60 TO
INS 61)**

The abstract shall state that the valuation has been made in conformity with regulation 21 of the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996 .

The following information shall be given, the answers being numbered to accord with the numbers of corresponding paragraphs of this Schedule and any monetary amounts being shown in sterling (converted from other currencies, where necessary, at the latest closing middle rate available on the date to which the investigation relates), that is to say, -

1. The date to which the investigation relates.
2. The date to which the latest previous investigation under section 78 related.
3. For each category of non-linked contract, other than those fully described by the entry in column 1 of Form INS 55, a full description of the benefits including any premium rate guarantees and options.
4. (1) For each category of linked contract -

- (a) a full description of the benefits including any guarantees and options;
 - (b) the percentage of premiums invested (deemed or actual) for specimen ages and terms;
 - (c) a list of the internal linked funds to which benefits under the contract may be linked, with details of the type of unit allocated where the fund is divided into more than one type;
 - (d) a list of the authorised unit trusts to which benefits under the contract may be linked.
- (2) For each internal linked fund -
- (a) the general nature of the investments of the fund and the charges that are made to the fund in respect of investment expenses;
 - (b) for each type of unit based on that fund, the initial and periodic charges made, and the nature of any other pricing adjustments;
 - (c) a description of the investment guidelines of the fund, including the use of derivative contracts.
- (3) For each authorised unit trust, the rate of discount, commission or other allowance made to the insurer on the purchase or sale of units.
- 5.(1) The general principles and methods adopted in the valuation including specific reference to the following, that is to say, -
- (a) the basis of the provision made for any mismatching between the nature (including currency) and term of the assets held and the liabilities valued;
 - (b) where the net premium method has been used, whether and to what extent it has been modified and for what purposes the 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;

- (c) whether any negative reserves arose and the steps taken to ensure that no contract of insurance was treated as an asset;
- (d) whether any specific reserve has been made for future bonus and, if so, at what rate or rates;
- (e) the basis of the provision made for any prospective liability for tax on unrealised capital gains;
- (f) in the case of linked contracts and deposit administration contracts, the basis of the provision made for any investment performance guarantees;
- (g) the basis of the provision made for any guarantees and options (other than investment performance guarantees);
- (h) the method by which allowance has been made, if any, for derivative contracts in the determination of the amount of the long term liabilities.

(2) For the purposes of this paragraph where, in determining the provisions referred to in sub-paragraphs (a) and (e), 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.

6. (1) Where applicable, the rates of interest and tables of mortality and disability assumed in the valuation of the various categories of contracts (to be shown in Forms INS 55 and INS 56).

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

7. 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 (to be shown in column 8 of Form INS 55);
- (b) the method by which provision is 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 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 or reinsurance cessions) determined in the aggregate for all categories of contracts referred to in sub-paragraph (d) represent less than 5 per centum of the total mathematical reserves (after deduction of reinsurance cessions) for 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 shall be specified by the actuary in the abstract.

8. For each category of linked contract, -

- (a) all assumptions made in calculating the valuation net liability in columns 11 and 12 of Form INS 56; and
- (b) where explicit provision 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.

9. The proportion of the total mathematical reserves (other than liabilities for property linked benefits under linked contracts) as shown in Forms INS 55 and INS 56 not matched by assets in the same currency.

10. (1) For reinsurance ceded on a facultative basis to a reinsurer who is not authorised to carry on insurance business in Gibraltar at any time during the period since the date to which the last investigation related -

- (a) the aggregate of premiums payable by the insurer to all such reinsurers (sub-divided according to accounting periods if appropriate) and the aggregate amount deposited at the date to which the valuation relates under any deposit back arrangement; and
- (b) the amount of any such premiums payable by the insurer to a reinsurer with whom the insurer is connected and the aggregate of such amounts deposited at that date under deposit back arrangements with all such reinsurers.

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

- (a) whether the reinsurer is authorised to carry on insurance business in Gibraltar;
- (b) whether the insurer and the reinsurer are connected;
- (c) an indication of the nature and extent of the cover given under the treaty;
- (d) the premiums payable by the insurer under the treaty during the period since the date to which the last valuation report related;
- (e) the amount deposited at that date in respect of the treaty under any deposit back arrangements;
- (f) 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
- (g) whether the treaty is closed to new business.

(3) 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; and
- (b) sub-regulations (1), (2) and (3)(a) of regulation 20 (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.

11. Where any rights of any policyholders 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;
- (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.

12. Whether there is any reference to the principles on which the distribution of profits among policyholders and shareholders is made in the constitution of the insurer or in provisions made thereunder, in any policy issued by the insurer or in any advertisement by the insurer and, if so, a description of the principles and a reference to the document in which they are expressed.

13. 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.

(NB: 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.)

14. 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 or on the age of the life assured, specimen rates at 5-year intervals of original term or duration or at 10-year intervals of age, as the case may be.

(NB: 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.)

15. Where any conditions attach to the allocation of bonus to any category of contract concerning the number of years premiums to be paid before a bonus vests or otherwise, particulars of such conditions in relation to each category of contract.

16. A statement of the practice regarding any bonus payments (in addition to those for which the insurer had become contractually liable) to be made on claims arising in the period up to the next investigation together with the rates at which such bonus payments are to be determined.

17. Separate valuation summaries in the forms set out in Forms INS 55 and INS 56 and separate analyses of unit liabilities in the form set out in Form INS 57 in respect of each separate fund or part of a fund for which a surplus is determined under section 78 for -

- (a) direct business and reinsurance accepted;
- (b) reinsurance ceded.

18. 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.

19. Separate statements 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 Supplementary Accident and Sickness Insurance in the form set out in Form INS 61.

(N.B. If the gross annual office premiums for Supplementary Accident and Sickness Insurance in force on the valuation date do not exceed 1 per centum of the gross annual office premiums in force on that date for all long term business, Form INS 61 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 Form INS 61 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 Supplementary Accident and Sickness Insurance, should be given.)

SCHEDULE 5
CERTIFICATES AND AUDITORS' REPORT

Regulations 29 and 30

PART I
CERTIFICATE BY DIRECTORS ETC.

1. Subject to paragraph 9, the certificate required by regulation 29(a) shall state, in relation to the part of the return comprising Forms INS 1 to INS 9, INS 20 to INS 29, INS 31 to INS 39 and INS 40 to INS 51, -

- (a) that for the purpose of preparing the return -
 - (i) proper accounting records have been maintained and adequate information has been obtained by the insurer, and
 - (ii) an appropriate system of control has been established and maintained by the insurer over its transactions and records;

- (b) that the value shown for each category of assets has been determined in conformity with regulation 4 and includes the value of only such assets or such parts thereof as are permitted to be taken into account;
- (c) that the amount shown for each category of liability (including contingent and prospective liabilities) has been determined in conformity with regulation 4; and
- (d) that in respect of the insurer's business which is not excluded by regulation 38 of the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996, the assets held at the end of the financial year enabled the insurer to comply with regulations 33 and 37 of those regulations.

2. Subject to paragraph 9, the certificate required by regulation 29(a) shall state in relation to the part of the return comprising a statement required by regulations 17, 18 or 19 that, for the purposes of preparing the statement, -

- (a) proper accounting records have been maintained and, as necessary, reasonable enquiries have been made by the insurer for the purpose of finding whether any person and any body corporate are connected for the purposes of regulations 17(1)(b) and (2), 18(b) and 19(1)(b) and (2), and
- (b) an appropriate system of control has been established and maintained by the insurer over its transactions and records.

3. Subject to paragraph 9, the certificate required by regulation 29(a) shall state, in relation to the statement required by regulation 31, -

- (a) that for the purpose of preparing the statement, proper accounting records have been maintained; and
- (b) that the information given has been ascertained in conformity with that regulation.

4. Subject to paragraph 9, the certificate required by regulation 29(a) shall state separately in respect of long term business and of general business, -

- (a) in the case of a Gibraltar insurer, a pure reinsurer or (in respect of its global business) a Gibraltar deposit insurer or an external insurer, that -
 - (i) immediately following the end of the financial year the amount of the insurer's required minimum margin was as shown in Form INS 1; and
 - (ii) at the end of the financial year the amount of the insurer's available assets and quantifiable contingent liabilities (other than those included in Form INS 7 or Form INS 8 in accordance with paragraph 9(1) of Schedule 1) and the identity and value of items admitted as implicit items in accordance with regulation 5 of the Insurance Companies (Solvency Margins and Guarantee Funds) Regulations 1996 were as shown in Form INS 1;

- (b) 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 at not less than the 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 at not less than the amount of the liabilities of that business;

- (c) in the case of an external insurer (other than a pure reinsurer), -
 - (i) in relation to the long term business or to the general business carried on by the insurer through a branch in Gibraltar that -
 - (aa) immediately following the end of the financial year the amount of the insurer's required Gibraltar minimum margin was as shown in Form INS 1; and

- (bb) at the end of the financial year the amount of the insurer's available assets and quantifiable contingent liabilities (other than those included in Form INS 7 or in Form INS 8 in accordance with paragraph 9(1) of Schedule 1) and the identity and value of items admitted as implicit items in accordance with regulation 5 of the Insurance Companies (Solvency Margins and Guarantee Funds) Regulations 1996 were as shown in Form INS 1;
- (ii) that the insurer has kept 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 admissible assets representing the remainder of the minimum margin within Gibraltar and EEA States; and
- (iii) that the deposit made in accordance with section 25(1)(c) has been maintained at a level equal to at least the prescribed minimum as defined in the Insurance Companies (Deposits) Regulations 1996;
- (d) in the case of a Gibraltar deposit insurer, -
 - (i) in relation to the long term business or to the general business carried on by the insurer through branches in the EEA States concerned that -
 - (aa) immediately following the end of the financial year the amount of the insurer's required EEA minimum margin was as shown in Form INS 1; and
 - (bb) at the end of the financial year the amount of the insurer's available assets and quantifiable contingent liabilities (other than those included in Form INS 7 or in INS 8 in accordance with paragraph 9(1) of Schedule 1) and the identity

and value of items admitted as implicit items in accordance with regulation 5 of the Insurance Companies (Solvency Margins and Guarantee Funds) Regulations 1996 were as shown in Form INS 1;

- (ii) that the insurer has kept 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 admissible assets representing the remainder of that minimum margin within the EEA States concerned and the other EEA States; and
- (iii) that the deposit made in accordance with section 25(2) has been maintained at a level equal to at least the prescribed minimum as defined in the Insurance Companies (Deposits) Regulations 1996.

5.(1) If an insurer accounts for any of its general business over periods longer than twelve months, subject to paragraph 9, the certificate required by regulation 29(a) shall state that all premiums and considerations receivable in respect of any such business so accounted for (and in relation to which separate provision is not made for unearned premiums and claims outstanding) have been retained in the fund or funds of the account subject only to -

- (a) the discharge of liabilities (including expenses) proper to the execution of that business, and
- (b) the transfer of any profits after the closing of the account at the end of the appropriate accounting period.

(2) A certificate under sub-paragraph (1) shall state that any shortfall of any fund which is referred to therein below the amount which is estimated to be required to meet outstanding liabilities (net of reinsurance and other recoveries) has been made good by transfers into that fund.

6. If an insurer carries on long term business the certificate required by regulation 29(a) shall also state, subject to paragraph 9, -

- (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 have been fully complied with and in particular that, subject to the provisions of sections 83 and 86, 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, 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 of a contract binding on the related company which would fall to be met by any long term business fund have been disclosed in the return, and that the fund or funds on which each such guarantee would fall has been identified therein;
- (d) in the case of a Gibraltar insurer, pure reinsurer, Gibraltar deposit insurer or external insurer which has financial, commercial or administrative links with any other insurer carrying on insurance business, that the returns in respect of long term business are not distorted by agreements between the companies concerned or by any arrangements which could affect the apportionment of expenses and income; and
- (e) in the case of an insurer which carries on long term business in Gibraltar, that transactions affecting assets of the insurer (other than transactions outside its control) have not operated unfairly between the assets representing the fund or funds maintained by the insurer under section 75(1) and other assets of the

insurer or, in the case where the insurer has more than one identified fund, between those funds. For the purposes of this sub-paragraph, "identified fund", in relation to an insurer, means assets representing the insurer's receipts from a particular part of its long term business which can be identified as such by virtue of accounting or other records maintained by the insurer.

7. Subject to paragraph 9, the certificate required by regulation 29(a) shall also state, by way of a list, any published guidance with which the systems of control established and maintained by the insurer in respect of its business comply, or in accordance with which the return has been prepared.

8. Except in the case of a Swiss general insurance company, the certificate required by regulation 29(a) shall also state, subject to paragraph 9, that proper accounting records have been maintained in Gibraltar in respect of business carried on through a branch in Gibraltar.

9.(1) Where, in the opinion of those signing the certificate, the circumstances are such that any of the statements required by paragraphs 1 to 8 (other than sub-paragraphs (a), (c)(i) and (d)(i) of paragraph 4) 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

10. The certificate required by regulation 29(b) to be signed by the appointed actuary -

- (a) shall state, if such be the case-
 - (i) that in his 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) that the mathematical reserves as shown in Form INS 7, 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 7) constitute proper provision at the end of the financial year for the liabilities (other than liabilities which had fallen due before the end of the financial year) arising under or in connection with contracts for long term business 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;

- (iii) that for the purposes of (ii) the liabilities have been assessed in accordance with Part III 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) and shall list the professional guidance notes which have been complied with; and
 - (v) that in his opinion, premiums for contracts entered into during the financial year and the income earned thereon are 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 (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).

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

PART III

AUDITORS' REPORT

12. The report required by regulation 30 shall state -
- (a) in the auditors' opinion, whether the parts of the return required to be audited (that is Form INS 1 to INS 9, INS 20 to INS 29, INS 31 to INS 39 and INS 40 to INS 51 and information furnished pursuant to regulations 17 and 19) 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 29(a) (other than so much of it as relates to paragraph 3) has been properly prepared in accordance with these regulations; and
 - (ii) subject to paragraph 13, whether it was reasonable for the persons giving the certificate to have made the statements therein,but, in so far as the certificate is given pursuant to paragraph 2 only to the extent that it applies to information required by regulations 17 and 19; and
 - (c) that 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 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 carrying on long term or general business, 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.

13. To the extent that the information and explanations they have received do not allow the auditors to express an opinion on whether it was reasonable for the persons giving the certificate required to be signed in accordance with regulation 29(a) to have made the statement required by paragraph 7, the auditors shall add to their report such qualification, amplification or explanation as may be appropriate.

SCHEDULE 6

Regulation 31(3)(b)

RULES FOR INTERPRETATION OF REGULATION 31(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 shares 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
- (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.

Dated this 13th day of June, 1996.

GIBRALTAR GAZETTE, No 2,921 Thursday 13th June, 1996.

P. C. MONTEGRIFFO,
Minister for Trade & Industry.