



**Financial Services
Commission**

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Guidance Notes On The Preparation Of The New
Returns For General Business Insurers and
Reinsurers

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Introduction

1. This Guidance Note deals with the requirements for general business insurers and reinsurers who wish to report using the New Returns format. It also gives guidance for Gibraltar insurers preparing statements of their insurance business in EEA States under the European single market for deposit with the Commission under section 119A of the Insurance Companies Act ("the Act").
2. The document gives an overview of the requirements of the Insurance Companies (Accounts and Statements) Regulations 1998 ("the Regulations"), as modified for the preparation of the New Returns and, in particular, presents the Commission's interpretation of them. It also describes the statutory background and explains the relationship between the Regulations and the other Regulations relevant to the preparation of the "Annual Returns".
3. As far as possible, we have attempted to include all the requirements of the Regulations in this Guidance Note so that it can be regarded as a stand-alone document. However, it should be read in conjunction with the Regulations which alone have the force of law and which must, in the case of apparent conflict, prevail. Please highlight to us any situations you come across.
4. The New Returns are designed to lessen the burden of reporting for general business insurers and reinsurers, mainly in terms of fewer forms to be completed whilst not departing from the standard reporting format prescribed in the Regulations. Please note that the New Returns will not apply to Protected Cell Companies.
5. There will be no automatic right to use the New Returns. They will be available to general business insurers and reinsurers who have applied to the Commission, requesting a dispensation under section 113 of the Act to use the New Returns rather than the Returns prescribed under the Regulations.
6. This document is included in the Commission's list of published guidance to which we expect companies to certify compliance under the provisions of paragraph 5 of Schedule 6 to the Regulations.
7. The New Returns come into effect for periods ending on or after 31 December 2007.

The Statutory Requirement To Prepare Returns

The basic requirement

8. Annual Returns must be prepared by all insurance companies licensed under the Act to carry on insurance business in Gibraltar.

The statutory basis of the return

9. The outline content of the Annual Returns is laid down by two sections of the Act -
 - Section 50 provides for a "profit and loss account", "revenue account" and "balance sheet" together with "notes, statements and reports" and "certificates annexed thereto".
 - Section 48 provides for an "auditors report".
10. These sections provide for Regulations to be made to prescribe the detailed content of the documents to be prepared.



Deposit of Returns

11. Section 52(1) of the Act requires that every document prepared under sections 48 or 50 be printed and two copies deposited with the Commission within six months of the end of the period to which the documents relate. The Commission requests that one of the copies is left unbound held together with a treasury tag in the top left-hand corner.
12. Section 52(3) requires that one copy of every document (other than the auditor's report) be signed by such persons as may be prescribed. Section 52(4) requires that one copy of the auditors report be signed. Further details on the signature of returns is given in paragraph 29.
13. The Commission has power under section 54 to extend the period for deposit by up to three months, in appropriate circumstances. Applications for such an extension should be made in good time since an extension cannot be granted where application is not made within the six month period. The application should identify the "circumstances" being relied upon as justifying the extension. Only in very exceptional circumstances will an application for an extension be granted where it is not made before the end of the six month period. Similarly, if it becomes necessary to seek a further extension beyond the one already granted (but within the overall limit of three months), application should be made before the expiry of the extension in operation.

Documents to be Deposited

14. With the introduction of the New Returns, we will require one copy to be e-mailed to us. (This copy does not need to be signed and will not require the supplementary notes, reports and statements). In addition you should forward to us two copies, duly signed by the appropriate signatories together with the supplementary notes, statements and Certificates by the Directors and Auditors.

Inaccurate or incomplete returns

15. Section 52(5) requires the Commission to consider the documents deposited under section 52(1) and, if any such document appears to be inaccurate or incomplete, to communicate with the insurer with a view to the correction of any such inaccuracies and the supply of deficiencies.
16. A letter from the Commission under section 52(5) may draw attention to an apparent inaccuracy or incompleteness and ask for an explanation, or it may also ask for the inaccurate or missing documents to be (re)submitted. In either case, the insurer should consider the points raised in the letter and respond promptly either explaining why there is not in fact any inaccuracy or incompleteness, or (re)submitting the inaccurate or missing documents.
17. The validation of returns by the Commission takes place at two levels. Firstly, certain "absolute" relationships are expected always to be present between data items in the return (and between those items and the data items in the previous return). Secondly, the "reasonableness" of the data items is reviewed. This includes comparing data with other published sources such as the statutory accounts to test its consistency and completeness.

Other documents to be deposited with the returns

18. Section 52(1)(e) requires that an insurer deposit with its return "every report, if any, on the affairs of the insurer submitted to the shareholders or policyholders". In addition, under section 52(1)(d), every published annual account and balance sheet and the report thereon by the auditor must be submitted.

Disclosure of the returns and other documents deposited with the Commission

19. The returns and the documents deposited with the Commission are publicised in two ways.
- Firstly, under section 56(1), an insurer must send a copy to any shareholder or policyholder who applies for one, and
 - Secondly under section 56A, the Commission must deposit with the Registrar of Companies the returns and other documents deposited with him. The documents deposited with the Registrar of Companies are available for public inspection.
20. Under section 56(2), the Commission may exempt an insurer from the above disclosures but only in respect of the documents prepared under section 50(1), and only, if in the opinion of the Commission, disclosure would be harmful to the business of the insurer or any of its subsidiaries. This dispensation will only be given in exceptional circumstances and may be given for all or part of the return.

Section 51, 71 and 113 Orders

21. These sections of the Act empower the Commission, in relation to a particular insurer, (at the request of, or with the consent of, that insurer) -
- to modify or disapply certain provisions of the Act; [a section 113 Order];
 - to direct that, for certain specified purposes under the Act, long term business be treated as general business, or vice versa; [a section 71 Order];
 - to extend or shorten, for the purposes of the Act, the insurer's financial year; [a section 51 Order].

The purposes, under the Act for which these Orders may be used include, but are not confined to, the preparation of Annual Returns.

22. An insurer which wishes to apply for an Order should do so in writing to the Commission. The application should identify the circumstances which the insurer considers justify the granting of an Order. It is important that an application is made as early as possible, preferably as soon as the relevant circumstances are known to have arisen.
23. Section 113 Orders previously issued to insurers with regards preparation of "the CAP forms" will not necessarily remain valid now that these New Returns have been introduced. The Commission intends to review all such Orders and, where appropriate, replace them with Orders referring to the New Returns. This does not affect section 113 orders previously issued for other purposes, e.g. concessions to the asset valuation rules under the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996 ("the Asset Valuation Regulations"). They remain valid.

Interpretation Of The Regulations

Definitions

24. Regulation 3(1) includes a list of defined words and expressions. In addition to these specific definitions, regulation 3(2) lays down two general rules of interpretation. Unless the context otherwise requires, words and expressions used in any Form, or in any regulation (regulations 19 to 21, 23, 24 and 26)

requiring a statement to be annexed to the Forms, are to have the same meaning as applies in-

- the Asset Valuation Regulations and the Insurance Companies (Solvency Margins and Guarantee Funds) Regulations 2004 ("the Solvency Margin Regulations") which lay down the rules for valuing assets and liabilities and calculating the solvency margin, or
- the rules which lay down the form and content of accounts prepared under the Insurance Companies (Accounts Directive) Regulations 1997 ("the Accounts Directive Regulations").

Valuation of assets and liabilities

25. Regulation 4 requires that, unless otherwise more specifically provided, assets and liabilities included in any document in the return should be valued using the valuation rules in the Asset Valuation Regulations.

Requirement to fairly state information

26. Regulation 5 requires that every revenue account, profit and loss account, balance sheet, note, statement, report and certificate required to be prepared under sections 50, 52 and 53 of the Act be prepared in the manner specified and "fairly state the information provided on the basis of the Regulations". This is a closely analogous requirement to the "true and fair" concept for accounts prepared under the Accounts Directive Regulations. As with that concept, it includes the concept of materiality where properly applied. [NB. Materiality is not an acceptable excuse for basic arithmetical or cross-referencing errors in, or between, Forms. Nor is it an acceptable excuse for misstatement or omission of information required to be disclosed by the Regulations. Nor does it justify a lack of proper care to the preparation of such information.]

Conventions For The Completion Of All Forms

Scope

27. The accounting rules and conventions described in paragraphs 29 to 43 apply (other than where the contrary is explicitly stated) to all documents in the return other than the Forms, notes, statements and certificates required under Schedules 5 and 6.
28. The accounting rules and many of the conventions for preparing the return which are presented in paragraphs 29 to 43 derive from Paragraphs 1 to 6 of Schedule 1. The other conventions, although not directly arising from the Regulations, are merely cosmetic and are requested to facilitate the Commission's processing of the returns.

Completion of Forms

Signature of forms

29. The first Form in the return (Form 1) should be signed and dated by at least two directors.

Currency

30. Companies now have the option of preparing the forms in sterling, euros or US dollars without the need for a s113 concession.

31. Accounting practice allows several alternative accounting bases for the translation of income and expenditure. The Commission expects insurers to choose the same basis as it uses in its statutory accounts.

Presentation of amounts

32. All amounts in the forms should be shown in units of 1,000 rounded to the nearer 1,000. This is required even if particular figures are so large or small that under normal accounting conventions it would be inappropriate. If the entry in any box to be rounded is less than £500 that box should be left blank.

Comparative amounts and brought forward figures

33. Columns are included on Forms 1 to INS 8 (except Form 7) for the disclosure of comparative amounts for the previous financial year. These amounts should be reported as stated in the previous return (after any correction under s52(5)), unless restatement is necessary (for prior year adjustment) in order to allow appropriate comparison to be made. In the first return submitted using the New Returns, the comparatives should be based upon the amounts stated in the last return submitted, but should be restated and reclassified as necessary to fit the format of the New Returns.
34. Other than to reflect exchange rate reconversion, brought forward figures on the detailed general business Forms 10 to 19 should not, as a general rule, be restated. However the Commission recognises that in exceptional cases, e.g. the correction of a fundamental error, restatement for other reasons may be desirable. The Commission requests insurers which wish to restate amounts (other than to reflect exchange rate reconversion), to discuss the proposed restatement with them prior to submitting their return.
35. Where any brought forward amount is restated (other than to reflect exchange rate reconversion), the reason for the restatement must be given in a supplementary note to the Form upon which the brought forward amount appears - see paragraph 6 of Schedule 1. (The Commission does not consider this applies where amounts brought forward from a previous return are restated as a direct result of the transition to the New Returns).

Supplementary notes

36. Supplementary notes should not be shown on the face of a Form but should be shown on a separate sheet or sheets of paper. It would be helpful if the notes for all Forms are bound together toward the end of the return (but before the certificates) and not interleaved with the Forms to which they relate.
37. The requirements to prepare supplementary notes are variously located in the actual text of the Regulations, in the text of the Schedules to the Regulations and in this Guidance Note. However, in each case the requirement to prepare the note identifies the Form to which it is to relate.
38. In the following chapters for each Form a complete list of the required supplementary notes is provided in Annex 1. Each note in the list is given a unique reference code. The first two digits of the code are the number of the Form and the final two digits the number of the note. For example, the 5th note in the list for Form 4 is coded "0405".
39. Each supplementary note included in the return should be given a title which identifies the Form or Forms to which it relates. The Commission requests that this be done by including the code as the first element in the title. For example, the title for note 0801 might be –
0801 Basis of conversion of foreign currency



40. Where an insurer wishes to include an extra note (beyond those required by the Regulations to be included), it should identify the Form to which it relates and give the note the next unused sequential code number for that Form.
41. Where the Regulations require a Form to be submitted but all entries (including comparatives) would be blank, that Form may be omitted provided that a note coded FF00 (where FF is the Form number) is included stating that this is why the Form has been omitted.
42. Two or more supplementary notes should not be combined as a single text with a single title except where this avoids unnecessary repetition or leads to a clearer explanation. Where two or more supplementary notes are combined, the codes of all the notes should be listed at the beginning of the combined title.
43. Some supplementary notes are always required whenever the form to which the note refers is required. Others are only required on an exception reporting basis. The detailed guidance (Annex 1) on each supplementary note brings out this distinction.

The New Returns

44. A brief summary of the new requirements follows.

Reporting Classes

45. Previously companies reported by accounting class. These accounting classes will now be replaced by Reporting Classes which will be as follows –

Reporting Class	Business classes
1. Accident and Health	1 (other than 1(p)), 2
2. Motor	1(p), 3, 10
3. Marine, Aviation & Transport (property)	1(p), 5, 6, 7
4. Marine and Aviation (liability)	11, 12
5. Property	4, 8, 9
6. Third Party Liability	13
7. Credit and Suretyship	14, 15
8. Miscellaneous Financial Loss – Warranty	16
9. Miscellaneous Financial Loss – Other	16
10. Legal Expenses	17
11. Assistance	18
12. Liability Reinsurance	
13. Non-Liability Reinsurance	

46. Brought forward amounts should, where necessary, be restated in the first return submitted under the new method to reflect the changes in Reporting Classes.

Forms

47. The Return will now comprise the following forms –
- Form 1 - Statement of Solvency & Net Assets
 - Form 2 - Required Margin of Solvency – First Method



- Form 3 - Required Margin of Solvency – Second Method and Statement of RMM
 - Form 4 - Admissible Assets
 - Form 5 - Reconciliation of Asset Values
 - Form 6 - Liabilities
 - Form 7 - Derivative Contracts
 - Form 8 - Non-Technical Account
 - Form 9 - Technical Account
 - Form 10 - Premiums (Accident Year)
 - Form 11 - Gross Claims (Accident Year)
 - Form 12 - Claims – Reinsurance Share (Accident Year)
 - Form 13 - Net Operating Expenses (Accident Year)
 - Form 14 - Analysis of Net Claims & Premiums (Accident Year)
 - Form 15 - Analysis of Gross Claims & Premiums (Accident Year)
 - Form 16 - Underwriting Analysis (Underwriting Year)
 - Form 17 - Analysis of Technical Provision Brought Forward (Underwriting Year)
 - Form 18 - Analysis of Technical Provision Carried Forward (Underwriting Year)
 - Form 19 - Analysis of Gross Claims & Premiums (Underwriting Year)
48. All companies will be required to complete Forms 1 to 6 and 8. Form 7 will only be required for companies which have derivative contracts.
49. Forms 9 to 15 will need to be completed by companies reporting on an accident year basis with Form 9 and Forms 16 to 19 being required for companies reporting on an underwriting year basis.
50. Form 15 (for accident year) and Form 19 (for underwriting year) require information to be split down into four regions –
- Gibraltar business (Gibraltar risks)
 - EEA Branch business
 - EEA Service business
 - Other business
- There will be no need to split the EEA Branch business and EEA Services business down into the various States. However, you will still need to provide the Statistical Information under the Insurance Companies (Forms) Regulations 1996.
51. Captive insurers and reinsurers are not required to complete Forms 15 and 19 unless they opt to do so.

Completion of the Forms

52. Only some of the cells require data to be entered (Note 2 to the Cover Sheet). Other cells are either calculated fields from the form in question or are results from other sheets or cells within the same sheet. No data is to be entered in those cells. (Notes 3 and 4 to the Cover Sheet).



Initial Input Sheet

53. You are required to enter the name of the company and the accounting period.
54. Next select whether you will be reporting by accident year or underwriting year or whether you will be using both methods.
55. If reporting by accident year then select the Reporting Class and the Region you will be reporting by. This will select the Forms 14 and 15 that you will need to complete.
56. If reporting by underwriting year then select the Reporting Class and the Region you will be reporting by. This will select the Form 19 that you will need to complete.
57. You will now notice that if you have selected to report by accident year that the underwriting year forms drop out and vice versa. For captive insurers you will still have Forms 15 or 19 (depending on your basis of reporting). However, you do not need to complete them.

Cover Sheet

58. Enter the length of the accounting period. In most cases the number of months will be 12 but for companies which are licensed during the financial period this may be shorter or longer depending on when the company was licensed and commenced to write business.
59. Reference period is required for Form 3. In normal circumstances this will be 3 financial years. For companies which have not been in existence long enough to acquire a reference period this will be 0. Very rarely will the amount be 7. (The forms are not designed to cope with a reference period of 7 years).
60. Reporting currencies are Sterling, Euros or US dollars.
61. The Exchange Rate and the Minimum Guarantee Fund need to be entered.

Next Step

62. In line 42 of form 2, you need to enter the number of months in the accounting period whilst in the top line of Form 3 you need to enter the number of months in the reference period for both "This financial year" and the "Previous financial year".

Form 1 - Statement of Solvency & Net Assets

Completion of the form

63. Most entries in column A are derived from other forms within the return. Column B requires most entries to be inputted from the previous return. If any discrepancies a supplementary note needs to be provided.
64. The Annual Return is generally signed and dated at the foot of Form 1 by the required signatories.
65. The admissible assets and liabilities derive from Forms 4 and 6.
66. The amounts in lines 6 and 7 need to be entered and shall be determined in accordance with regulation 4 of the Insurance Companies (Solvency Margins and Guarantee Funds) Regulations 2004 ("the Solvency Margin Regulations"), or as specifically allowed pursuant to an Order issued under section 113 of the Act. These lines show two types of liability that are taken into account in net admissible asset but which, provided that net admissible assets are not negative, may (to a limited extent) be added back for the purpose of determining whether the company meets its required margin of solvency.



67. Line 11 should include the share premium account.
68. The amount in line 8 should agree with the amount in line 14 and line 25 with the amount in line 13 agreeing with the amount in line 22.

Reconciliation of balance of net assets brought forward and carried forward

69. Lines 17 to 22 reconcile the balance of net assets (line 13) brought forward and carried forward. For these purposes, the brought forward amount shown at line 17 should not be restated for any reason. [In the first year returns are prepared under the new format, the brought forward amount should equal line 56 in the Form INS 2 prepared under the Regulations].
70. The three most frequent reasons for a movement in the net assets are listed respectively at lines 18 to 20. They are-
- the retained profit or loss for the financial year - sourced from Form 8,
 - movements in the difference between the value of assets under the Asset Valuation Regulations and under the generally accepted accounting practice ("GAAP") valuation rules - sourced from Form 5, and
 - a decrease or increase in the provision for adverse changes (which is a provision made for the purposes of regulation 19 of the Asset Valuation Regulations but which does not arise under GAAP) - sourced from Form 6.
71. Movements in the net assets which are not attributable to the three reasons given above should be included at line 21 and explained by way of supplementary note to the Form. [Code 0102].
72. The retained profit or loss (line 18) is sourced from Form 8 and is determined in accordance with the same GAAP as apply in statutory accounts.
73. Annex 6 gives an example of this reconciliation.

Reconciliation of net assets to the accounts

74. In addition to the above reconciliation which appears on the face of Form 1, a further reconciliation is required by way of supplementary note to the Form. This takes net assets as per the Annual Return and reconciles them to net assets as they appear in the statutory accounts.
75. For the purposes of this reconciliation, net assets as per the Annual Return should be taken not from Form 1 but by netting assets taken from line 6 of Form 5 and liabilities from line 43 of Form 6. The net assets as per the statutory accounts should be the amount shown under balance sheet item A "capital and reserves".
76. The reason for taking assets and liabilities from these sources within the Annual Return is to eliminate from the reconciliation differences due to the dissimilar asset and liability valuation rules as between the Annual Return and the statutory accounts. [Lines 1 to 6 of Form 5 reconcile the valuation of assets as per the Annual Return rules and as per the statutory accounts rules. Line 6 shows the value after that reconciliation, i.e. the value as per the statutory accounts rules. Similarly, line 42 of Form 6 shows liabilities sub-totalled excluding items which do not appear as liabilities in the statutory accounts, e.g. the provisions for adverse charges etc.]
77. As a result, this reconciliation only needs to deal with differences which arise for other reasons. Such differences would include the amount of any

subordinated loan capital. This is not deducted as a liability in the net assets as sourced, inter alia, from line 43 of Form 6, but is deducted as a liability in the net assets as sourced from the statutory accounts (item A "capital and reserves").

78. Other than as noted above, insurers should only rarely have any differences to report under this reconciliation; e.g. where there is a material adjusting post-balance event which occurs after the date of sign-off of the statutory accounts but before the date of sign-off of the Annual Returns.
79. Annex 6 gives an example of this reconciliation.

Supplementary notes

80. There are five supplementary notes – notes 0101 to 0105 – see Annex 1.

Forms 2 and 3 - Calculation of required margin of solvency

The margins of solvency

81. These forms have been slightly changed from our existing forms INS 3 and INS 4.
82. All licensed insurers and reinsurers are required to maintain a required margin of solvency throughout the financial year. Forms 2 and 3 show the calculation of this required margin of solvency.
83. The text on the face of the Forms presents in outline the method of calculation of the general business margins of solvency. The detailed rules for the calculation are to be found in Schedules 1, 2 and 4 to the Solvency Margin Regulations, to which insurers preparing these Forms should refer. The Forms should be interpreted in the light of these rules.
84. The Solvency Margin Regulations lay down that the required margins of solvency are to be calculated as the highest result from the application of four alternative methods. These are the premium basis, the brought forward amount, the claims basis and the minimum guarantee fund. The first two methods are shown on Form 2 and the latter two methods together with the comparison of all methods are shown on Form 3.
85. Notwithstanding the requirements of Schedule 1 to the Insurance Companies (Accounts Directive) Regulations 1997, amounts included in Forms 2 and 3 in respect of –
- (a) gross premiums;
 - (b) claims paid;
 - (c) claims outstanding; and
 - (d) reinsurance recoveries,
- shall be determined in accordance with the Solvency Margin Regulations.

Form 2: Required Margin of Solvency – first method

86. The number of months in the accounting period needs to be entered in line 42 for both this financial year and the previous financial year.
87. Most amounts in column A are either derived from other forms or calculated from the form. Column B requires all amounts to be inputted from the previous return. If there are any discrepancies a supplementary note needs to be given.



88. For accident year reporting the amounts in the shaded boxes derive from the following forms.
- | | | |
|-----|--|--|
| 1. | Gross premiums receivable | line 4 of Form 10 |
| 4. | Premiums for classes 11, 12 or 13 | line 4 (reporting classes 4, 6 and 12 of Form 10) |
| 9. | Gross premiums earned | line 7 of Form 10 |
| 12. | Premiums for classes 11, 12 and 13 | line 7 (reporting classes 4, 6 and 12 of Form 10) |
| 25. | Claims paid in period of 3 financial years | line 42 of Form 11 |
| 28. | Claims outstanding c/f | total of lines 5 and 15 of Form 11 |
| 31. | Claims outstanding b/f | line 44 of Form 11 |
| 33. | Recoverable from reinsurers | line 26 of Form 12 |
| 37. | Provision for claims outstanding | (total of lines 5 and 15 of Form 11) less (total of lines 5 and 10 of Form 12) |
89. For underwriting year reporting the amounts in the shaded boxes derive from the following forms.
- | | | |
|-----|--|---|
| 1. | Gross premiums receivable | line 2 of Form 16 |
| 4. | Premiums for classes 11, 12 or 13 | line 2 (reporting classes 4, 6 and 12) of Form 16 |
| 9. | Gross premiums earned | (line 9 of Form 16) + (line 124 of Form 17) – (line 124 of Form 18) |
| 12. | Premiums for classes 11, 12 and 13 | As above for reporting classes 4, 6 and 12 |
| 25. | Claims paid in period of 3 financial years | line 137 of Form 16 |
| 28. | Claims outstanding c/f | total of lines 10 and 31 of Form 18 |
| 31. | Claims outstanding b/f | line 147 of Form 16 |
| 33. | Recoverable from reinsurers | line 144 of Form 16 |
| 37. | Provision for claims outstanding | (total of lines 10 and 31 of Form 18) - (total of lines 20 and 41 of Form 18) |
90. All amounts in column B need to be inputted from the previous return. If there are any discrepancies then a supplementary note needs to be provided.
91. Lines 1 and 9: determine the gross premiums receivable and gross premiums earned in the financial year.
- (a) "Gross premium" is defined as "premiums after deduction of discounts, refunds and rebates of premium, but before deduction of premiums for reinsurance ceded and before deduction of commission payable". It includes premiums receivable from reinsurance contracts accepted by the insurer. This has the same meaning (subject to one important

exception described in sub-paragraph (c) below) as "gross premiums written" as it occurs in the other Forms in the Annual Return. The amount of "gross premium" to be taken is limited by the words "receivable" and means "recorded in the company's books as due to the company in respect of risks incepted in the financial year". Policies transferred to an insurer under a Schedule 10 transfer (or a transfer under the equivalent law of an EEA State) should be considered to be incepted on the date of transfer.

- (b) In effect, therefore (subject to the exception described in (c)), "gross premiums receivable" may be treated as being the same as that portion of "gross premiums written" which is in respect of risks incepted in the financial year. This is derived from the other Forms as set-out in paragraphs 88 and 89.
 - (c) The exception referred to above occurs where premiums receivable are excluded from gross premiums written as shown in Forms 10 and 16 by virtue of the rule in paragraph 25 of Schedule 2 to the Regulations. This says that "amounts in respect of inwards and outwards contracts of insurance shall be classified for inclusion in Forms 9 to 19 according to their economic substance in accordance with generally accepted accounting practice". This, in effect, means that the accounting treatment for so-called financial reinsurances is to be the same in these Annual Return Forms as in the statutory accounts. This is explained more fully in paragraph 159. The point to note here is that even where, under this rule, the consideration receivable under a contract of insurance is not classified as "gross premiums written" for the purposes of those Forms, it must be included as "premiums receivable" on Form 2. The Form 2 "premiums receivable" should include all consideration receivable in respect of contracts which constitute carrying on insurance business under the Act.
92. Lines 2 and 10: deduct premium taxes and levies, but only to the extent that: (i) in the case of taxes they are included in premiums and (ii) in respect of levies they are related to premiums and are "recorded in the company's books as payable in the appropriate financial year or years in respect of general business". Under generally accepted accounting practice, IPT is excluded from the amount shown for premiums and should not be deducted at lines 2 and 10 on the Form. The Financial Services Compensation Scheme levy in respect of business written or earned during the year may be deducted but only to the extent that a provision for that anticipated liability has been established.
93. Lines 4 and 12: statistical methods may be used to allocate the premiums in respect of business classes 11, 12 and 13. This has to be done on Forms 10 and 16.
94. Entries should only appear in lines 5 and 13 if the insurer satisfies the requirements for "actuarial health insurance".
95. The higher of lines 6 and 14 appears in line 16.
96. Line 17: adjusts the sub-total derived from the above to an annual figure if the financial year runs for more or less than 12 months.
97. Lines 25 to 32: Determine (i) gross claims paid in the relevant period of 3 financial years; (ii) gross claims outstanding carried forward; and (iii) gross claims outstanding brought forward. Determine the gross claims incurred, Sub-total C, as (i) plus (ii) less (iii).



- (a) "Claims paid" and "claims outstanding" are defined in detail in the Solvency Margin Regulations. In essence, they refer to the amounts recorded in the company's books as -
- "paid in full or partial settlement of" or "set aside as likely to be sufficient to meet" claims under contracts of insurance; or as
 - expenses "incurred" or "set aside" as likely to be incurred which are "directly attributable to the settlement of individual claims"; less
 - related salvage recoveries, recoveries from third parties and recoveries from other insurers (but not reinsurance recoveries).
- (b) The definition of "claims outstanding" includes the provision for claims incurred but not reported.
- (c) In effect, although the Solvency Margin Regulations do not express themselves in these terms, the above definitions of "claims paid" and "claims outstanding" are equivalent (subject to one important exception described in (f)) to the corresponding amounts included in the Forms but excluding the "claims management costs".
- (d) For "claims paid", the equivalent amount is the amount at line 42 of Form 11 and line 137 of Form 16.
- (e) For "claims outstanding" the equivalent amount is as set out in paragraphs 88 and 89. For an insurer which discounts its claims outstanding, this requires that the undiscounted provision be taken. If necessary the brought forward amount (here and on Form 3) should be restated as undiscounted.
- (f) The exception referred to above arises for the same reason as described in paragraph 91(c). Amounts are classified for inclusion in the Forms according to their economic substance in accordance with generally accepted accounting practice. However, in Forms 2 and 3, "claims paid" and "claims outstanding" should include all amounts "paid" or "set aside" for claims under contracts which constitute carrying on insurance business under the Act, even where such amounts are not classified as "claims paid" under generally accepted accounting practice.
98. Lines 33 and 34: determine the net claims incurred, Sub-total D, by deducting from the gross claims incurred, Sub-total C, the total sum recoverable in respect of that amount under reinsurance contracts ceded. Line 33 should only include amounts classified for inclusion as reinsurance in Forms 11 and 16 according to their economic substance in accordance with generally accepted accounting practice (except that where gross premium has been included in line 1 only by virtue of paragraph 97(f), all reinsurance of that gross premium (whatever its economic substance) may be included in sub-total C).
99. Line 36: (the First result) is obtained by multiplying Sub-total J by the ratio of Sub-total D to Sub-total C. (or if that fraction is less than one half, by one half; or if the fraction is more than one, by one).
100. The provision for claims outstanding shown in line 37 are to be net of reinsurance. The guidance in paragraphs 97 and 98 apply, except that despite 97(e), claims that are discounted will not need to be restated as undiscounted if they are in respect of class 1 or 2 business. The brought forward amount in line 38 is then the lower of the required margin of solvency that applied



during the financial year in question and that amount multiplied by the ratio of claims outstanding at the end of that financial year to the claims outstanding at the beginning of that financial year.

101. The greater of lines 36 and 38 is carried forward to line 19 of Form 3.

Supplementary Notes

102. There is one supplementary note – note 0201 – see Annex 1.

Form 3 - Required Margin of Solvency - second method and statement of RMM

103. The number of months in the reference period must be entered in the top line. If the company has not been in existence long enough for a reference period then enter "0". If the number of months in the reference period is "0" then no entries will appear in lines 1 to 18.
104. If the company has been in existence long enough to have a reference period the entries in lines 1 to 8 will correspond to the entries in lines 25 to 32 of Form 2.
105. For accident year reporting the entry in line 9 for liability business will be the total of lines 5, 15 and 42 less line 44 of Form 11 for reporting classes 4, 6 and 12.
106. For underwriting year reporting the entry in line 9 for liability business will be the total of lines 10 + 31 of Form 18 + total of lines 137 to 147 of Form 16 for Reporting classes 4, 6 and 12.

The Minimum Guarantee Fund

107. The amount of the minimum guarantee fund (line 21 on Form 3) is calculated by reference to the classes of business for which the company is authorised. See Schedule 4 to the Solvency Margin Regulations.

Supplementary notes

108. There is one supplementary note – note 0301 – see Annex 1.

Form 4 - Admissible Assets

Valuation and Admissibility of Assets

109. A summary of the valuation rules for assets to be included at each line of Form 4, and a note of any admissibility restrictions is set out below. References in the table to legislation relates to the "Asset Valuation Regulations".

Line No	Description	Valuation	Permitted asset exposure
2	Land and buildings	The value will be "not greater than" the amount which (after deduction of the reasonable expenses of sale) would be realised if the land were sold at a price equal to the most recent proper valuation of that land (regulation 4). The valuation must be made by a qualified valuer. A qualified valuer is generally a person who	5% of general business amount ("GBA") for any single piece of land. Note that, where there is an aggregate valuation, individual parcels of land must be looked at in total and not as individual pieces of land. (Schedule 1, Part II, para 1).



Line No	Description	Valuation	Permitted asset exposure
		<p>has a prescribed professional qualification and who has knowledge or experience in valuing the type of land in question; specific details of the qualifications required are set out in regulation 2(1).</p> <p>The valuation should be based on the consideration received on the open market free of any encumbrance, mortgage or charge, after deduction of expenses of sale. The valuation of buildings should be based on vacant possession and consequently the company may need to consider relocation costs if the building is self-occupied. If there has been no valuation in the last three years the valuation is reported on the form as nil (regulation 4). The "not greater than" rule applies where there have been adverse changes since the previous valuation.</p>	
4	Investments in dependants – shares, debt securities issued by and loans to dependants	Normally a surplus assets basis (regulations 12 and 13).	None directly, (regulation 15(5)(f), although the dependant's exposure to an asset or to a counterparty will be aggregated with the insurers for the purpose of comparing the business amount.
5	Other group undertakings and participating interests – shares and participating interests	Normally a surplus asset basis (regulation 12).	As per rules for non-group shares (line 8). A group company that is not a dependant is treated no differently from an unconnected company.
5	Other group undertakings and participating interests – debt securities issued by and loans to, group	Amount expected to be recovered, taking into account only the assets identified under regulation 12(2)(a) and any security held in respect of	As per the rules for non-group securities and loans.



Line No	Description	Valuation	Permitted asset exposure
	undertakings or undertakings in which the insurer has a participating interest	the debt (regulation 13).	
8	Equity shares and variable yield securities	<p>Valued at the middle market quotation for readily realisable shares (see regulation 6(4)), otherwise at assignment value.</p> <p>Special rules apply where the securities are not transferable.</p>	<p>Listed securities:</p> <p>Individual security together with connected companies limited to 2½% of GBA. 5% restriction in total of listed shares and all other securities in any one company and any of its connected companies (other than for approved counterparties).</p> <p>Unlisted securities:</p> <p>1% of GBA for unlisted shares and all investments (other than secured debt securities or listed investments which are readily realisable) issued by any one company and any of its connected companies. Aggregate limits of 10% of GBA for all such unlisted investments.</p>
9	Holdings in collective investment schemes (e.g. unit trusts)	<p>Regulation 10 sets out the characteristics of those collective investment schemes which can be ascribed a value:</p> <ul style="list-style-type: none"> where the issuer can be required to purchase the units or shares, valued at the price that the issuer would have purchased the units or shares (bid price) (regulation 10(2)(a)), and where the issuer cannot be required to purchase the units or shares, valued as for line 8 above (regulation 10(2)(b)). 	<p>No restriction where the unit trust falls within the scope of the EC UCITs directive (regulation 15(5)(g));</p> <p>5% of GBA for other authorised/recognised schemes;</p> <p>1% of GBA for unauthorised schemes falling within regulation 10(1)(c).</p>
10	Rights under derivative	Derivative contracts and those which, whilst they	There is no limit for individual derivative



Line No	Description	Valuation	Permitted asset exposure
	<p>contracts. Note that any insurer which uses derivative contracts during the year is required to submit additional information on Form 7.</p>	<p>do not take the same legal form, have the effect of operation in the same manner as a derivative contract (“quasi-derivatives”) are treated the same for valuation purposes. However, quasi-derivatives are not disclosed on Form 4 or 7. The valuation rules for derivatives are set out in regulation 14. Only those which fall under the definition of an “approved derivative contract” will be ascribed any value.</p> <p>In addition, regulation 14A includes rules which require aggregate exposure for admissibility purposes to be adjusted to reflect economic effects of derivative contracts.</p> <p>Listed derivatives are valued at “market value” as defined by regulation 2(1). Unlisted derivatives are valued at the amount which would reasonably be paid for closing out the contract. Both shall be reduced for any amounts already received under the contract. (e.g. variation margins).</p> <p>In contrast, liabilities arising from holding derivatives will be included on the basis of GAAP, plus potentially an extra provision – the provision for adverse changes.</p>	<p>contracts.</p> <p>However, rights under derivative contracts are included within the overall counterparty exposure limits of 5% and 10% of GBA.</p> <p>In addition, the aggregate exposure to individual investments (such as investment in any single equity) should include the economic impact of derivative contracts.</p>
12	Approved debt securities and approved other fixed income securities	These are principally securities, issued by, or guaranteed by, any Zone A government or public authority (regulation 2(1)), and are valued at the middle market quotation in the case of listed securities, at redemption value if not transferable,	No restriction. Exempt under regulation 15(5)(a).



Line No	Description	Valuation	Permitted asset exposure
13	Other debt securities and other fixed income securities	<p>and in other cases generally immediate transfer value. (regulation 6).</p> <p>If listed, valued at the middle market quotation (regulation 6), but note the definition of listed in regulation 2(1): “there has been granted and not withdrawn a listing in respect of that investment on any stock exchange in an EEA State ... or facilities for dealing in that investment have been granted on a regulated market.”</p> <p>Unlisted debt and other fixed income securities should, where transferable and readily realisable, be valued at market value. Investments which are transferable and not readily realisable are valued at the lower of market value and immediate transfer value, and those which are not transferable are valued at either redemption value or immediate transfer value. (regulation 6(3) and (4)).</p> <p>Note that if the variable interest is linked to a formula, then the securities may have the characteristics of an inadmissible derivative contract. Where this is the case, then regulation 7(11) requires that only the element which represents an unconditional right to a specified amount can be taken into account.</p>	<p>Listed securities: 5% of GBA. In determining the admissible amount, the aggregate counterparty exposure limit of 5% or 10% must be considered.</p> <p>If the investments are secured, then they follow the admissibility rules for secured debts, i.e. 5% or 10% of GBA being part of the overall counterparty exposure limit.</p> <p>If unsecured, then the limit will vary from 1% to 5% to 10% depending upon the status of the issuer.</p> <p>If the debt is subordinated, then there is a limit of 1% of GBA for unlisted shares and unlisted subordinated debt due from any one company and any of its connected companies.</p> <p>There is also an aggregate limit of 10% of GBA for unlisted shares and unlisted subordinated debt due from any one company and any of its connected companies.</p>
14	Participation in investment pools	This comprises shares held by the company in joint investments constituted by several undertakings or pension funds.	Depends on the underlying investments; refer to rules for relevant types of investment.



Line No	Description	Valuation	Permitted asset exposure
		Valuation is by reference to the individual rules for the underlying investments. (regulation 6).	
15	Loans secured by mortgages Note: "secured" in this context has the same meaning as in the Accounts Directive Regulations i.e. the common parlance meaning, which is different from that in the Regulations. Therefore, the assets reported at this line will consist of secured and unsecured loans.	The valuation rules are broadly the same for both secured and unsecured debt, although for secured debts the valuation rules allow due account to be taken of the nature and quality of the security. Both secured and unsecured debts are valued at the amount which can reasonably be expected to be recovered if due within 12 months, otherwise immediate assignment value. (regulation 7).	For secured loans, for each individual 1% of GBA if it is that individual's main residence, otherwise ¼%; for companies 5% of the GBA (in conjunction with all other debts except debt securities). The overall counterparty exposure limits of 5% and 10% of the GBA apply. For unsecured loans, admissibility is considered depending on status of issuer (see Note below).
16	Loans to public or local authorities and nationalised industries or undertakings.	Amounts generally valued at immediate transfer value. (regulation 7).	No restriction. Exempt under regulation 15(5)(a), assuming Zone A government.
17	Deposits with approved credit institutions and approved financial institutions	Amounts generally valued at immediate transfer value (regulation 7). Deposits with approved credit institutions include building society deposits.	No restriction for deposits with approved financial institutions (regulation 15(5)(a)). Deposits with approved credit institutions restricted to 20% of GBA when combined with all other counterparty exposure to that credit institution and any of its connected companies. There is a more restrictive limit of 10% of GBA applying to all debts other than short term deposits i.e. those in line 55.
18	Other loans -	Investments in limited partnerships may include loans under regulation 6. If this is the case apply the valuation rules for unlisted investments except where	¼% if debt, 1% if investment for each individual amount. 1% for each unincorporated body or company and overall aggregate of 5% for all



Line No	Description	Valuation	Permitted asset exposure
		<p>non transferable when valued at redemption or surrender value.</p> <p>Other loans, which are not investments, should be valued as debts at immediate transfer value. (regulation 7).</p>	unsecured debts from individuals and non regulated counterparties.
21	Deposits with ceding undertakings	The amount which can reasonably be expected to be recovered (regulation 7(5)).	No restriction. Exempt under regulation 15(5)(c).
24-27	Reinsurers' share of technical provisions	Valued in accordance with generally accepted accounting principles. (regulation 7).	No restriction. Exempt under regulation 15(5)(c).
32/33	Debtors arising out of direct insurance operations - policyholders - intermediaries	<p>The amount which can reasonably be recovered. As for other debtors, the normal valuation rules and principles relating to debts apply. (regulation 7(7), but see timing restriction below.)</p> <p>Any prepaid commission to an intermediary is to be valued at nil. (regulation 7(6)).</p> <p>Any premium debts which are recorded in the accounting records as due and payable and which have been outstanding for more than three months are inadmissible. This applies to all premium debts, including debts due in relation to reinsurance business accepted. It does not apply to debts due in relation to reinsurance contracts ceded. The timing for the three months test is important: for instalment premiums this will start from the date each particular instalment is due.</p>	No restriction. Exempt under regulation 15(5)(c).
35	Salvage and subrogation recoveries	The value of any salvage or subrogation rights shall be the amount which can	No restriction. Exempt under regulation 15(5)(c).



Line No	Description	Valuation	Permitted asset exposure
		reasonably be expected to be recovered if the right(s) is(are) exercised. (regulation 7(8)&(9)).	
37	Debtors arising out of reinsurance operations, due from ceding insurers and intermediaries under reinsurance business accepted	Same as for 32/33 above.	Same as for 32/33 above.
38	Debtors arising out of reinsurance operations, due from reinsurers and intermediaries under reinsurance contracts ceded.	The amount which can reasonably be expected to be recovered. (regulation 7(5)).	No restriction. Exempt under regulation 15(5)(c).
41	Other debtors – due from dependants	Dependant rules apply – “look through” to the underlying asset. (regulation 12 and 13 and regulation 6).	No restriction. Exempt under regulation 15(5)(f).
42/43	Other debtors – other	<p>The valuation rules are broadly the same for both secured and unsecured debt. (For secured debts, the valuation rule allows due account to be taken of the nature and quality of the security).</p> <p>Both secured and unsecured debts are valued at the amount which can reasonably be expected to be recovered if due within 12 months, and if due in more than 12 months at immediate assignment value, i.e. will reflect time value of money for period of the debt. (regulation 7(1) and (4)).</p> <p>Any unpaid share capital and subordinated debt due from a holding company of the insurer are to be valued at nil. (regulation 7(6)).</p>	For secured debts, the overall counterparty exposure limits of 5% and 10% of the GBA apply. For unsecured debts, admissibility is graded depending on status of issuer (see Note below).



Line No	Description	Valuation	Permitted asset exposure
47	Tangible assets	<p>All equipment (excl. computer software) is valued as below.</p> <p><u>Computer equipment</u></p> <p>(a) in the financial year of purchase the amount is limited to 75% of the cost.</p> <p>(b) in the next financial year the amount is limited to 50% of the cost.</p> <p>(c) in the third financial year the amount is limited to 25% of the cost.</p> <p>(d) in subsequent years the computer is valued at nil. (regulation 8(1).)</p> <p>The "not greater than" rule applies.</p> <p><u>Other equipment</u></p> <p>In the financial year of purchase the amount is limited to 50% of cost, but nil in the years after the year of purchase. (regulation 8(2).) The "not greater than" rules applies.</p>	<p>5% of GBA.</p> <p>2½% of GBA.</p>
48	<p>Cash and bank:</p> <p>Deposits not subject to time restriction on withdrawal, with approved credit institutions and approved financial institutions and local authorities</p>	As 17 above.	<p>If deposits with approved credit institutions; as 17 above. If banks are not approved credit institutions then admissibility is restricted to 1% of GBA.</p> <p>If deposits with approved financial institutions or with local authorities (assuming they are within Zone A), no restrictions. (regulation 15(5)(a).)</p>
49	Cash in hand	Face value. (Note: this refers to actual cash, not deposits which must be valued as referred to above.)	3% of GBA (Schedule 1 Part II, para 18)



Line No	Description	Valuation	Permitted asset exposure
50	Other assets	Value will depend upon the asset in question. In view of the requirements of regulation 3(3) to leave out of account assets for the valuation of which no specific provision is made, it will be rare to have entries at this line and a supplementary note is required to give particulars.	Admissibility will depend upon the asset in question.
54	Accrued interest and rent	Debts (regulation 7).	None for interest on approved securities (regulation 15(5)(a)). Otherwise as for debts (see lines 76 to 79).
55	Deferred acquisition costs	Valued in accordance with generally accepted accounting concepts, bases and policies or other generally accepted methods appropriate for insurers.	None. Regulation 15(5)(h).
56	Other prepayments and accrued income	Debts (regulation 7), if an amount could be collected, otherwise inadmissible.	Debts (see lines 41 to 43). ¼% of GBA due from an individual, 1% from a corporate body and subject to aggregate limit of 5%. (Schedule 1, Part II).
59	Deductions (under regulation 15(2)(b) and 15(3) of the Regulations) from the aggregate value of assets	This item relates to the deduction from total admissible assets which may be necessary where the company does not have sufficient assets of that description to eliminate the excess of the permitted asset exposure limit for such assets. It may also be used where the insurer has entered into derivative contracts which have the effect of increasing an insurers' aggregate exposure to a certain asset beyond the maximum admissible. It is not intended that this line is used for specific	N/a



Line No	Description	Valuation	Permitted asset exposure
		inadmissible assets. This situation is catered for by including only the admissible element in the appropriate line with the inadmissible element in line 92. (regulation 15.)	

Note: For unsecured debts, admissibility will depend upon who the debt is from. These are as follows–

- Approved counterparties – part of the overall counterparty exposure limits of 10% of GBA;
- Regulated institutions - 2½% of GBA for any one institution (and connected companies);
- Other corporate bodies – 1% of GBA for a single debt and 5% in aggregate for all unsecured debts due from such bodies and debts due from individuals; and
- Individuals - ¼% of GBA for any single debts and 5% in aggregate.

Where an asset has to be left out of account because it is not specifically referred to in the Regulations, the Commission is generally prepared to discuss the matter with the company and its advisers, and may (but will not create a precedent by so doing) issue a Section 113 concession order allowing the company to bring the asset into account on an agreed basis of valuation.

Completion of the Form

110. This form provides a "line by line" analysis of the assets valued in accordance with Regulation 4. The classification used follows the balance sheet headings used for the statutory accounts. In some cases, however, a single item in the statutory account format is subdivided. Most entries in this form need to be inputted.
111. Regulation 4 provides that assets are to be valued in accordance with Part II of the Asset Valuation Regulations.
112. Lines 2 to 57 show asset values after deductions for excess over permitted asset exposure limits - see regulation 15 of the Asset Valuation Regulations. Where such a deduction relates to assets included at more than one line of Form 4, it should be apportioned pro-rata. Negative amounts should not be shown at lines 2 to 57. If a deduction is more than the value of the assets to which it relates the 'excess' element of the deduction should be shown at line 59, as also should deductions for excesses over permitted counterparty limits and for excess concentrations over a number of counterparties.
113. The amount of any asset in Form 4 should be shown gross of any set-off against any corresponding liability (which liability should be shown on Form 6). The only exception to this is where-
- amounts are owed from and to the same person, and
 - such netting is permitted under generally accepted accounting principles. [See in particular Financial Reporting Standard 5.]
- "Person" refers not only to individuals but also to corporate bodies and unincorporated associations.
114. The above rule usually prevents the set-off of amounts due from and to the same broker/intermediary unless they relate to the same client of the broker.

This is because, typically, such amounts are, in law, owed from and to the client and not the broker/intermediary. The broker/intermediary merely acts as a collecting agent.

115. Line 17 "Deposits with approved credit institutions and approved financial institutions" should only show relevant deposits subject to a time restriction on withdrawal. Deposits not subject to such a time restriction should be shown at line 48.
116. The amount at line 25 will need to be adjusted to remove any discount to take account of investment income where this adjustment has been made to the gross provision. Since the technical provision for claims outstanding shown in Form 6 may only be discounted or reduced to take account of investment income in limited circumstances, the amount shown at line 3 of Form 6 may need to be increased. In such cases, the reinsurers share shown at line 25 must be adjusted to be consistent with the amount in line 3 (see paragraph 131).
117. Line 35 "salvage and subrogation recoveries" should only be used for such recoveries which fall to be classified as "debtors arising from insurance operations". Occasionally, some salvage or subrogation recoveries may be classified under other headings in the statutory accounts in which case the same heading should be used in Form 4, but a supplementary note [code 0403] is required. If salvage and subrogation recoveries are shown in the statutory accounts as a deduction from liabilities rather than as an asset, the same treatment should be adopted in the Annual Returns i.e. line 35 should be left blank and the amount of liabilities shown on Form 6 shown net of the salvage and subrogation recoveries.
118. Line 47 should include leased tangible assets where such are held under a finance lease and are brought into account as an asset in the statutory accounts in accordance with Statement of Standard Accounting Practice 21.
119. Line 50 "Other assets" refers to the balance sheet heading in the statutory accounts of "Other Assets – other" (item Fv in the balance sheet format in Schedule 1 to the Accounts Directive Regulations). It should not be used for any other type of asset and, even where used for an asset falling under the statutory account Fv heading, it should show only the admissible value, if any.

Supplementary notes

120. There are 10 supplementary notes – notes 0401 to 0410 – see Annex 1.

Form 5 – Reconciliation of asset values

121. This form consists of two parts –
- Lines 1 to 6 provide a reconciliation of the total assets as valued in accordance with Regulation 4 of the Asset Valuation Regulations and as valued in accordance with the Accounts Directive Regulations.
 - Line 8 discloses the value of debts due from related companies, other than those under contracts of insurance and reinsurance.
122. Lines 1 to 6 reconcile the admissible assets to the total assets determined in accordance with the statutory accounts rules. For guidance on the distinction between the different types of reconciling items (lines 2 to 5) see Annex 6. This reconciliation must be completed. A particular problem is caused by those assets which the Accounts Directive Regulations permit to be shown either as assets or as a deduction from liabilities. The main classes of such assets are–
- the reinsurers' share of technical provisions, and

- the deferred acquisition costs.
123. These assets, to the extent admissible, should always be shown at lines 24 to 27 and 55 of Form 4 respectively. Further, the total shown at line 6 ("assets determined in accordance with the Accounts Directive Regulations") should always include such assets even where they are actually shown as a deduction from liabilities in the statutory accounts.
124. Apart from the above, the Commission does not believe that there is any other reason why an item should not be classified as an asset or a deduction from liabilities on Form 5 (line 6) and Form 6 in the same way as in the statutory accounts. The same applies for the classification of an item as a liability or a deduction from assets. Different methods of 'grossing up' should be avoided.
125. The statutory accounts rules allow for some investments to be valued either at current value or at amortised cost. An insurer should choose the same method for line 6 on Form 5 as it chooses for its statutory accounts.
126. Asset valuation differences arising in respect of shares in, or debts due or to become due from, dependants should be included:
- (i) at line 2, in so far as they arise from the application of admissibility limits to the assets of that dependant;
 - (ii) at line 3, in so far as they arise from a solvency margin deduction made either because that dependant is itself an insurer or because it (directly or indirectly) has invested in another dependant which is an insurer; and
 - (iii) at line 4, in respect of any other causes of differences.
- Line 5 should not be used for differences arising in respect of shares in, or debts due or to become due from, dependants. Such shares or debts are not themselves "assets of a type not valued", and this is still true even if the dependants themselves invest in assets of a type not valued.

Form 6 - Liabilities

Completion of the Form

127. Form 6 which is similar to Form INS 7 consists of two parts.
- Lines 1 to 39 provide a "line by line" analysis of the liabilities (other than share capital and reserves) corresponding to the balance sheet headings used in the statutory accounts. In a few cases, however, a single item in that format is subdivided in Form 6.
 - Lines 40 to 42 list three further items of liability - (i) the provision for adverse changes, (ii) cumulative preference share capital and (iii) subordinated loan capital.
128. Most entries in this form need to be inputted.

Determination of liabilities

Lines 1 to 39

129. The liabilities at lines 1 to 39 should be valued in accordance with Part III of the Asset Valuation Regulations, the main provision of which is Regulation 18 which provides that -
- "(1)... the amount of liabilities of an insurer shall be determined in accordance with generally accepted accounting concepts, bases and policies or other generally accepted methods appropriate for insurers".

“(2) In determining under sub-regulation (1) the amount of liabilities of an insurer, all contingent and prospective liabilities shall be taken into account including all liabilities in respect of cumulative preference share capital but excluding other liabilities in respect of share capital.”

130. Sub-regulation (2) above does not require that the "amount" of every prospective and contingent liability be set equal to the full extent of its nominal value regardless of the remoteness of the contingency it represents. The requirement is merely that all prospective and contingent liabilities "be taken into account", i.e. considered. The amount of every liability whether present, prospective or contingent should be set as required by sub-regulation (1) in accordance with generally accepted accounting concepts etc.
131. The sub-regulation (1) requirement that generally accepted accounting concepts etc. be used means, in effect, that the liabilities at lines 1 to 39 are to be valued for the Annual Returns in the same way as for the statutory accounts, except in relation to the technical provisions for claims outstanding. For technical provisions, this is indeed explicitly stated by Regulation 19A of the Asset Valuation Regulations which refers to the rules in Section D of Chapter II of Schedule 1 to the Accounts Directive Regulations. Regulation of the Solvency Margin Regulations, however, requires that (with certain exceptions) the margin of solvency be reduced by the difference between the discounted (to take account of investment income) and undiscounted technical provisions for claims outstanding.
132. The amount shown in line 3 may only be discounted or reduced to take account of investment income for general business classes 1 or 2. If the technical provision for claims outstanding for other business are discounted or reduced to take account of investment income, then they must be increased by the difference between the undiscounted and the discounted provision. If technical provisions are increased, the amount of the increase must be shown by way of a supplementary note to this form, together with the corresponding increase in the reinsurers' share shown in line 25 of Form 4.
133. The above does not mean that the value shown for such liabilities in the Annual Return will always necessarily be the same as that shown in the statutory accounts. Exceptionally, differences may occur if the Annual Return and statutory accounts are either -
- drawn up to different balance sheet dates, or
 - even if drawn up to the same balance sheet date, signed off at different dates.
134. In the latter case, it is possible that a material adjusting post-balance sheet event may have occurred between the date of the sign off of the statutory accounts and the date of the sign off of the Annual Return (or vice versa).
135. The technical provision for "claims outstanding" (line 3) should be shown before or after reduction for anticipated salvage and subrogation recoveries according to the treatment adopted in preparing Form 4.

Lines 40 to 42

136. The provision for adverse changes (line 40) is an extra provision which arises when an investment (or transaction associated with an investment) will, or may, give rise to a liability in future and the company does not have the appropriate assets to cover that liability. (Most commonly, but not exclusively, this issue arises in respect of derivative contracts.) The provision is in addition to any liability which would be required to be provided in accordance with

generally accepted accounting practice. It is required to be determined in accordance with Regulation 19 of the Asset Valuation Regulations.

137. Share capital is not normally to be considered a liability for the purposes of completing the Annual Return - see Regulation 18(2) of the Asset Valuation Regulations. The only exception (see Regulation 4(6) of the Solvency Margin Regulations) is cumulative preference share capital, but this exception is, in turn, subject to a partial exception as explained below.
138. In determining whether an insurer has assets in excess of its liabilities, the full nominal value (plus any premium on redemption, if redeemable) of all cumulative preference share capital is to be counted as a liability. If the assets exceed liabilities, then part (sometimes all) of the liability from the preference share capital may be disregarded in determining whether the net assets exceed the required margin of solvency.
139. In line 41, the full value of cumulative preference share capital is to be shown, i.e. the value to be used in determining whether the insurer has assets in excess of liabilities. This full value then forms part of the total liabilities which are taken from Form 6 to Form 1 where they are compared with the total assets taken from Form 4. If assets exceed liabilities, the part of the liability for preference share capital which may be disregarded in determining whether the net assets exceed the required margin of solvency, is added back as an adjustment to net assets on Form 1. No adjustment is to be made on Form 6. See paragraph 69 on Form 1 for further guidance.
140. Subordinated loan capital is to be valued according to the basic rule in Regulation 18 quoted above, i.e. in accordance with generally accepted accounting concepts etc.. Where an insurer has been granted a section 113 Order permitting it to disregard all or part of the liability for its subordinated loan capital in determining whether its net assets exceed its required minimum margin, the adjustment for the amount to be disregarded is to be made solely on Form 1 and not on Form 6. (The reason for this treatment of the add-back is the same as that described above for the add-back in respect of preference share capital).

Supplementary notes

141. There are six supplementary notes – notes 0601 to 0606 – see Annex 1.

Form 7 - Derivative Contracts

142. Form 7 is similar to Form INS 9 although we only require information in respect of the current year.
143. If no entries are required this form can be omitted from the submission.
144. Derivative contracts shall be analysed according to the description of assets.
145. Derivative Contracts shall be reported as assets in column A if their value to the insurer (gross of variation margin) is positive and as liabilities in column B if their value (gross of variation margin) to the insurer is negative.
146. All amounts included at lines 1 to 20 in respect of derivative contracts shall be determined without making any allowance for variation margin.
147. Amounts in respect of a derivative contract may only be included net of amounts in respect of any other derivative contract if –
 - (a) obligations of the insurer under contracts may be set-off against each other under generally accepted accounting practice; and

- (b) such other contract has the effect (in whole or in part) of closing out the obligations of the insurer under the first mentioned contract.
148. The effect of any variation margin upon amounts included at lines 1 to 20 shall be shown at line 22.
149. The entry at column A line 24 shall be included in Form 4, column A, line 10.
150. The entry at column B line 24 shall be included in Form 6, column A, line 33.
151. Rights to recover assets transferred by way of initial margin shall not be shown on this form.

Supplementary notes

152. There are two supplementary notes – notes 0701 and 0702 – see Annex 1.

Form 8 - Non-technical account

Completion of the form

153. Form 8 is a simplification of our existing Form INS 8 and is based on the "Profit and Loss Account - Non Technical Account" format in the statutory accounts and the amounts included should be determined using the same rules as apply for the statutory accounts.
154. Unrealised gains and losses on investments should be included in their entirety at line 5, even if different accounting treatment is adopted in the statutory accounts. Unrealised gains and losses should be measured by reference to the value included for the investment at line 6 on Form 5. An insurer which includes investments at amortised cost at line 6 on Form 5 should show the unrealised gain and loss relative to that amortised cost, not to current market value.

Supplementary notes

155. There are four supplementary notes – notes 0801 to 0804 – see Annex 1.

Accident Year And Underwriting Year Accounting

The basic rule

156. The basic rule is that an insurer may choose whether to account for its business on an accident year basis or an underwriting year basis. This choice may be made separately for each Reporting class and, indeed, separately for any clearly definable part of a Reporting class.
157. Where risks are accounted for on an accident year or underwriting year basis, the run-off of those risks must continue to be accounted for on the same basis. The insurer remains free, however, to account for the renewals of such business on either basis.

Accounting for premiums, claims and expenses

The accounting rules

158. The amounts shown in the Annual Return for -
- "gross premiums written", "reinsurers' share", "earned premiums" etc.;
 - "claims outstanding", "claims incurred", "gross amount", "reinsurers' share" etc;
 - "provision for unearned premiums", "provision for unexpired risks", "deferred acquisition costs"; and

- "net operating expenses", "acquisition costs", "administrative expenses" and "reinsurance commissions and profit participations"

should be determined -

- using the same rules as apply for the preparation of the statutory accounts (see Regulation 3(2)(b) which aligns definitions with those in "the Accounts Directive Regulations"; and
- in accordance with generally accepted accounting practice (see, for example, paragraph 25(1) of Schedule 2) which states that amounts in respect of inwards and outwards contracts of insurance shall be classified for inclusion in Forms 9 to 19 according to their economic substance in accordance with generally accepted accounting practice.

159. In particular, contracts of financial (re)insurance whether inward or outward should be classified for inclusion in the Forms in accordance with Financial Reporting Standard 5 "Reporting the substance of transactions" and the statement "FRAG 35/94: The Application of FRS 5 to Non-Life Insurance Transactions." Thus, where the consideration receivable and payable for transactions which have the legal form of contracts of insurance or reinsurance would not be accounted for as premiums and claims in the preparation of statutory accounts, they should not be included as premiums and claims in Forms 9 to 19. Instead, they should be accounted for in the Annual Return using the same principles as are applied in the preparation of statutory accounts. (But see paragraphs 91 and 97 for the different treatment in Forms 2 and 3).

160. An exception to the rule in paragraph 156 (i.e. the alignment of definitions with those in the Accounts Directive Regulations) is that claims amounts shown in the Forms should exclude -

- claims management costs, and
- adjustments for discounting.

Some Forms exclude these items altogether, and other Forms provide for their separate disclosure. [See paragraph 14 to Schedule 2 which states that in all Forms 9 to 19 amounts required to be shown for claims shall not include amounts in respect of claims management costs.]

161. Another exception is that the rules for the statutory accounts analyse "net operating expenses" into (i) "acquisition costs", (ii) "administrative expenses" and (iii) "reinsurers' commissions and profit participations" whereas the Forms sub-analyse the first item into "commissions" and "other acquisition expenses".

162. Claims management costs are basically those overhead costs of the claims department (or of the out-sourced provider of the claims management function) which are required to be included in the amount for incurred claims shown in the statutory accounts. (See Regulation 3 for the exact definition.)

163. In Forms 9 to 19, (as in the technical account in the statutory accounts), claims incurred include any reduction for salvage and subrogation recoveries (cf the different treatment in the balance sheet – see paragraph 135).

164. Paragraphs 8 to 13 of Schedule 2 lay down rules as to how premiums and claims are to be allocated to accident years and underwriting years. These paragraphs are explained in the section on "Reporting Classes" and "Forms 9 to 19" below, but it needs to be noted here that the paragraphs do not as such define premiums and claims. They assume the definition given elsewhere

in the Regulations (see paragraph 158) and merely address the question of allocation.

Accident year accounting

165. For accident year accounting, premium is allocated to accident years on the basis of when it is earned, and claims are allocated on the basis of when the incident which gives rise to the claim occurred. Special rules apply for (i) claims-made policies and (ii) the reinsurance (or a Schedule 10 transfer) of policies covering incidents which had already occurred at the time of the reinsurance (or transfer). These are explained below.
166. An incident giving rise to a loss under a claim-made policy is deemed to occur on the earlier of date of notification or the last date of the period for which cover is provided. The latter of the two alternative dates would usually only be relevant if the claims-made policy is not renewed and if, upon non-renewal, the policy allows a "sunset" period, (i.e. a period during which claims relating to events which took place prior to the end of the cover period may still be notified).
167. Where an insurer reinsures, (or receives by way of a Schedule 10 transfer), policies covering incidents which had already occurred prior to the date of the contract of reinsurance (or of the transfer), all such incidents are deemed to occur at the date of the reinsurance contract (or of the transfer).
168. Net operating expenses should be allocated to accident years so as to match them to the related premium earned and claims incurred. Usually, this will result in the bulk of administrative expenses being allocated to the youngest accident year. [Note that administrative expenses do not include the overhead expenses of running the claims department. These are included in claims management costs.]

Underwriting year accounting

169. For underwriting year accounting, premiums and claims are allocated to underwriting years on the basis of when policies incept. For these purposes-
 - a policy providing continuous cover is deemed to incept on each anniversary of the policy; and
 - policies received by way of Schedule 10 transfer (or equivalent transfer under the law of an EEA State) are deemed to incept on the date of the transfer.
170. Net operating expenses should be allocated to underwriting years so as to match them to the related premium earned and claims incurred. Usually this will result in the administrative expenses being allocated to the youngest underwriting year except to the extent that it represents the adjustment for under- or over-provisions of such expenses in the prior years. [Note that administrative expenses do not include the overhead expenses of running the claims department. These are included in claims management costs.]

The annual and non-annual methods

171. The annual and non-annual methods refer to the way in which profit is recognised. Under the annual method, the profit (and losses) on business written during the financial year is recognised at the end of that financial year by setting up provisions for outstanding claims, unearned premiums and unexpired risk reserves and by deferring an appropriate portion of acquisition costs.

172. Under the non-annual method (i.e. fund accounting) the recognition of profits (but not losses) is deferred for one, two or three years after the end of the financial year in which business incepts. During the period of the deferral, the technical provision for such business is the excess of premiums written over claims and expenses (increased where necessary to the extent of any losses expected to arise on such business). At the end of the deferral period, this technical provision is replaced by a technical provision determined under the same rules as apply for the annual method, (i.e. a technical provision which consists of provisions for outstanding claims, unearned premiums and unexpired risk reserves), and by the deferral of an appropriate portion of acquisition costs. The choice of the deferral period should usually be consistent from year to year, but may differ from one type of business to another.
173. The detailed rules for the non-annual method are to be found in Paragraphs 51 and 52 of Schedule 1 to the Accounts Directive Regulations. [Note: Schedule 1, as such, strictly only applies to the preparation of statutory accounts. However regulation 19A of the Asset Valuation Regulations requires that the Schedule 1 rules on the valuation of general business liabilities also be followed for our solvency purposes.] Also of relevance is the ABI SORP in so far as it is a statement of "generally accepted accounting concepts, bases and policies or other generally accepted methods appropriate for insurers". [See Regulation 18 of the Asset Valuation Regulations which requires such generally accepted concepts etc. to be followed for our solvency purposes.] It is recommended that insurers obtain a copy of the ABI SORP.

The relationship between the reporting basis and method of profit recognition

174. An insurer which wishes to apply the annual method may report that business on either the accident year Forms or the underwriting year Forms. However, if it wishes to apply the non-annual method it must report such business on the underwriting year Forms. This relationship is summarised by the table below:

Reporting basis	Profit recognition method
Underwriting year basis	Annual method, or Non-annual method
Accident year basis	Annual method

The non-annual method - "closed" and "open" years

175. Business to which the non-annual method of profit recognition is applied is classified into "open" and "closed" underwriting years.
176. As already described above under the non-annual basis, a technical provision is originally set up as the excess of premiums written over claims paid and expenses (increased where necessary to the extent of any losses expected to arise on such business). At the end of the deferral period, this technical provision is replaced by one determined on the same basis as applies under the annual method. An underwriting year is termed "closed" with respect to any business if the replacement of the technical provision has been made in respect of that business, otherwise it is termed "open".
177. Significantly less disclosure is required on the underwriting year Forms for "open" years than for "closed" years. Business reported on the underwriting year Forms but to which the annual method has been applied are subject to the same level of disclosure on those Forms as applies for "closed" years business.



178. The technical provision for an open year for an Reporting class is the fund represented by -
- + premiums written (net)
 - claims paid (net)
 - expenses incurred
179. Any excess, over the fund, of present and future liabilities from business incepting in that year falling in that Reporting class is termed a "deficit". Any excess of the fund, for the present and future liabilities from business incepting in that year falling in that Reporting class, is termed a "surplus".
180. A deficit on any open year for any Reporting class must be dealt with by either-
- offsetting the deficit against surpluses (in the same year) arising on business falling in other Reporting classes which is "managed together" with the business giving rise to the deficit; and/or
 - increasing the technical provision.
181. Business may only be regarded as "managed together" if it -
- is accounted for on an underwriting year basis;
 - incepts in the same accounting year; and
 - may be regarded as "managed together" under generally accepted accounting practice.
- [This definition of "managed together" is given in paragraph 24 of Schedule 2 – See paragraph 258 in relation to Forms 17 and 18].

Conversion from the non-annual to the annual method

182. An insurer which has previously reported business on a non-annual basis and wishes to convert to an annual basis may do so in one of two ways. It may either -
- continue to report that business (including new business and renewals) on the underwriting year Forms but close all underwriting years including the youngest year; or
 - report new business and renewals on the accident year Forms, but continue to report old business (i.e. risks incepting prior to the current year) on the underwriting year Forms and close all underwriting years on those Forms.
183. An insurer may not transfer business previously reported on underwriting year Forms to the accident year Forms. The basic rule is that, when any risks are reported on either underwriting year or accident year Forms, the run-off of those risks must continue to be reported on the same Forms. However, renewals may be reported on either of the forms.

Forms 9 To 19

Form 9 – Technical Account

Completion of the Form

184. Form 9 is to be completed for each Reporting class (where any business falling in that Reporting class has been carried on). This Form presents the "General business: technical account".



185. Most entries in this form are derived from other forms. The only lines which do not derive from other Forms are lines 31, 33 and 37. If any amount is entered in lines 31 or 33 particulars must be stated in a supplementary note [code 0905].
186. The allocated investment income (line 37) is linked to line 9 of Form 8. The allocation, if any, should be the same as in the statutory accounts.
187. For accident year reporting the amounts in the shaded boxes derive from the following forms.
- | | | |
|----|--------------------------------------|------------------------------------|
| 2 | Gross premiums written | total of lines 2+3+4 of Form 10 |
| 3 | Outwards reinsurance premiums | total of lines 10+11+12 of Form 10 |
| 7 | Change in UPR – Gross | total of lines 5-6 of Form 10 |
| 8 | Change in UPR – Reinsurers' share | total of lines 14-13 of Form 10 |
| 12 | Gross claims paid | total of lines 4+14 of Form 11 |
| 13 | Claims handling costs | total of lines 9+18 of Form 11 |
| 14 | Reinsurers' share | total of lines 4+9 of Form 12 |
| 18 | Gross change in provision for claims | total of lines 3-5-15 of Form 11 |
| 19 | Change in claims handling costs | total of lines 8-10-19 of Form 11 |
| 20 | Change in reinsurers' share | total of lines 10+5-3 of Form 12 |
| 25 | Acquisition costs | total of lines 3+9 of Form 13 |
| 26 | Change in DAC | total of lines 4+10-2-8 of Form 13 |
| 27 | Admin Expenses | line 15 of Form 13 |
| 28 | Reinsurance Commissions receivable | line 21 of Form 13 |
188. For underwriting year reporting the amount in the shaded boxes derive from the following forms.
- | | | |
|----|--------------------------------------|---|
| 2 | Gross premiums written | line 9 of Form 16 |
| 3 | Outwards reinsurance premiums | line 19 of Form 16 |
| 7 | Change in UPR gross | (line 124 of Form 17) – (line 124 of Form 18) |
| 8 | Change in UPR reinsurers' share | (line 134 of Form 18) – (line 134 of Form 17) |
| 12 | Gross claims paid | line 29 of Form 16 |
| 13 | Claims handling costs | line 49 of Form 16 |
| 14 | Reinsurers' share | line 39 of Form 16 |
| 18 | Gross change in provision for claims | (total of lines 10+31-62 of Form 17) – (total of lines 10+31-62 of Form 18) |
| 19 | Change in claims handling costs | (line 51 of Form 17) – (line 51 of Form 18) |
| 20 | Change in Reinsurers' share | (total of lines 20+41 of Form 18) – (total of lines 20+41 of Form 17) |



25	Acquisition costs	total of lines 60+70 of Form 16
26	Change in DAC	(total of lines 176-186 of Form 18) – (total of lines 176-186 of Form 17)
27	Admin Expenses	line 80 of Form 16
28	Reinsurance Commissions receivable	line 90 of Form 16

Supplementary notes

189. There are six supplementary notes – notes 0901 to 0906 – see Annex 1.

Form 10 – Premiums (Accident Year)

Completion of the Form

190. Form 10 should be completed for each Reporting class (where any business falling in that Reporting class has been carried on). The form presents an analysis of premiums for business accounted for on an accident year basis. Premiums shall be shown before deduction for commissions.
191. In lines 2 and 3, premiums notified in the current year which relate to previous years' business should be entered in line 2 if it is fully earned in the previous year, or in line 3 if it is part earned/unearned in the current year. Reinsurers' share being entered in lines 10 and 11.
192. Line 4 should include premiums actually received prior to the financial year but relating to risks incepted in the financial year and exclude premiums received during the financial year but relating to risks incepting after the end of the financial year. In Forms 4 and 6, the accounting treatment adopted for premiums received in respect of risks incepting in future financial years should be the same as that adopted in the statutory accounts or, if this results in different amounts for the provision for unearned premium (either gross or the reinsurers' share) being shown in Form 4 or 6 as compared to Form 11, the Commission requests that the difference be identified and explained in a supplementary note. Reinsurers' share being entered in line 12.
193. Line 5 shows premiums receivable in previous financial years not earned in those years and brought forward to the current financial year (i.e. unearned premium provision brought forward.) Reinsurers' share being entered in line 13.
194. Line 6 shows unearned premium provision carried forward with the reinsurers' share being entered in line 14.
195. Gross premiums written on which solvency is calculated (line 1 of Form 2) is the amount which appears in line 4. Liability business (reporting classes 4, 6 and 12) is reflected in line 4 of Form 2.
196. Gross earned premiums (line 7) = lines 3 + 4 + 5 – 6. This amount is reflected in line 9 of Form 2 with liability business (reporting classes 4, 6 and 12) reflected in line 12 of Form 2.
197. Lines 2 + 3 + 4 is reflected in line 2 of Form 9 as gross premiums written with reinsurers' share (lines 10+11+12) reflected in line 3 of Form 9.

Supplementary notes

198. There are three supplementary notes – notes 1001 to 1003 – see Annex 1.

Form 11 – Gross Claims (Accident Year)

Completion of the Form

199. Form 11 should be completed for each Reporting class (where any business falling in that Reporting class has been carried on). The form presents an analysis of gross claims for business accounted for on an accident year basis.
200. The amount included for the provision for unexpired risks (lines 23 to 25), for any Reporting class, shall be determined without taking into account any surplus expected to arise on the unexpired risks falling within other Reporting classes.
201. However, in determining the total provision for unexpired risks (which is disclosed in Form 6 at line 4 and in Form 4 at line 26), deficits and surpluses in different Reporting classes may be offset (to the extent permitted by generally accepted accounting practice). Any surplus for a Reporting class thus offset against deficits in other Reporting classes, to the extent it relates to business accounted for on an accident year basis, should be shown as a negative provision in lines 23 to 25 for that Reporting class.
202. Amounts shown at lines 3 to 20 are to be shown undiscounted and related adjustments for discounting shown as lines 28 to 34.
203. Amount shown at lines 3 to 6 and 14 to 16 shall exclude amounts in respect of claims management costs.
204. The amounts in lines 38 and 40 derive from the amounts in line 36 of the returns for the two previous years. In the first years of using the forms, claims paid will be the amounts previously reported in INS 21.11.2 + 22.15.2 for the two previous years.
205. The amount in line 44 shall represent claim outstanding at the commencement of the reference period (ie. The financial year ended immediately prior to the reference period), e.g. at year end 31 December 2007 amount appearing will be claims outstanding at 31 December 2004.

Supplementary Notes

206. There are six supplementary notes – notes 1101 to 1106 – see Annex 1

Form 12 – Claims – Reinsurance Share (Accident Year)

Completion of the Form

207. Form 12 should be completed for each Reporting class (where any business falling in that Reporting class has been carried on). This form presents an analysis of reinsurance recoveries for business accounted for on an accident year basis.
208. Amounts shown at lines 3 to 11 are to be shown undiscounted and related adjustments for discounting shown at lines 14 to 16.
209. Amounts shown at lines 3 to 11 shall exclude amounts in respect of claims management costs.
210. The amounts in lines 22 and 24 derive from the amounts in line 20 of the returns for the two previous years. In the first years of using the forms, amount recoverable will represent the amounts previously reported in INS 22.12.4 + INS 22.16.4 for the two previous years.



Supplementary Notes

211. There are three supplementary notes – notes 1201 to 1203 – see Annex 1.

Form 13 – Net Operating Expenses (Accident Year)

Completion of the Form

212. Form 13 needs to be completed for each Reporting class (where any business falling in that Reporting class has been carried on). This form presents an analysis of operating expenses for business accounted for on an accident year basis.

Supplementary Notes

213. There are two supplementary notes – notes 1301 and 1302 – see Annex 1.

Form 14 – Analysis of Net Claims and Premiums (Accident Year)

Completion of the Form

214. This form is unchanged from our current form INS 23. The form is not linked to any other form in the Reporting package.
215. Form 14 needs to be completed for each Reporting class (where any business falling in that Reporting class has been carried on). The Form presents an analysis, by accident year, of the run-off of net claims and premiums. It consists of two parts-
- the last ten accident years (lines 1 to 10);
 - the prior accident years (line 11).
216. The accident years shown at lines 1 to 10 shall correspond to this financial year and the nine previous financial years.
217. The amount of earned premium shown at column N for each accident year should be updated each financial year to take account of over-or under-estimates of premium for that accident year.
218. All figures are to be shown net of the reinsurers' share, before any deduction for discounting and exclusive of any claims management costs.
219. Gross premiums earned in respect of an accident year shall be such proportion of gross premiums written as is attributable to risks borne by the insurer during that accident year. The reinsurers' share of premiums earned shall be attributed to the same accident years as the corresponding gross premiums earned, so as to calculate the net earned premiums for each accident year. Amounts required to be shown in respect of premiums shall be shown before deduction for commissions.
220. Where an amount is required to be shown for claims in respect of an accident year, that amount shall be determined on the basis of claims arising from incidents occurring during that accident year.
221. An incident giving rise to a claim under a claims-made policy shall be deemed to occur on the earlier of –
- (a) the date on which it is notified in accordance with the terms of that policy; or
 - (b) the date on which the period for which cover is provided under that policy expires.

222. Where an insurer has assumed, pursuant to a contract, responsibility (whether wholly or in part) for the payment or reimbursement of claims made under policies effected by another insurer, all incidents occurring prior to the date of such contract and giving rise to claims made under those policies shall be deemed to have occurred on the date of such contract.
223. The reference to responsibility assumed by an insurer shall include responsibility assumed as a reinsurer or under a transfer approved by the Commission under Schedule 10 to the Act or approved by the Competent Authority of an EEA State under Article 12 of Council Directive 92/49/EEC; and in the case of such a transfer the date of the contract shall be taken to be the date of the transfer.

Supplementary notes

224. There are two supplementary notes – notes 1401 and 1402 – see Annex 1.

Form 15 – Analysis of Gross Claims and Premiums (Accident Year)

225. This form is a simplification of the information that was previously provided in forms INS 31 and INS 32. The form is not linked to any other form in the Reporting package.
226. Captive insurers and reinsurers are not required to complete this form unless they opt to do so.
227. This form needs to be completed for each Reporting class and split into four regions –
- Gibraltar business (Gibraltar risks)
 - EEA Branch business
 - EEA Services business
 - Other business

There is no need to split the EEA Branch business and the EEA Services business down into the various EEA States. However, you will still need to provide the Statistical information under the Insurance Companies (Forms) Regulations 1996.

228. All figures are to be shown gross of the reinsurers' share, before any deduction for discounting and exclusive of any claims management costs.
229. The accident years at lines 1 to 10 shall correspond to this financial year and the nine previous financial years respectively.
230. The amounts shown for gross earned premiums for each accident year in column K should be updated each financial year to take account of over-or under-estimates of premiums for that year.
231. Gross premiums earned in respect of an accident year shall be such proportion of gross premiums written as is attributable to risks borne by the insurer during that accident year. The reinsurers' share of premiums earned shall be attributed to the same accident years as the corresponding gross premiums earned, so as to calculate the net earned premiums for each accident year. Amounts required to be shown in respect of premiums shall be shown before deduction for commissions.
232. Where an amount is required to be shown for claims in respect of an accident year, that amount shall be determined on the basis of claims arising from incidents occurring during that accident year.

233. An incident giving rise to a claim under a claims-made policy shall be deemed to occur on the earlier of –
- (a) the date on which it is notified in accordance with the terms of that policy; or
 - (b) the date on which the period for which cover is provided under that policy expires.
234. Where an insurer has assumed, pursuant to a contract responsibility (whether wholly or in part) for the payment or reimbursement of claims made under policies effected by another insurer, all incidents occurring prior to the date of such contract and giving rise to claims made under those policies shall be deemed to have occurred on the date of such contract.
235. The reference to responsibility assumed by an insurer shall include responsibility assumed as a reinsurer or under a transfer approved by the Commission under Schedule 10 to the Act or approved by the Competent Authority of an EEA State under Article 12 of Council Directive 92/49/EEC; and in the case of such a transfer the date of the contract shall be taken to be the date of the transfer.

Supplementary notes

236. Only one supplementary note is required – note 1501 – see Annex 1.

Form 16 – Underwriting Analysis (Underwriting Year)

Completion of the Form

237. Form 16, is only relevant for business accounted for on an underwriting year basis. The Form reconciles the technical provisions brought forward to that carried forward, with premiums, claims, expenses and profits/losses as the reconciling items.
238. The underwriting years correspond to the current year, the 5 previous financial years and prior years.
239. All premium amounts at lines 2 to 9 should be shown gross of commission.
Amounts shown in lines 22 to 39 shall exclude claims management costs.
The amounts shown at lines 2 to 100 shall be the amounts payable or receivable during this financial year.
240. Net operating expenses (lines 53 to 90) should not include the increase or decrease in deferred acquisition costs, (“DAC”). Instead, the DAC brought forward and carried forward are included respectively at lines 103 to 109 and 113 to 119. [DAC is reflected in Forms 17 and 18].
241. Gross premiums written in an underwriting year shall be the amount of such premiums arising in respect of contracts of insurance incepting during that underwriting year, whether or not they are received during that underwriting year. The reinsurers’ share of premiums written shall be attributed to the same underwriting years as the corresponding gross premiums written.
242. Where an amount is required to be shown for claims in respect of an underwriting year, that amount shall be determined on the basis of claims arising under contracts of insurance incepting during that underwriting year.
243. Apart from Technical Provisions brought forward and carried forward all information in this form needs to be inputted for each Reporting class.

244. The amounts in lines 135 and 136 derive from the amounts in line 134 of the returns for the two previous years. In the first year of using the forms, claims paid will be the amounts previously reported in line 21 (total column) of form INS 24.
245. The amounts in lines 142 and 143 derive from the amounts in line 141 of the returns for the two previous years. In the first year of using the forms, amounts recoverable will represent the amounts previously reported in INS 24.22 (total column) + (INS 25.12 (total column) + INS 25.14 (total column) – (INS 25.12 (total column) + INS 25.14 (total column) for year -1).
246. The amount in line 147 shall represent claims outstanding at the commencement of the reference period (i.e. the financial year ended immediately prior to the reference period), e.g. at year end 31 December 2007 amounts appearing will be claims outstanding at 31 December 2004.
247. Where an insurer has acquired policies under a transfer approved by the Commission under Schedule 10 to the Act or approved by the Competent Authority of an EEA State under Article 12 of Council Directive 92/49/EEC, the policies transferred to the insurer shall be taken to have incepted on the date of such transfer.

Supplementary notes

248. There are eight supplementary notes – notes 1601 to 1608 – see Annex 1.

Forms 17 and 18 – Analysis of Technical Provisions Brought Forward and Carried Forward (Underwriting Year)

Completion of the Form

249. These forms are only relevant for business accounted for on an underwriting year basis. The forms analyse the Technical Provisions brought forward and carried forward.
250. The guidance given above for the completion of form 16 also applies for this form.
251. The extent to which the Form is to be completed differs for "open" and "closed" years. Lines 3 to 51, 86 to 103 and 217 shall be completed for open years and lines 3 to 82 and 107 to 217 for closed years. [For this purpose business accounted for under the annual method should be regarded as "closed year" business]. Claims outstanding and IBNR, plus management costs, should be shown for "open" and "closed" business. See also paragraphs to above for further guidance.
252. The offset of surplus and deficits on open years for business managed together should be shown at lines 86 to 93 with a surplus on the underwriting year, which is to be offset against deficits arising elsewhere, shown as a positive amount and a deficit, which is to be offset against surpluses arising elsewhere, shown as a negative amount. The balance of the fund should be shown at lines 96 to 103. For open years there will be no entries in lines 117 to 207.
253. Further disclosure needs to be given in relation to closed years, in particular, the adjustment for discounting (lines 55 to 82) and lines 117 to 207.
254. The amount included for the provision for unexpired risks (lines 149 to 165), for any Reporting class, should be determined without taking into account any surplus expected to arise on the unexpired risks falling within other Reporting classes.

255. In determining the total provision for unexpired risks (which is disclosed in Form 6 at line 4 and in Form 4 at line 26), deficits and surpluses in different Reporting classes may be offset (to the extent permitted by generally accepted accounting practice). Any surplus for Reporting class thus offset against deficits in other Reporting classes, to the extent it relates to business accounted for on an underwriting year basis, should be shown as a negative provision on Forms 17 or 18 for that Reporting class.
256. Lines 24 to 41 refer to both open and closed years to "claims incurred but not reported". For closed years, this does not include provisions for claims not incurred, i.e. claims expected to be incurred after the end of the financial year. For closed years, such yet-to-be-incurred expected claims are provided against by the provision for unearned premiums and unexpired risks, (lines 117 to 165). For open years, such yet-to-be-incurred expected claims may either be included at lines 24 to 41 or included as one of the elements represented by the balance of the fund, lines 96 to 103.
257. Lines 3 to 51 are to be shown before adjustment for discounting.
Lines 3 to 41 and 55 to 72 shall exclude claims management costs.
258. Amounts may only be included at lines 86 to 93 in so far as they arise from the offset of anticipated surpluses and deficits on business managed together. Risks may be regarded as managed together if –
- (a) they incept in the same financial year and are accounted for using the non-annual method; and
 - (b) they may be treated as managed together under generally accepted accounting practice.
259. All information on both of these forms needs to be inputted for each Reporting class.
260. The amounts in lines 211 to 217 of Form 17 flow into Form 16 (lines 104 to 110).
The amounts in lines 210 to 217 of Form 18 flow into Form 16 (lines 113 to 120).

Supplementary notes

261. There are five supplementary notes for Form 17 – notes 1701 to 1704 and three supplementary notes for Form 18 – notes 1801 to 1803 – see Annex 1.

Form 19 – Analysis of Gross Claims and Premiums (Underwriting Year)

Completion of the Form

262. This form is a simplification of the information that was previously provided in form INS 34. The form is not linked to any other form in the Reporting package.
263. Captive insurers and reinsurers are not required to complete this form unless they opt to do so.
264. This form needs to be completed for each Reporting class and split into four regions.
- Gibraltar business (Gibraltar risks)
 - EEA Branch business

- EEA Services business
- Other business

There is no need to split the EEA Branch business and the EEA Services business down into the various EEA States. However, you will still need to provide the Statistical information under the Insurance Companies (Forms) Regulations 1996.

265. All figures are to be shown gross of the reinsurers' share, before any deduction for discounting and exclusive of any claims management costs.
266. The underwriting years at lines 1 to 10 shall correspond to this financial year and the nine previous financial years respectively.
267. The amounts shown for gross premiums for each underwriting year in column K should be updated each financial year to take account of over-or under-estimates of premiums for that year.
268. Gross premiums written in an underwriting year shall be the amount of such premiums arising in respect of contracts of insurance incepting during that underwriting year, whether or not they are received during that underwriting year. The reinsurers' share of premiums written shall be attributed to the same underwriting years as the corresponding gross premiums written. Amounts required to be shown in respect of premiums shall be shown before deduction for commissions.
269. Where an amount is required to be shown for claims in respect of an underwriting year, that amount shall be determined on the basis of claims arising under contracts of insurance incepting during that underwriting year.
270. Where an insurer has acquired policies under a transfer approved by the Commission under Schedule 10 to the Act or approved by the Competent Authority of an EEA State under Article 12 of Council Directive 92/49/EEC, the policies transferred to the insurer shall be taken to have incepted on the date of such transfer.

Supplementary notes

271. There is one supplementary note – note 1901 – see Annex 1.

The Regulation 23 Statement: Derivatives

Scope of the statement

272. Every insurer is required to make a Regulation 23 statement, whether or not it used derivatives in the year in question. For this purpose, "derivatives" is defined by Regulation 23 to include not only contracts which have the legal form of a derivative contract but also the quasi-derivatives defined in Regulation 14A of the Asset Valuation Regulations. The latter category includes a number of instruments which are in common use and which have certain characteristics of a derivative, such as partly-paid shares and convertible bonds.
273. For those insurers whose policy and practice is to use neither derivatives nor quasi-derivatives, a short statement to this effect is all that is necessary.
274. Regulation 23 reads as follows –
- “23.(1) Every insurer shall, in respect of the financial year in question, include a statement comprising a brief description of –
- (a) any investment guidelines operated by the insurer for the use of derivative contracts;

- (b) any provision made by such guidelines for the use of contracts under which the insurer had a right or obligation to acquire or dispose of assets which was not, at the time when the contract was entered into, reasonably likely to be exercised and, if so, the circumstances in which, pursuant to that provision, such contracts would be used;
 - (c) the extent to which the insurer was during the financial year a party to any contracts of the kind described in paragraph (b);
 - (d) the extent to which any of the amounts recorded in Form 4 would be changed if assets which the insurer had a right or obligation to acquire or dispose of under derivative contracts outstanding at the end of the financial year (being, in the case of options, only those options which it would have been prudent to assume would be exercised) had been so acquired or disposed of;
 - (e) how different the information provided pursuant to paragraph (d) would have been if such options as were outstanding at the end of the year had been exercised in such a way as to change the amounts referred to in that paragraph to the maximum extent;
 - (f) how different the information provided pursuant to paragraphs (d) and (e) would have been if, instead of applying to contracts outstanding at the end of the financial year, those paragraphs had applied to derivative contracts outstanding at such other time during the financial year as would have changed the amounts referred to in those paragraphs to the maximum extent;
 - (g) the maximum loss which would be incurred by the insurer on the failure by any one other person to fulfil its obligations under derivative contracts outstanding at the end of the financial year, both under existing market conditions and in the event of other foreseeable market conditions, together with an assessment of whether such maximum loss would have been materially different at any other time during the financial year.
 - (h) the circumstances surrounding the use of any derivative contract held at any time during the financial year which did not fall within sub-regulation (2) of regulation 14 of, or (where appropriate) paragraph 14 of Schedule 3 to, the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996; and
 - (i) the total value of any fixed consideration received by the insurer (whether in cash or otherwise) during the financial year in return for granting rights under derivative contracts and a summary of contracts under which such rights have been granted.
- (3) For the purposes of this regulation, an insurer which is a party to –
- (a) a contract for differences; or
 - (b) any other contract which is to be, or may be, settled in cash,
- shall be taken to have a right or obligation to acquire or dispose of the assets underlying the contract.”

The Regulation 24 Statement: Shareholder Controllers

275. The Regulation 24 statement is only required for an insurer which falls within the definition in section 2(2) of the Act of "Gibraltar insurer" which is defined as an insurance or reinsurance company which is incorporated in, has its head office in, and is licensed in Gibraltar.
276. Regulation 24 requires a list of all persons who were, to the insurer's knowledge, at any time during the financial year shareholder controllers of the insurer together with their percentage share holding and voting power at the end of the financial year in the insurer (or in another company of which the insurer is a subsidiary undertaking).
277. The duty to list shareholder controllers under Regulation 24 is separate and distinct from the requirement to notify those persons under sections 41 to 44 of the Act. Including such a person in the Regulation 24 list does not relieve him/her of the duty to make notifications under those sections, or vice versa.
278. A shareholder controller is defined by section 2(16) of the Act as any person who either alone, or with any associate or associates -

- holds 10 per cent. or more of the shares in the insurer, or another company of which it is a subsidiary undertaking;
- is entitled to exercise, or control the exercise of, 10 per cent. or more of the voting power at any general meeting of the insurer or another company of which it is a subsidiary undertaking; or
- is able to exercise a significant influence over the management of the insurer or another company of which it is such an undertaking by virtue of -
 - (i) a holding of shares in; or
 - (ii) an entitlement to exercise, or to control the exercise of, the voting power at any general meeting of,
 the insurer or, as the case may be, that other company.

In the statement for an insurer that is part of a group with more than one intermediate holding company, there may be several levels of shareholder controllers to list, since each intermediate holding company has to be reported.

279. For the above, an "associate" of a person is -
- the wife or husband or minor son or daughter of that person;
 - the trustees of any settlement under which that person has a life interest in possession;
 - any company of which that person is a director;
 - any person who is an employee or partner of that person;
 - if that person is a company -
 - (i) any director of that company;
 - (ii) any subsidiary undertaking of that company;
 - (iii) any director or employee of any such subsidiary undertaking;
 and
 - any other person with whom that person has made an agreement or arrangement -

- (i) with respect to the acquisition, holding or disposal of shares or other interests in the company concerned or another company of which it is a subsidiary undertaking; or
 - (ii) under which they undertake to act together in exercising their voting power in relation to the company concerned or another company of which it is such an undertaking.
280. Further guidance on the definition of shareholder controller is given in Insurance Guidance Note No. 3.
281. The percentage shareholder and voting rights to be disclosed in the Regulation 24 statement should include the holding/rights of associates.
282. Where there are no shareholder controllers to report, the Regulation 24 statement should state this.
283. A suggested proforma is at Annex 2, but it is not necessary to use it.

The Regulation 19, 20 and 21 Statements: Major Treaty Reinsurers, Major Facultative Reinsurers And Major Cedants

General

284. Regulations 19, 20 and 21 require the submission of additional information with regards to major treaty reinsurers, major facultative reinsurers of and major reinsurance cedants, respectively. These statements are intended to give information on the insurer's exposure to particular treaty and facultative reinsurers where they are material, and also on the major sources of the insurer's inward treaty reinsurance business. All of the statements are subject to audit.
285. All three statements require the following information:
- full name and address of the reinsurer/cedant;
 - whether (and, if so, how) the reinsurer/cedant was connected with the insurer during the year;
 - reinsurance premiums payable/gross premiums receivable from the reinsurer/cedant during the year; and
 - the amounts of any debts/deposits received, and recoveries anticipated, which are included in the return as follows.
 - (i) Regulation 19/20
 - Debts due: Form 4 line 38.
 - Deposit received: Form 6 line 16.
 - Recoveries included in reinsurers share of technical provision: Form 4 line 25. In respect of IBNR, such recoveries need only be included to the extent that they are in respect of any specific occurrences for which provisions have been allocated by the insurer.
 - (ii) Regulation 21
 - Deposit made: Form 4 line 21.
 - Debt Due: Form 4 line 37.

286. If the insurer has no disclosable major treaty reinsurers, major facultative reinsurers or major cedants, the Regulation 19, 20 or 21 statement should state that this is the case.

Major treaty reinsurers

287. Regulation 19 requires every insurer which carries on general business to prepare a statement of its major treaty reinsurers. The items to be included in that statement are listed in Regulation 19(1) and set out in paragraph 285. The statement is intended to inform the reader of the returns of the insurer's exposure to particular treaty reinsurers where they are material.
288. Regulation 19(2) lays down two tests for identifying major treaty reinsurers -
- a premium ceded limit; and
 - a debt plus anticipated recoveries limit.
289. A major treaty reinsurer is any reinsurer which either exceeds the "premium ceded" limit in the current or any of the five immediately preceding financial years or exceeds the "debt plus anticipated recoveries" limit at the current year end. The limits are applied in aggregate, (i.e. to the sum of all amounts from all treaties ceded to that reinsurer), except that the premium ceded limit is applied separately for, and differs in respect of, proportional and non-proportional treaty aggregates.
290. The "premium ceded" limits are -
- for proportional treaty reinsurance, 2% of total gross premium written of the insurer;
 - for non-proportional treaty reinsurance, 5% of the total premium payable in respect of all non -proportional reinsurance.
291. The "debt plus anticipated recoveries" limit is 5% of the insurer's general business amount. (See Guidance Note No. 4 on the Valuation of Assets which explains how the general business amount is calculated.) The "debt plus anticipated recoveries" which are compared with this limit should include the amount of any debt due or reinsurance recovery anticipated from the reinsurance in respect of treaty reinsurance ceded, but only to the extent that they are taken into account in Form 4 (lines 25 and 38), i.e. net of any specific bad or doubtful debt provision. Further, the anticipated recoveries need only be included to the extent they arise from the reinsurer's share of the gross provision for notified outstanding claims, and IBNR claims arising from specific occurrences (e.g. hurricane, earthquake) to which provisions have been allocated.
292. If two or more reinsurers are connected to each other, the "premium ceded" and "debt plus anticipated recoveries" limits should be compared to their total business. If either limit is exceeded, all the connected reinsurers should be considered major treaty reinsurers and the items referred to in Regulation 19(1) listed separately for each.

Major facultative reinsurers

293. Regulation 20 requires every insurer which carries on general business to prepare a statement of its major facultative reinsurers. The items to be included in that statement are listed in Regulation 20(1) and set-out in paragraph 285. The statement is intended to inform the reader of the returns to the insurer's exposure to particular facultative reinsurers where they are material.

294. The definition of major facultative reinsurer and the items to be included in the statement are similar to that for the major treaty reinsurers. The differences are explained below.
295. The "premium ceded" and "debt plus anticipated recoveries" limits are applied separately for each facultative reinsurance contract. The items to be stated for the major facultative reinsurer need only be in respect of the major facultative reinsurance contract (and, if there is more than one major facultative reinsurance contract for that reinsurer, should be stated separately for each). Other (smaller) facultative reinsurances of the same reinsurer may be ignored.
296. The "premium ceded" limit is ½% of total gross premiums written. The "debt plus anticipated recoveries" limit is 1% of the general business amount. A major facultative reinsurance is a facultative reinsurance which exceeds either limit in the current financial year. [Note: unlike for treaty reinsurance, there is no reference back to the five preceding financial years in applying the "premium ceded" limit. Nor are connected reinsurers aggregated in applying either limit.]

Major cedants

297. Regulation 21 requires every insurer which carries on general business to prepare a statement of its major cedants. The items to be included in that statement are listed in Regulation 21(1) and set-out in paragraph 285. The statement is intended to inform the reader of the returns of the major sources of the insurer's inward treaty reinsurance business.
298. A major cedant is any insurer from which the gross premiums written in respect of the total business accepted under treaty reinsurances exceeds the greater of -
- 5% of total gross premiums written under all treaty reinsurances accepted; and
 - 2% of gross premium written from all sources,
- for the current or any of the three immediately preceding financial years.
299. If two or more cedants are connected, the above limits should be compared to their total business. If either limit is exceeded, all the connected cedants should be considered major cedants and the items referred to in paragraph 309 above separately listed for each.

Connected companies

300. Regulation 22 defines when companies should be regarded as connected for the purposes of Regulations 19 to 21. The need to define "connected" arises in two contexts
- firstly, as explained above, in identifying major treaty reinsurers and major cedants, reinsurers connected to each other and cedants connected to each other are respectively grouped.
 - secondly, one of the items to be disclosed in respect of each major treaty reinsurer, major facultative reinsurer and major cedant is whether (and, if so, how) it is connected to the insurer;
301. The test of "connection" differs somewhat for these two uses. In both uses, a person (i.e. individual or body corporate) and a body corporate are considered connected if the person is -
- a subsidiary undertaking of the body corporate;
 - a parent undertaking of the body corporate; or

- a subsidiary undertaking of a parent undertaking of the body corporate.
302. In the second use, a person and body corporate would also be considered connected if one of them is controlled by the other; or if they are both controlled by the same person. For these purposes, a special definition of control applies - see sub-regulations (2) and (3) of Regulation 22 which define control for these purposes.
- Sub-regulations (2) and (3) read –
- “(2) Except as provided in sub-regulation (3), for the purposes of paragraph 302, a person shall be taken to control a body corporate if he is a person-
- (a) in accordance with whose directions or instructions the directors of the body corporate or of a body corporate of which it is a subsidiary are accustomed to act; or
 - (b) who, either alone or with any associate or associates, is entitled to exercise, or control the exercise of 15% or more of the voting power at any general meeting of the body corporate or of a body corporate of which it is a subsidiary.
- (3) In relation to an insurer –
- (a) making a statement pursuant to regulation 19 or 20, a reinsurer shall not be taken by virtue of sub-regulation (2) to be connected with another reinsurer; or
 - (b) making a statement pursuant to regulation 21, a cedant shall not be taken by virtue of sub-regulation (2) to be connected with another cedant, for the purposes of sub-regulation (2) of the said regulations 19, 20 or 21, as the case may be, unless it is also connected by virtue of sub-regulation (1) with the insurer making the statement.”

303. Both the above definitions of "connected" are subject to the exception that a person and body corporate are not to be considered connected if the reporting insurer -

 - does not know, and
 - could not upon reasonable enquiry be expected to find out,

that the connection exists.

304. Other than in exceptional circumstances, the reporting insurer should know of any connections between its reinsurers (or cedants) and itself or companies with which it is connected. However, the insurer making the return may not in all cases be aware of connections between its reinsurers (or cedants) where they are not in turn connected to the insurer. In order to comply with the requirement to make "reasonable enquiry", it will suffice for the insurer making the return to refer to the latest available published accounts etc. (provided that, in all cases, the source to which reference is made has been published within twelve months of the end of the financial year to which the return relates). Alternatively, the insurer may request any or all of its reinsurers (or cedants) to provide details of their connected companies. If no information is available from acceptable published material, or obtained in response to a specific approach to a reinsurer (or cedant), the Commission takes the view that, in the usual case, the obligation to make a "reasonable enquiry" will have been satisfied, and, should the information be found to be inaccurate or incomplete, no offence will have been committed under the Act by the insurer

making the return. (However, possible breaches of the Regulations will need to be considered case by case. The foregoing is, therefore, only a general guide to the Commission's likely attitude).

305. The above rules do not apply in respect of reinsurers who are members of Lloyd's. For the purposes of preparing the Regulation 19, 20 and 21 statements, all members of Lloyd's are taken as a whole.

Nil returns

306. Where there are no disclosable major treaty reinsurers, major facultative reinsurances or major cedants, the statements should state that this is the case.

The Regulation 26/Schedule 5 Statement: Business Ceded

Overview

307. The Schedule 5 statement should be prepared by all insurers which carry on general business. It is not subject to audit, however. The statement is intended to give an overview of the insurer's outward non-facultative reinsurance protections. Its minimum contents are prescribed in paragraph 1 to 5 of Schedule 5 which provide as follows.

Paragraphs 1 & 2

308. Paragraph 1 requires a description to be given for each outward non-facultative reinsurance contract entered into, or modified, during the financial year. The description includes -
- Type of business covered by reference to Reporting classes. If only part of a Reporting Class is covered, a description of that part shall be given;
 - Type of cover including such details as the terms and condition of the contract as are necessary for a proper understanding of the nature of the cover;
 - policy limits, including any event limits, limits on amount of business ceded and number of reinstatements and aggregate limits; and
 - period of cover.
309. A contract is "modified" (see paragraph 2(1) of Schedule 5) when the terms of the original contract are altered by mutual agreement of the parties. If one party exercises an option (e.g. to extend cover) which is contained in the original policy, this does not constitute a "modification". The existence of the option should be disclosed in the "type of cover" description given at the time when the policy was originally disclosed.
310. Information on contracts modified during the financial year need only be given if the modification renders the information originally disclosed either inaccurate or materially incomplete.
311. The lay-out and presentation of the information required by this paragraph is at the discretion of the insurer provided that is "fairly presented" (see Regulation 5), legible and complete. In particular, the information may be presented, wholly or in part, in the form of a table or chart. However, information on reinsurances which cover the same type of business for similar periods of cover is laid out together.

Paragraph 3(a)

312. This sub-paragraph requires extra disclosure for outward reinsurance contracts which are subject to no, or a finite number of, reinstatements. Where it is anticipated that claims arising from incidents which occurred during or prior to the financial year will fully exhaust the reinsurance (including all reinstatements) this should be disclosed.
313. The disclosure is required for any reinsurance reported under paragraph 312 whether in the present or previous returns. The disclosure need only be given once, i.e. if a particular reinsurance is reported under paragraph 3(a), it need not be so reported under the paragraph in subsequent returns.

Paragraph 3(b) & (c)

314. These sub-paragraphs require extra disclosure where reinsurers representing a 10% or more participation in any reinsurance have “ceased to pay claims to their reinsureds in full”. This refers to where a reinsurer ceases to pay claims in full, as they fall due, to all or substantially all of its reinsureds. It does not require that the reinsurer should have actually refused to pay (in full) the particular insurer preparing the return. Nor does it include situations where the reinsurer is refusing to pay that particular insurer (e.g. due to a dispute) but is continuing to pay the general body of its reinsureds.
315. The cessation of claims payment in full referred to would typically arise where the reinsurer is in liquidation, provisional liquidation, or is paying less than 100% of claims under the provisions of a scheme of arrangement (or is subject to similar insolvency processes under the laws of other countries). However, it would also include situations where the reinsurer was operating a claims-moratorium outside the protection of a formal insolvency legal process.
316. The disclosure under these sub-paragraphs is required for any reinsurance reported under paragraph 314, whether in the present or previous returns.
317. The disclosure should identify the reinsurance contract and state the participation in that reinsurance represented by reinsurers which have ceased to pay claims in full. [But it is not necessary to name those reinsurers.] Once this disclosure has been made for a particular reinsurance contract, it need not be repeated in subsequent returns unless, due to further reinsurers ceasing to pay claims in full, the percentage has increased by more than 10%.
318. The percentage to be disclosed is the full percentage participation for a reinsurer even if that reinsurer is still making partial payments on claims. For example, if ABC Reinsurance Co. has a 10% line on a reinsurance policy and ABC is now paying claims at 60 pence in the pound, the full 10% should be disclosed. The fact that 60 pence on the pound on that 10% participation, is still being paid may also be disclosed, but there is no requirement to do so.

Paragraph 4

319. This paragraph requires disclosure of the insurer's maximum probable loss (net of reinsurance) (MPL) from -
- any one contract; and
 - all contracts taken together.
320. The disclosure is required separately for each Reporting class, or part thereof, in respect of which separate non-facultative reinsurance cover has been obtained.



321. A separate MPL for every non-facultative reinsurance policy is not required. Only one MPL on each of the bases "any one contract effected by the insurer" and "all contracts taken together", should be disclosed for each Reporting class, or part thereof, as described in the above paragraph. The MPL should be net of all reinsurance protecting the Reporting class or part thereof.
322. The MPL should not be confused with the deductible or retention on the insurer's lowest level of reinsurance protection. It may only equal that amount where (i) the maximum probable gross loss is not expected to exceed the reinsurance protection; (ii) the reinsurance protection is fully placed, i.e. no co-reinsurance; and (iii) recovery from the reinsurance protection does not result in liability for additional premiums.
323. Sub-paragraph (2) defines maximum probable net loss. It, amongst other things, refers to "any one incident or series of incidents arising from the same originating cause". This wording is intended to require the aggregation of losses from a single incident, or series of incidents, where the MPL's would have to be aggregated for the purpose of making recoveries on the insurer's (higher layers) reinsurance. It is self-evident that this "all contracts taken together" MPL cannot be less than the "any one contract" MPL.

Paragraph 5

324. This paragraph requires that the split of reinsurance premiums (as shown on Forms 10 and 16) for each Reporting class between facultative and non-facultative reinsurance be disclosed.
325. A table along the following lines would be appropriate –

Reporting Class	Faculative Reinsurance	Non-facultative Reinsurance	Total
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Certificates By The Directors And Report Of The Auditors

Certificate by the directors etc.

326. Part I of Schedule 6 to the Regulations specifies the statements to be included in the directors' certificate. These vary according to the type of company and the types of business which it writes.
327. Where, in the opinion of those signing the certificate, the circumstances are such that any of the statements required by paragraphs 1 to 6 of the Schedule cannot truthfully be made, the relevant statements shall be omitted, (see paragraph 7(1) of the Schedule). Where any statements have been omitted, this fact shall be stated in a note, (see paragraph 7(2) of the Schedule) and reasons given.
- Paragraph 7 reads as follows –
- "7(1). Where, in the opinion of those signing the certificate, the circumstances are such that any of the statements required by paragraphs 1 to 6 cannot truthfully be made, the relevant statements shall be omitted.
- (2) Where, by virtue of sub-paragraph (1), any statements have been omitted from the certificate, this fact shall be stated in a note."
328. Paragraph 5 of Part I of Schedule 6 covers directors' certificates in respect of two types of published guidance - "systems of control" and "preparation of returns" guidance. The Commission will circulate from time to time a list of the published guidance which is considered relevant for this purpose.

329. In order to certify compliance with “systems of control” guidance, it is necessary for the directors to be satisfied that the control system was in place at the end of the financial year in question, and that it was reasonable to believe that the systems continued to be in place after that date and will continue to be in place for the foreseeable future. In this instance, the beliefs which the directors hold at the time of signature of the returns are the relevant ones. For example, if the system was believed to be in place at the end of the financial year in question, had clearly - but unexpectedly - failed shortly afterwards and was once again believed to be in place at the time of signature of the returns, the certificate could not properly be given.
330. As to the standard of compliance required, the Commission recognises that absolute assurance is most unlikely to be achieved. By way of illustration, an isolated human error would not of itself be considered a failure of the system provided that the system is capable of recognising and rectifying the error swiftly. Frequent or repeated errors would however cast doubts on the integrity of the system.
331. A list of the guidance complied with is sufficient. Where only part of a published guidance note is complied with, it is acceptable to claim compliance with that part. Where directors do not know, or cannot satisfy themselves, whether guidance has been complied with, such guidance should be omitted from the list. It is not necessary to state which guidance has not been complied with, except in rare cases when no published guidance has been complied with (in which case the negative disclosure referred to in paragraph 327 comes into play).
332. An example certificate is attached as Annex 3.

The auditors' report

333. Regulation 29 specifies the scope of the audit. The contents of the auditors' report are set out in Part III of Schedule 6. Section 47 of the Act specifies the qualifications of an auditor.
334. The Auditing Practice Board in the UK issues separate guidance notes specifically for auditors of insurance companies and it is recommended that auditors should refer to them.
335. The parts of the return which are subject to audit are -
- Forms 1 to 19; and
 - the statements furnished under Regulations 19,20, 21 and 23.
336. The unaudited parts of the return are -
- the statements furnished under regulations 24 and 26.
337. The auditors report must state whether the Director's certificate (except to the extent it refers to the unaudited parts of the returns) has been properly prepared in accordance with the Regulations, and whether or not it was unreasonable for the persons giving that certificate to have made the statements contained in it. Paragraph 11 provides that, to the extent that the information and explanations the auditors have received do not allow them to express this opinion, they should add to their report "such qualification, amplification or explanation as may be appropriate".
338. The Commission considers that it is appropriate for compliance with most, but not necessarily all, relevant published guidance to be subject to the audit opinion described above. When, periodically, a list of relevant published guidance is circulated (as mentioned in paragraph 328), the Commission will make clear whether or not he would normally expect an audit opinion in

respect of compliance with that guidance. Where audit of compliance with a guidance note is inappropriate (or has not been carried out for some reason), the auditor would be expected to invoke paragraph 11 of Schedule 6 to record the fact.

339. Paragraph 12 of Schedule 6 provides that where the auditors refer in their report, or in any note attached thereto, to any uncertainty, the report shall also state whether, in the auditor's opinion, that uncertainty is material to determining whether the insurer has available assets over the appropriate solvency margin. This paragraph should not be read as requiring the auditors to refer to an uncertainty. It merely provides that, if they do so, an additional opinion is required. The Commission expects an uncertainty to be treated as material for these purposes if, upon the crystallisation of so much of the uncertainty as is not remote, the required level of available assets would not be met.
340. An example report is attached as Annex 4. It is also recommended that auditors should become familiar with APB Practice Note 20 (The Audit of Insurers in the United Kingdom).

Statistical Returns

Background

341. Forms 1 and 2 of Schedule 4 to the Insurance Companies (Forms) Regulations 1996 ("the Forms Regulations") do not form part of the New Returns but constitute a separate return which must be deposited with the Commission, (the "statistical return").
342. The statistical return reports insurance business transacted by a Gibraltar insurer in EEA States, either through a branch in that country or on a services basis into that country from an establishment in Gibraltar or an EEA State. This requirement is in respect of insurance only.

The statutory requirement to deposit Forms 1 and 2

343. The requirement to prepare and deposit Forms 1 and 2 is set out in Part XIIA of the Act (section 119A). The format of these Forms is laid out in Regulation 5 of, and Schedule 4 to, the Forms Regulations.
344. A Gibraltar insurer which in any calendar year -
- carries on general business in an EEA State through a branch in that State should prepare Form 1;
 - provides general insurance in an EEA State through an establishment in Gibraltar or in an EEA State should prepare Form 2;
345. The Forms should be prepared separately in respect of each EEA State in which the company carries on business, or provides insurance.
346. The Forms relate to calendar years not necessarily financial years and each Form (where required) should be deposited with the Commission within nine months of the end of each calendar year. They should be signed by a director, chief executive or secretary of the insurer.
347. Where the insurer has made a notification of its intention to establish a branch in an EEA State, or to provide insurance in an EEA State, but does not in any calendar year carry on insurance business or provide insurance in that EEA State, it should send notification of that fact to the Commission within nine months of the end of each calendar year signed by a director, chief executive or secretary of the insurer.



348. The forms are not subject to audit.
349. No section 113 concession may be granted modifying, or exempting insurers from, the requirement to deposit Forms 1 and 2.

Inaccurate or incomplete returns

350. Section 119A(8) of the Act requires the Commission to consider the forms or notification deposited and, if any such document appears to him to be inaccurate or incomplete, to communicate with the insurer with a view to the correction of any such inaccuracies and the supply of deficiencies.

Conventions for completing the Forms

351. The conventions described in paragraphs 29 to 43 for the New Returns should also be applied to the preparation of these Forms, (other than in respect of signature of the returns for which see paragraph 346).

Accounting rules

352. The Forms variously call for amounts in respect of premiums, claims, commissions etc. in respect of the branch or services business in the EEA State to which they relate. These amounts should be determined using the same accounting rules as are applied in the preparation of New Returns.

Annex 1: Supplementary Notes

Code

- 0101 Where a section 113 Order has been issued disapplying or modifying any of the provisions of the Regulations (including preparation of the returns), a note to Form 1 explaining the effect of the order is required. [This note is compulsory].
- 0102 In addition to the reconciliation of balance of net assets brought forward and carried forward, which appears on the face of Form 1, a further reconciliation, which takes net assets as per the Annual Return and reconciles them to the net assets as they appear in the statutory accounts is required by way of supplementary note.
- The reconciliation in between line 6 of Form 5 less line 43 of Form 6 and the amount shown under balance sheet item A "capital and reserves" in the company's accounts. [This note is compulsory].
- 0103 Particulars of any "other movements" shown at line 21.
- 0104 Particulars of any section 113 order allowing subordinated loan capital not to be treated as a liability for the purposes of determining whether the insurer holds net assets which match its required margin of solvency – the requirement for this note will be specified in the section 113 order itself.
- 0105 If the comparatives or any brought forward amounts differ from the amounts in the previous return, the reasons should be stated.
- 0201 If the comparatives or any of the brought forward amounts differ from the amounts in the previous return, the reasons should be stated.
- 0301 If the comparatives or any of the brought forward amounts differ from the amounts in the previous return, the reasons should be stated.
- 0401 The aggregate values of (i) unlisted investments, (ii) certain listed investments, (iii) units or beneficial interests in certain collective investment schemes and (iv) reversionary interests or remainders in property other than land or buildings, together with a description of the assets in question i.e.
- (i) unlisted investment falling within any of lines 8 and 13 which have been valued in accordance with regulation 6 of the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996; or
 - (ii) listed investments falling within any of lines 8 and 13 which have been valued in accordance with regulation 6 of the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996 and which are not ready realisable; or
 - (iii) units or other beneficial interests in collective investments schemes falling within paragraph (c) of regulation 10(1) of the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996; or
 - (iv) reversionary interests or remainders in property other than land or buildings.
- The assets covered by this note are those which count towards the 10% permitted asset exposure limit.
- 0402 The aggregate value of hybrid securities i.e. the aggregate value of those investments falling within line 13 which are hybrid securities.
- 0403 The amount of any non-debtor salvage or subrogation recoveries i.e. amounts in respect of salvage or subrogation included other than at line 35.

0404 A statement that amounts have been set off to the extent permitted by generally accepted accounting principles (if this option has been exercised) – see paragraph 7 of Schedule 1.

Paragraph 7 reads as follows –

“7.(1) Except to the extent permitted by sub-paragraph (2), amounts due to or from the insurer shall be shown gross.

(2) In calculating amounts due to or from the insurer –

(a) amounts due from any person may, unless expressly provided otherwise, be included net of amounts which are due to that person, provided that such amounts may be set off against each other under generally accepted accounting practice; and

(b) amounts due to any person may, unless expressly provided otherwise, be included net of amounts which are due from that person, provided that such amounts may be set off against each other under generally accepted accounting practice.

(3) If amounts shown include amounts calculated on the basis set out in sub-paragraph (2), a supplementary note to Form 4 to that effect shall be provided.

(4) This paragraph does not apply to Form 7”.

0405 The maximum counterparty limit permitted by the company’s investment guidelines (and any separate limit for counterparties other than “approved counterparties”) together with an account of any breaches during the year of those limits – see paragraph 10(1) of Schedule 1. [This note is compulsory].

Paragraph 10(1) reads as follows –

“10.(1) There shall be given by way of a supplementary note to Form 4 –

(a) the maximum extent to which, in accordance with any investment guidelines operated by the insurer, it was permitted to be exposed to any one counterparty during the financial year in question;

(b) the maximum extent to which, in accordance with such guidelines, it was permitted to be exposed to any one counterparty, other than by way of exposure to an approved counterparty, during the financial year in question; and

(c) an account of any occasions during the financial year on which either of those amounts was exceeded.”

0406 The amount and nature of the exposure at the year end to large counterparties (i.e. greater than 5% of the general business amount) – see paragraph 10(2) of Schedule 1.

Paragraph 10(2) reads as follows –

“(2) In each case where the exposure of the insurer to a counterparty at the end of the financial year in question exceeds 5% of its general business amount –

(a) the amount of that exposure; and

(b) the nature of the assets held which give rise to that exposure, shall be stated by way of a supplementary note to Form 4.”

0407 The aggregate value of certain fully secured rights – see paragraph 10(3) of Schedule 1.

Paragraph 10(3) reads as follows –

“(3) There shall be stated by way of supplementary note to Form 4 the aggregate value of any rights to which paragraph 14 of Part 1 of Schedule 1 to the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996 applies.”

0408 The amount of any tangible leased assets included at line 47 – not required by the Regulations but disclosure requested by the Commission.

0409 Particulars of any ‘Other assets’ included at line 50 – see the face of the form.

0410 If the comparatives differ from the amounts in the previous returns, the reasons should be stated.

Example

Note 1

A single figure with a simple description will suffice. For example: The company held £xm in unlisted securities and £ym in unregulated collective investment schemes, almost all of which were of the latter type. The assets covered by this note are those which count towards the 10% permitted asset exposure limit at paragraph 13 of Part II of Schedule II to the Asset Valuation Regulations. For detailed definitions of the type of assets to be included, see Part II of those Regulations.

Note 2

For a definition of hybrid securities, see Schedule 1 to the Asset Valuation Regulations.

Note 3

A single aggregate figure is sufficient disclosure. This should include only salvage and subrogation rights (other than shown at line 73) brought into account under the valuation rule in Regulation 7(9) of the Asset Valuation Regulations. The exercise of salvage rights which have resulted in the insurer acquiring an asset which is admissible in its own right need not be included.

Note 4

The amounts set off do not need to be disclosed in this note.

Note 5

The precise content of this “account” of any breach is not specified in the Regulations. However, the Commission expects it typically at least to include an estimate of the amount of the excess and the reasons why it was permitted to arise. [The requirement to give an account of any breaches during the year should not be read as implying that real-time monitoring of the exposures is necessary. Rather, the frequency of the monitoring should be appropriate to the make-up of the investment portfolio].

For the purposes of making the disclosures required by supplementary notes 0505 and 0506, “counterparty” has the same meaning as in paragraph 1 of Part I of Schedule 1 to the Asset Valuation Regulations. Also, the amount of any counterparty exposure should be calculated using the rules laid down in paragraphs 13 to 15 of Part II of the Schedule, except that asset values should not be limited to the amounts of any permitted asset limits. The amount of any counterparty exposure should be stated before deduction of any excess



counterparty exposure or excess concentration with a number of counterparties.

Assets excluded from the scope of the counterparty exposure rules may also be disregarded for the purposes of these supplementary notes disclosure. This excludes assets of the type listed in Regulation 15(5). [For a list of such asset types see paragraph 131 of the Guidance Note No. 4 on the Valuation of Assets.]

Note 6

The limit of 5% of the general business amount should be used for all counterparty exposures. The second and third paragraphs of Note 5 also apply to this note.

Note 7

This disclosure covers those secured assets which are exempted from counting towards the appropriate permitted counterparty exposure limit by virtue of paragraph 14 of Part I of Schedule 1 to the Asset Valuation Regulations. (NB. By no means are all secured assets so exempted.) Secured assets which are exempted from the limit by virtue of some other provision, (e.g. Regulation 11 in relation to stock-lending collateral), should not be included. A single aggregate figure is sufficient disclosure.

Note 8

See paragraph 118.

Note 9

See paragraph 119.

- 0601 The methods and assumptions used to determine the amount of any provision for adverse changes (as shown at line 40 of the Form), or if there is no such provision, the methods and assumptions used to determine that no provision is required, should be stated – see Paragraph 11 of Schedule 1. [This note is compulsory].

Paragraph 11 reads as follows –

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

- 0602 Specified details should be stated of (a) any charges over assets, (b) potential capital gains tax liability, (c) contingent liabilities, (d) guarantees, indemnities or other contractual commitments, effected other than in the ordinary course of insurance business, in respect of related companies, and (e) any other fundamental uncertainty – see paragraph 12(1) of Schedule 1. Guidance is given below on each of the items (a) to (e) to be included in this note. [This note is compulsory].

Paragraph 12 reads as follows –

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

- (a) in the case of any charge over assets of the insurer, the particulars specified in sub-paragraph (2) or a statement that there are no such charges;

- (b) the total potential liability, and the amount provided for that liability, to taxation on capital gains which might arise if the insurer disposed of its assets, or a statement that there is no such potential liability;
 - (c) a brief description of any other liabilities being contingent liabilities not included in Form 6 (other than liabilities arising under an inwards contract of insurance or reinsurance) including, where practicable, the amounts or estimated amounts of those liabilities, or a statement that there are no such contingent liabilities;
 - (d) a brief description of any guarantee, indemnity or other contractual commitment, effected by the insurer other than in the ordinary course of its insurance business, in respect of the existing or future liabilities of any related companies, including –
 - (i) the maximum liability of the insurer specified in such guarantee, indemnity or contractual commitment or, where no such amount is specified, a statement to that effect;
 - (ii) the amount of any provision made in respect of such liability; and
 - (iii) the amount reported under (c) in respect of such liability, or a statement that there are no such guarantees, indemnities or contractual commitments;
 - (e) a description of any other uncertainty where such a description is, in the opinion of the directors, necessary for a proper understanding of the financial position of the insurer.
- (2) The particulars referred to in sub-paragraph (1)(a) are –
- (a) the nature of the charge, including a brief description of the terms which are relevant to securing the prior claim of any person to assets which are subject to the charge;
 - (b) for each line in Form 4, the amount included in respect of assets which are subject to the charge; and
 - (c) for each line in Form 6, the amount included in respect of liabilities which are secured by the charge.
- (3) Sub-paragraph (1)(a) and (c) may be disregarded by an insurer in the case of –
- (a) one or more charges over assets which are attributable to the general business assets and whose aggregate value (as shown on Form 4) does not exceed 2½% of the general business amount; or
 - (b) one or more contingent liabilities whose aggregate value does not exceed 2½% of the general business amount.
- (4) Sub-paragraph (1)(d) may be disregarded by an insurer in respect of one or more guarantees, indemnities or contractual commitments where the aggregate of the maximum liabilities specified in such guarantees indemnities or contractual commitments does not exceed 2½% of the general business amount.
- (5) For the purposes of this paragraph, “charge” shall include any arrangement whatsoever, whether contractual or otherwise, which

operates to secure the prior claim of any person over general creditors to any assets on a winding up of the insurer."

Guidance on Note 0602

Where for any of the items (a) to (e) there is no charge, potential capital gains tax liability, contingent liability, guarantee etc, or fundamental uncertainty to report, this should be stated.

Item (a)

The details to be disclosed of any charge over assets are -

- the nature of the charge, including a brief description of the terms relevant to securing the prior claim of any person to assets subject to the charge;
- for each line in Form 4, the amount included in respect of assets which are subject to the charge; and
- for each line in Form 6, the amount included in respect of liabilities which are secured by the charge.

"Charge" is given a wide definition - see paragraph 12(5) of Schedule 1. It includes not merely formal charges over assets which are registered under the Companies Act but also "any arrangement whatsoever, whether contractual or otherwise, which operates to secure the prior claim of any person over the general creditors to any assets on a winding up of the company". Thus, amongst other items, it includes -

- arrangements whereby assets of the insurer are placed in trust for the prior benefit of only some creditors;
- assets held as collateral by creditors, or by issuers of letters of credit;
- fixed and floating charges, and
- equivalent arrangements under the laws of other countries.

In principle, it also applies to set-offs, i.e. where a person owed amounts by the insurer may, in a winding up, set off amounts owed by it to the insurer. However, in practice, where the insurer has accounted for set offs in accordance with generally accepted accounting principles, the assets shown in Form 4 will already be net of such set offs and so no disclosure under this note will be needed. The amounts of preferential creditors need not be disclosed.

A charge should be disclosed even where it only serves to secure the prior claim of a contingent or potential creditor which has not resulted in any provision for liability in Form 6 .

The sub-paragraph requiring the note refers to any charge, thus in principle requiring separate disclosure of each arrangement which falls within the definition of "charge". However, where clarity or brevity require, it is acceptable to disclose in aggregate charges which arise from the same related series of transactions or charges which are of the same "nature" and have substantially the same "relevant terms".

The disclosure of charges is subject to a de minimis exemption. One or more charges need not be disclosed, provided that the aggregate value (as shown on Form 4) of all assets subject to the non-disclosed charges does not exceed 2.5% of the GBA.

Item (b)

The total potential capital gains tax liability should be calculated on the basis of a hypothetical disposal of all assets immediately after the year end. It should include liability to foreign taxes on capital gains.

Item (c)

Financial Reporting Standard 12 (FRS 12) defines a "contingency" as "a condition which exists at the balance sheet date where the outcome will be confirmed only on the occurrence, or non-occurrence, of one or more uncertain future events". A contingent liability is a loss dependent on a contingency. FRS 12 distinguishes between contingent liabilities which are probable or remote. A remote contingent liability need not be disclosed in this note.

"Inward" in the expression "inward contracts of insurance and reinsurance" is intended to exclude from the exemption contracts of reinsurance where the reporting insurer is the reinsured.

The disclosure of contingent liabilities is subject to a de minimis exemption. One or more contingent liabilities need not be disclosed provided that the aggregate value of the non-disclosed contingent liability does not exceed 2.5% of the GBA.

Item (d)

"Related company" is defined in Regulation 2 of the Asset Valuation Regulations as -

- a dependant of the insurer,
- a company of which the insurer is a dependant, or
- a dependant of a company of which the insurer is a dependant

where "dependant" means "subsidiary undertaking" as defined in section 2(32) to (35) of the Act.

In the Commission's view, a guarantee, indemnity or other contractual commitment should not be considered as "given other than in the ordinary course of [an insurer's] business" where guarantees, indemnities or other contractual commitments on substantially the same terms and conditions are not regularly given to non-related entities in similar circumstances. An example of a contractual commitment which need not be disclosed might be where a motor insurer insures the motor car fleet of a related company using the same underwriting principles as it uses for its other fleet business.

The sub-paragraph requiring the note refers to (i) "maximum liability... specified in such guarantee, indemnity or contractual commitment", (ii) "amount of provision" and (iii) "amount reported under (c)", (i.e. reported as a contingent liability). The distinction between these three items may be illustrated by an example.

An insurance company guarantees the bank overdraft of its two fellow subsidiaries up to an aggregate of £100,000. At the year end -

fellow subsidiary A is insolvent and has an overdraft of £5,000, and

fellow subsidiary B is believed (on the balance of probabilities) to be solvent and has an overdraft of £10,000.

A provision of £5,000 (in respect of A) would be made in Form INS 7 and a contingent liability of £10,000 (in respect of B) would be included in the disclosure under (c).

The disclosure under sub-paragraph (d) would then be –

- (i) maximum liability specified in the guarantee = £100,000,
- (ii) provision = £5,000 and
- (iii) contingent liability = £10,000

together, of course, with a brief description of the terms and circumstances of the guarantee, including the identity of the person to whom the guarantee is given and of the persons in respect of whom it was given and of the relationship with the latter (and, if applicable, with the former).

Item (e)

This sub-paragraph is intended to cause to be disclosed the circumstances of any uncertainty which is of a fundamental nature. Note that this sub-paragraph, unlike sub-paragraph (c), does not exempt uncertainties arising from inward contracts of insurance or reinsurance.

- 0603 The aggregate amount of any accrued dividend on any cumulative preference share capital issued by the insurer should be stated.
- 0604 The amount of each provision made under regulation 19B of the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996 in respect of a deficit in a related undertaking which is an insurance undertaking or insurance holding company and the identity of the undertaking should be stated. Such provision should be included in line 14 of Form 6.
- 0605 Where technical provision for claims outstanding have to be increased in accordance with paragraph 132 to remove discounting, the amount of the increase, together with the corresponding increase in the reinsurers' share shown in line 25 of Form 4 must be shown.
- 0606 If the comparatives differ from the amounts in the previous return, the reasons should be stated.
- 0701 Where in respect of any derivative contract included in Form 7, assets have been transferred to or for the benefit of an insurer by way of variation margin, there shall be stated by way of supplementary note –
- (a) the aggregate amount of any liability to repay such assets or equivalent assets;
 - (b) for each line in Form 4, the amount included in respect of such assets; and
 - (c) to what extent any amounts included in Form 4 have been taken account of any requirement to repay such assets or equivalent assets.
- 0702 If –
- (a) the aggregate value of rights under contracts or in respect of assets, either of which have the effect of derivative contracts, exceeds 2½% of the aggregate value of assets shown at line 6 of Form 5; or
 - (b) the aggregate amount of liabilities under contracts or in respect of assets, either of which have the effect of derivative contracts, exceeds 2½% of the aggregate of the amounts shown in lines 16 to 37 of Form 6,
- the corresponding value, if not zero, shall be stated by way of supplementary note for each line in Form 4 or 6 and 0701 shall apply to the insurer as if such contracts or assets had been included in Form 7.

- 0801 The bases of conversion adopted in respect of foreign currency for income and expenditure should be stated – see paragraph 4(2) of Schedule 1.
Paragraph 4(2) reads –
“The bases of conversion adopted shall be stated by way of supplementary note to Form 8.”
- 0802 In addition to the above, the Commission requests that where any brought forward amounts on any Form are requested due to currency reconversion, this fact be briefly stated in a supplementary note to Form 8. A simple statement of this fact is all that is needed, e.g. “Some of the brought forward amounts shown in the Forms [xx to xx] have been restated from the corresponding carried forward amounts included in the previous years’ return due to the reconversion of foreign currency amounts at a different rate of exchange.” No further details need be given.
- 0803 Particulars of any amounts included in line 10 or 13 on Form 8 should be stated.
- 0804 If the comparatives differ from the amounts in the previous return, the reason should be stated.
- 0901 Where an insurer exercises any of the options to report business in a different Reporting class, it should state (a) the nature of the business it has included in that different Reporting class and (b) the reason for such inclusion – see paragraph 7 of Schedule 2.
Paragraph 7 reads –
“7. Where an insurer includes business in another Reporting class under sub-paragraph (1) or (2)(a) of paragraph 6, the following information shall be stated by way of a supplementary note to Form 9.
(a) the nature of any business included in another Reporting class pursuant to the sub-paragraph in question; and
(b) the reason for such inclusion.”
Paragraph 6 is modified to read –
“Reporting classes.
6. Insurance and reinsurance business shall be included in the return in accordance with the Reporting classes, save that –
(a) an insurer may include in Reporting class 3 business covering liability for loss of, or damage to, goods in transit which would otherwise be included in Reporting class 2, provided that the policy does not cover damage to vehicles except as a related and subsidiary provision within the meaning of section 2(1) of the Act; and
(b) an insurer may include in Reporting class 1 business falling within general business class 1(p).”
- 0902 For each Reporting class, an insurer should state separately, for business accounted for on an accident year basis and on an underwriting basis, the split of (a) total gross premium written and (b) reinsurers’ share of gross premium written between business attributable to Gibraltar and to non-Gibraltar business – see paragraph 15 of Schedule 2. For these purposes, direct and facultative business is Gibraltar business if the contract was made in Gibraltar and treaty reinsurance is Gibraltar business if the cedant has its head office in Gibraltar. [This note is compulsory].

Paragraph 15 reads –

“15.(1) For each Reporting class there shall be stated separately for business accounted for on an accident year basis and on an underwriting year basis the following by way of supplementary note to Form 9 –

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

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

0903 If an insurer has effected no new contracts of insurance of any one or more authorisation classes during the financial year, it should state the date on which the last new contract of each such class was effected – see paragraph 20 of Schedule 2. A “new contract” is any contract other than one effected in fulfilment of an obligation under an already existing contract of insurance.

Paragraph 20 reads –

“20.(1) If the insurer has effected no new contracts of insurance of any one or more classes of general business during the financial year, the date on which the last new contract of each such class was effected shall be stated by way of supplementary note to Form 9.

(2) A “new contract of insurance” is any contract of insurance effected by the insurer other than in fulfilment of its obligations under subsisting contracts of insurance.”

0904 Where “contracts of insurance”, both inwards and outwards, have been excluded as a result of following FRS 5 and FRAG 35/94, i.e. they are financial insurance/reinsurance, existence disclosure is required. See paragraph 25 of Schedule 2 for details of the disclosure to be given.

Paragraph 25 reads –

“25.(1) Amounts in respect of inwards and outwards contracts of insurance shall be classified for inclusion in Forms 9 to 19 according to their economic substance in accordance with generally accepted accounting practice.

(2) Where amounts in respect of an inwards or outwards contract of insurance have been excluded from the revenue account, the following shall be shown by way of supplementary note to Form 9 –

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

(3) An insurer may elect to show the information required by subparagraph (1) in respect of groups of contracts which were effected in

the same financial year with substantially the same contract terms and in respect of which the same accounting treatment has been adopted.”

- 0905 Particulars should be stated of any amounts included at lines 31 or 33.
- 0906 Details of any material connected-party transactions as required under regulation 18A should be stated – see Annex 5.
- 1001 The reason should be stated for any difference in the unearned premiums brought forward and the corresponding amount carried forward from the previous year (i.e. if lines 5 or 13 do not equal lines 6 or 14 in the previous return.
- 1002 The basis upon which the provision for unearned premium is calculated and the reason for adopting that basis should be stated – see paragraph 17 of Schedule 2. We expect the “reason” stated to include an explanation of any change in the basis from previous financial years. [This note is compulsory].

Paragraph 17 reads –

“17. In Form 10, the basis on which unearned premiums are calculated and the reason for adopting this basis shall be stated by way of supplementary note.”

- 1003 Lines 4 and 12 should include premiums actually received prior to the financial year but relating to risks incepted in the financial year and exclude premiums received during the financial year but relating to risks incepting after the end of the financial year. In Forms 4 and 6, the accounting treatment adopted for premiums received in respect of risks incepting in future financial years should be the same as that adopted in the statutory accounts or, if this results in different amounts for the provision for unearned premium (either gross or the reinsurers’ share) being shown in Form 4 or 6 as compared to Form 10, the Commission requests that the difference be identified and explained in a supplementary note.
- 1101 If any amounts brought forward from previous years do not equal those carried forward in last year’s Return, the reason should be stated.
- 1102 The basis for determining the claims management costs payable and carried forward should be stated – see paragraph 21(1) of Schedule 2. The “payable” part of the disclosure should include an explanation as to how overheads are allocated as between “claim management expenses” and “net operating expenses”. If claims outstanding are carried forward without a corresponding figure for claims management costs, the reason for this should be stated – see paragraph 21(2) of Schedule 2. If the insurer has ceased to write a certain class of business, the basis of calculating any additional costs, or the reason for believing there should not be any, should be stated – see paragraph 21(3) of Schedule 2. A new contract of insurance is any contract of insurance effected by the insurer other than in fulfilment of its obligations under subsisting contracts of insurance. [This note is compulsory].

Paragraph 21(1) to 21(3) reads –

“21.(1) In Form 11, the basis used for the determination of amounts for claims management costs payable in the financial year in question and carried forward to the following financial year shall be stated by way of supplementary note.

(2) If, in respect of any Reporting class –

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



- (b) an amount for net claims is shown as being carried forward to that year,

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

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

1103 Where investment income has been taken into account in determining the claims management costs carried forward, the insurer should state for each Reporting class (i) the rates of interest used, and (ii) the average interval to the date at which the carried forward costs are expected to be expended – see paragraph 21(4) of Schedule 2.

Paragraph 21(4) reads –

"(4) Where the amount in respect of claims management costs carried forward included in Form 11 has been determined after taking into account expected investment return, there shall be stated by way of supplementary note to Form 11 -

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

1104 Where the provision for unexpired risks has been determined after taking investment income into account, an insurer should state for each Reporting class (i) the provision before taking investment income into account, (ii) the rates of interest used, and (iii) the average interval to the date at which claims are expected to be settled in cash – see paragraph 19 of Schedule 2. This note should be present even if as a result of taking investment income into account, the provision for unexpired risks is nil.

Paragraph 19 reads –

"19. Where the amount included at line 24 (provision for unexpired risks) in Form 11 has been determined after taking into account expected investment return, the following shall be stated by way of supplementary note –

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

1105 If any of the amounts in lines 38, 40 or 44 differ from the amounts in previous returns, the reasons should be stated.

1106 Where any amounts appear in Forms 11 or 12 relating to adjustments for discounting, the following information must be provided –

- (a) the Reporting classes where adjustments for discounting have been made; and
- (b) in respect of each Reporting class –
 - (i) the methods used in calculating the deduction for discounting;
 - (ii) the rate of interest used for the calculation of present values;
 - (iii) the expected average interval between the date for settlement of claims being discounted and the end of the financial year in question; and
 - (iv) the criteria adopted for estimating the period that will elapse before claims are settled.

1201 If any amounts brought forward from previous years do not equal those carried forward in last year's Return, the reason should be stated.

1202 If the amounts to be recovered from reinsurers are not expected to be recovered for more than 12 months after the settlement of the gross claims, there should be stated for that Reporting class (i) the amount of such recoveries, and (ii) the accounting treatment which has been adopted in respect of discounting such recoveries – see paragraph 27 of Schedule 2.

Paragraph 27 reads –

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

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

1203 If any of the amounts in lines 22 or 24 differ from the amounts in previous returns, the reason should be stated.

1301 If any of the amounts brought forward from previous years do not equal those carried forward in last year's Return, the reason should be stated.

1302 The basis for determining acquisition expenses (other than commission) payable and carried forward should be stated – see paragraph 22 of Schedule 2. The "payable" part of the disclosure should include an explanation as to how overheads are allocated between "other acquisition expenses" and the other components of "net operating expenses" especially "administrative expenses". The "carried forward" part of the disclosure should include an explanation of how the appropriate proportion of acquisition expenses (other than commission) to match the unearned premium carried forward was determined. [This note is compulsory].

Paragraph 22 reads –

"22. The basis used for the determination of amounts for acquisition costs (other than commission) payable in the financial year in question and carried forward to the next financial year, as shown at lines 8 to 11 of Form 13, shall be stated by way of a supplementary note."

1401 If any of the brought forward amounts in columns F, J or K differ from the corresponding carried forward amounts in the previous return, the reason should be stated.

1402 If during the financial year, business is transferred (under Schedule 10 of the Act or under equivalent legislation of an EEA State) to the insurer certain specified details of that business must be stated – see paragraph 16 of Schedule 2. Policies transferred to the insurer shall be taken to have incepted on the date of such transfer.

Paragraph 16 reads –

“16.(1) If during the financial year, policies already effected by another insurer have been transferred to the insurer, it shall state, in respect of each Reporting class, the following by way of supplementary note to Form 14 –

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

(2) Sub-paragraph (1) shall not apply in respect of any transfer by way of novation unless the amounts mentioned in sub-paragraph (1)(c) exceed in aggregate 2½% of the insurer’s gross premium income for the financial year in question.”

1501 If any of the brought forward amounts in columns D, H or I differ from the corresponding carried forward amounts in the previous return the reason should be stated.

1601 If any of the brought forward amounts differ from the corresponding carried forward amounts in the previous return, the reason should be stated.

1602 Certain specified details of the reporting basis and basis of profit recognition should be stated – see paragraph 23 of Schedule 2.

Paragraph 23 reads –

“23.(1) With reference to the financial year in question and in respect of each Reporting class, the following information shall be stated by way of supplementary note to Form 16 –

- (a) the reason for accounting for such business on an underwriting year basis;
- (b) the basis for distinguishing between such business and any other business falling within the same Reporting class accounted for on an accident year basis;
- (c) the accounting policy adopted for determining the provision for claims outstanding (i.e. the annual method or the non-annual method); and

- (d) if the information provided in (a) to (c) differs in respect of risks incepted in the financial year in question from risks of a similar description incepted in previous financial years, the reason for that difference.
- (2) Where the provision for claims outstanding is set in respect of any business using the non-annual method, the note required by subparagraph (1)(a) shall include the following information –
- (a) the reason for using the non-annual method;
 - (b) the basis for distinguishing between such business and other business accounted for on an underwriting year basis falling within the same Reporting class;
 - (c) the normal period for which an underwriting year is left open or, if that period differs for different types of business within a Reporting class –
 - (i) the basis for distinguishing between the types of business; and
 - (ii) the normal period for each type; and
 - (d) where an underwriting year is left open for longer than the normal period, the reason for not closing the year.
- (3) For the purposes of this Form –
- (a) “non-annual method” refers to the method described by paragraph 50 of Schedule 1 to the Insurance Companies (Accounts Directive) Regulations 1997; and
 - (b) A year is “open” with respect of any business incepting during its period if the provision for outstanding claims in respect of that business is set using the non-annual method and if so set previously has not now been replaced in accordance with the requirements of paragraph 51(4) of Schedule 1 to the Insurance Companies (Accounts Directive) Regulations 1997, and “closed year” and “closing a year” shall be construed accordingly.”

1603 If, during the financial year, business is transferred (under Schedule 10 of the Act or under equivalent legislation of an EEA State) to the insurer, certain specified details of that business must be stated – see paragraph 16 of Schedule 2. Policies transferred to the insurer shall be taken to have incepted on the date of such transfer.

Paragraph 16 reads –

- “16.(1) If during the financial year, policies already effected by another insurer have been transferred to the insurer, it shall state, in respect of each Reporting class, the following by way of supplementary note to Form 16 –
- (a) the date of the transfer;
 - (b) whether the transfer was approved by the Commission under Part II of Schedule 10 to the Act or approved by the Competent Authority of an EEA State under Article 12 of Council Directive 92/49/EEC or was effected by novation;
 - (c) any amounts included in premiums and claims in respect of consideration for the transfer;

- (d) amounts required to be stated under (c) analysed by Reporting class;
 - (e) the earliest and latest dates upon which the relevant policies incept; and
 - (f) whether or not any of the policies has a duration of longer than 12 months and, if so, the date by which all policies will have expired.
- (2) Sub-paragraph (1) shall not apply in respect of any transfer by way of novation unless the amounts mentioned in sub-paragraph (1)(c) exceed in aggregate 2½% of the insurer's gross premium income for the financial year in question."

1604 The basis of determining the claims management costs payable and carried forward should be stated – see paragraph 21 of Schedule 2. The "payable" part of the disclosure should include an explanation as to how overheads are allocated between "claims management costs" and "net operating expenses". If claims outstanding are carried forward without a corresponding figure for claims management costs, the reason for this should be stated. If the insurer has ceased to write a certain class of business, the basis for calculating any additional costs, or the reason for believing there should not be any, should be stated. A new contract of insurance is any contract of insurance effected by the insurer other than in fulfilment of its obligations under subsisting contracts of insurance. [This note is compulsory].

Paragraph 21(1) to (3) reads –

"21(1) In Form 16, the basis used for the determination of amounts for claims management costs payable in the financial year in question and carried forward to the following financial year shall be stated by way of supplementary note.

(2) If, in respect of any Reporting class –

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

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

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

1605 Where investment income has been taken into account in determining the claims management costs carried forward, the insurer should state for each Reporting class (i) the rate of interest used, and (ii) the average interval to the date at which the carried forward costs are expected to be expended – see paragraph 21(4) of Schedule 2.

Paragraph 21(4) reads –

"(4) Where the amount in respect of claims management costs carried forward included in Form 16 has been determined after taking into

account expected investment return, there shall be stated by way of supplementary note to Form 16 –

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

1606 The basis for determining acquisition expenses (other than commission) payable and carried forward should be stated – see paragraph 22 of Schedule 2. The “payable” part of the disclosure should include an explanation as to how overheads are allocated between “other acquisition expenses” and the other components of “net operating expenses” especially “administrative expenses”. The “carried forward” part of the disclosure should include an explanation of how the appropriate proportion of acquisition expenses (other than commission) to match the unearned premium carried forward was determined. [This note is compulsory].

Paragraph 22 reads –

“22. The basis for the determination of amounts for acquisition costs (other than commission) payable in the financial year in question and carried forward to the next financial year, as shown at lines 63 to 70 of Form 16, shall be stated by way of a supplementary note.”

1607 The basis upon which the provision for unearned premium is calculated and the reason for adopting that basis should be stated – see paragraph 17 of Schedule 2. The “reason” stated must include an explanation of any change in the basis from previous financial years. [This note is compulsory].

Paragraph 17 reads –

“17. In Form 16, the basis on which unearned premiums are calculated and the reason for adopting this basis shall be stated by way of supplementary note.”

1608 If the amounts to be recovered from reinsurers are not expected to be recovered for more than 12 months after the settlement of the gross claim, the note should state for each Reporting class (i) the amount of such recoveries, and (ii) the accounting treatment adopted in respect of discounting such recoveries – see paragraph 27 of Schedule 2.

Paragraph 27 reads –

“27.(1) Where the reinsurers’ share of claims incurred includes amounts expected to be recovered from reinsurers more than twelve months after the payment of the underlying gross claims by the insurer, the following shall be stated by way of supplementary note -

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

1701 If any of the brought forward amounts differ from the corresponding carried forward amounts in the previous return the reason should be stated.

1702 Where a surplus for offset is shown at line 93 of Form 17 the following should be stated –

- a description of the business in respect of which the anticipated surplus, and of the business in respect of which the anticipated deficit to be offset, arise; and

- the reason for treating the business as managed together.

See paragraph 24(2) of Schedule 2.

Paragraph 24(2) reads –

“24.(2) Where any amount is shown on Form 17 for the transfer of anticipated surplus, the following shall be stated by way of supplementary note –

- (a) a description of the business in respect of which the anticipated surplus arises and of the business in respect of which the deficit to be offset arises; and

- (b) the reason for treating the business as managed together.”

1703 Particulars of any amounts included in lines 201 to 217 on Form 17 should be stated.

1704 If any of the amounts in lines 135, 136, 142, 143 or 147 differ from the amounts in previous returns the reason should be given.

1705 Where any amounts appear in Forms 17 or 18 relating to adjustments for discounting, the following information must be provided –

- (a) the Reporting classes where adjustments for discounting have been made; and

- (b) in respect of each Reporting class –

- (i) the methods used in calculating the deduction for discounting;

- (ii) the rate of interest used for the calculation of present values;

- (iii) the expected average interval between the date for settlement of claims being discounted and the end of the financial year in question; and

- (iv) the criteria adopted for estimating the period that will elapse before claims are settled.

1801 Where a surplus for offset is shown at line 93 of Form 18 the following should be stated –

- a description of the business in respect of which the anticipated surplus, and of the business in respect of which the anticipated deficit to be offset, arise; and

- the reason for treating the business as managed together.

See paragraph 24(2) of Schedule 2.

Paragraph 24(2) reads –

“24.(2) Where any amount is shown on Form 18 for the transfer of anticipated surplus, the following shall be stated by way of supplementary note –

- (a) a description of the business in respect of which the anticipated surplus arises and of the business in respect of which the deficit to be offset arises; and

- (b) the reason for treating the business as managed together.”

1802 Particulars of any amounts included in lines 201 to 217 on Form 18 should be stated.

1803 Where investment income has been taken into account in determining the provision for unexpired risks, the insurer must state for each class of business (i) the provision before taking investment income into account, (ii) the rates of



interest used, and (iii) the average interval to the date at which claims are expected to be settled in cash. The note should be present even if, as a result of taking investment income into account, the provision for unexpired risks is nil – see paragraph 19 of Schedule 2.

Paragraph 19 reads –

“19. Where the amount included in lines 149 to 165 (provision for unexpired risks) in Form 18 has been determined after taking into account expected investment return, the following shall be stated by way of supplementary note –

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

1901 If any of the brought forward amounts in columns D, H or I differ from the corresponding carried forward amounts in the previous return, the reason should be stated.



Annex 2: Statement Of Shareholder Controllers

Returns for the year ended (Date)

Statement in accordance with regulation 24 of the Insurance Companies (Accounts and Statements) Regulations 1998

Additional information on shareholder controllers

We confirm the following is a list of:

- (a) Persons who, to the knowledge of the company, have been, at any time during the year ended (Date), a shareholder controller of the company; and
- (b) In the case of each person who was a shareholder controller of the company at (Date):
 - (i) the percentage of shares he held at that time in the company, or in another company of which the company was a subsidiary undertaking; and
 - (ii) the percentage of the voting power which he was entitled at that time to exercise, or control the exercise of, at any general meeting of the company, or another company of which it was a subsidiary undertaking;

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

Persons who, to the knowledge of the company, have been, at any time during the year ended (Date), a shareholder controller of the company. (Please show date ceased to be a shareholder controller, if applicable).	In the case of each person who was a shareholder controller of the company at (Date):	
	The percentage of shares he held at that time in the company, or in another company of which the company was a subsidiary undertaking, either alone or (shown separately) with any associate or associates.	The percentage of the voting power which he was entitled at that time to exercise, or control the exercise of, at any general meeting of the company, or another company of which it was a subsidiary undertaking, either alone or (shown separately) with any associate or associates.

Annex 3: Example Certificate By The Directors

We certify:

1. (a) that in relation to the part of the return comprising forms 1 to 19 (including the supplementary notes) and the statements required by regulations 19 to 21, 23, 24 and 26 of the Insurance Companies (Accounts and Statements) Regulations 1998 ("the Regulations"):-
 - (i) the return has been prepared in accordance with the Regulations;
 - (ii) proper accounting records have been maintained and adequate information has been obtained by the insurer; and
 - (iii) an appropriate system of control has been established and maintained by the insurer over its transactions and records;
- (b) that reasonable enquiries have been made by the insurer for the purpose of determining whether any person and any body corporate are connected for the purposes of regulations 19, 20 and 21 of the Regulations; and
- (c) that in respect of the company's business which is not excluded by regulation 38 of the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996, the assets held throughout the financial year enabled the company to comply with regulations 33 to 37 (matching and localisation) of those Regulations.
2. that the margin of solvency required by section 59 of the Insurance Companies Act 1987 has been maintained throughout the financial year.
3. (a) that the systems of control established and maintained by the insurer in respect of its business complied at the end of the financial year with the following published guidance:
 - (i) Insurance Guidance Note No. 5 – Systems of control over investments (and counterparty exposure) including the use of derivatives; and
 - (ii) Insurance Guidance Note No. 6 – Systems of control over general business claims provisions;

and it is reasonable to believe that systems continued to so comply subsequently and will continue to do so in future.
- (b) that the return has been prepared in accordance with the following published guidance:
 - (i) Insurance Guidance Note No.2D – The preparation of the New Returns for general business insurers and reinsurers; and
 - (ii) Insurance Guidance Note No. 4 – Valuation of Assets.

Address and date

Signatures



Annex 4: Example Report Of The Auditors

Report of the Auditors to the Directors pursuant to regulation 29 of the Insurance Companies (Accounts and Statements) Regulations 1998.

XYZ Insurance Company Limited

Financial year ended

We have examined the following documents prepared by the company pursuant to section 50 of the Insurance Companies Act 1987 ("the Act") and the Insurance Companies (Accounts and Statements) Regulations 1998 ("the Regulations"):

- Forms 1 to 19 (including the supplementary notes) ("the Forms");
- the statements required by regulations 19, 20, 21 and 23 ("the statements"); and
- the certificate signed in accordance with regulation 28(a) ("the certificate").

In the case of the certificate, our examination did not extend to paragraph [] in relation to the statements required by regulations 24 and 26, concerning shareholder controllers and general business ceded.

Respective responsibilities of the company and its auditors.

The company is responsible for the preparation of an annual return (including the Forms, statements and certificate) under the provisions of the Act and the Regulations. [The requirements of the Regulations have been modified by [an] Order[s] issued under section 113 of the Act on [and.....]]. Under regulation 5, the Forms and statements are required to be prepared in the manner specified by the Regulations and to state fairly the information provided on the basis required by the Regulations. It is our responsibility to form an independent opinion as to whether the Forms and statements meet these requirements and, in the case of the certificate, whether it was or was not unreasonable for the persons giving the certificate to have made the statements therein, and to report our opinion to you.

Bases of opinions

We conducted our audit in accordance with International Standards on Auditing as adopted by the Gibraltar Society of Chartered and Certified Accountancy Bodies. Our work included examination, on a test basis, of evidence relevant to the amounts and disclosures in the Forms and statements. The evidence includes that previously obtained by us relating to the audit of the financial statements of the company for the financial year on which we reported on []. It also includes an assessment of the significant estimates and judgements made by the company in the preparation of the Forms and statements.

We planned and performed our work so as to obtain all the information and explanations which we considered necessary in order to provide us with sufficient evidence to give reasonable assurance that the Forms and statements are free from material misstatement, whether caused by fraud or other irregularity or error, and comply with regulation 5.

In the case of the certificate, the work performed involved a review of the procedures undertaken by the signatories to enable them to make the statements therein, and does not extend to an evaluation of the effectiveness of the company's internal control systems.



Opinions

In our opinion:-

- (a) the Forms and statements fairly state the information provided on the basis required by the Regulations [as modified] and have been properly prepared in accordance with the provisions of those Regulations; and
- (b) according to the information and explanations received by us:
 - (i) the certificate has been properly prepared in accordance with the provisions of the Regulations; and
 - (ii) it was not unreasonable for the persons giving the certificate to have made the statements therein.

Auditors
Date
Address

Annex 5: Intra-Group Transactions

Supplementary note to Form 9

1. Regulation 18A requires an insurer that has agreed to, or carried out, a material connected-party transaction to provide a supplementary note describing it to Form 9 (for a transaction relating to general insurance business). The reference code should be 0906.
2. The Commission expects insurers to inform him about transactions with other group members who are significant for regulatory purposes even if they do not strictly fall within the reporting requirement under regulation 18A.

Connected-party transactions

3. The scope of the phrase “connected party” is wider than that of the insurance group to which the parent undertaking solvency calculation applies. A connected party includes:

- the related undertakings of the insurer;
- the immediate, intermediate and ultimate parent and participating undertakings of or in the insurer; and
- the related undertaking of participating undertakings in the insurer.

A connected party may also be a natural person who holds a participation in any of the undertakings noted above.

4. A connected-party transaction is defined as “the transfer of assets or liabilities or the performance of services by, or to a connected person irrespective of whether or not a price is charged”. As such it includes (but is not limited to):
 - loans and similar advances to or from a connected person, including inter-company balances and other such operating arrangements,
 - investments in the securities or shares of the connected person purchased by the insurer,
 - investments in the securities or shares of the insurer purchased by the connected person,
 - guarantees issued to the connected person by the insurer (and other similar off-balance sheet transactions), or vice versa,
 - reinsurance cessions to and acceptances from the connected person,
 - agreements to share the costs of the connected person, or to share the costs of the connected person with a third party,
 - payment of commission (including profit-commission and commission on reinsurance premiums) and other acquisition costs to the connected person,
 - transfer of property to or from the connected person, including investments, land, equipment and debts, and
 - transfer of liabilities to or from the connected person, including transfers of business under Part IX of the Act.
5. Dividends payable are not intended to be covered by the disclosure requirement unless they are part of a wider transaction (because they are already disclosed in the return).

6. A series of transactions that may include intermediate stages with third parties, but are in substance a transaction involving a connected-party transaction, are likely to be a connected-party transaction.

Materiality

7. The materiality of transactions is determined by reference to the general business amount (GBA) for transactions relating to general insurance business. The price or consideration paid or received is not necessarily determinative of value for the purposes of assessing whether the transaction is a material connected-party transaction, since the real value of an inter-group transaction may be greater (see definition of material connected-party transaction).
8. Similar transactions, taken together, are material (for the purposes of regulation 18A if when combined they exceed 5% (in terms of price or value) of the GBA. For this purpose the measurement should be done at the time or times the transactions take place. Rather than make a precise measurement, an estimate may be used that is likely to be an underestimate of the business amount to avoid the risk of not reporting transactions that should be reported. In general similar transactions will include those of the same type with the same or another connected party. Transactions would normally be considered to be of the same type if they were combined in the same heading in the profit and loss account, balance sheet or note to the financial statements of the insurer, or form part of a connected series of transactions. However, other groups of transactions may be considered as similar even if they do not meet the above criteria.

Aggregation of disclosure

9. Regulation 18A(3) allows (but does not require) transactions with the same connected person to be disclosed on an aggregated basis unless separate disclosure is needed for a proper understanding of the effects of the transactions upon the financial position or profitability of the insurer.
10. Similar transactions (as described in 8 above) with the same connected person may be aggregated, for instance all reinsurance premiums paid to a connected person may be aggregated. However, different types of transaction may not be appropriate for aggregation. For instance it would not in general be appropriate to aggregate loans to a connected person with equipment sold to that connected person.
11. Transactions with different connected persons of the same type should not be aggregated. For instance, commissions paid to two or more connected persons should not be aggregated, even if they need to be taken together to establish materiality, since separate disclosure will normally be necessary for a proper understanding (regulation 18A(3)).
12. Regulation 18A does not allow an exemption from disclosure similar to that offered under Financial Reporting Standard No 8 'Related Party Disclosures' where the results of the insurer and connected person are reported in consolidated financial statements. Insurance groups may have an order under section 113 of the Act allowing preparation of a consolidated Form 9. Insurers will nevertheless still need to disclose material connected-party transactions separately for each insurer member of the group. As this is a requirement of Article 8 of the Insurance Groups Directive, it is unlikely that the Commission would be able to waive the requirement of individual disclosure.

Disclosure

13. The information to be disclosed is set out in regulation 18A(2). The disclosure should be adequate to allow the reader of the returns to understand the



nature of the relationship of the insurer with the connected person, and the nature of the transaction and its effect upon the financial position and the performance of the insurer.

14. Regulation 18(2) states that the description of the transaction must state –
 - (a) the names of the transacting parties;
 - (b) a description of the relationship between the parties;
 - (c) a description of the transaction;
 - (d) the amounts involved;
 - (e) any other elements of the transaction necessary for an understanding of its effect upon the financial position or performance of the insurer; and
 - (f) amounts written off in the period in respect of debts due to or from connected parties.
15. Disclosure should include the transactions during the period and any amounts unpaid or outstanding in respect of those transactions at the end of the period.
16. Consistent descriptions of transactions should be used in subsequent returns.
17. The name of each connected person should be stated in full.
18. Where disclosures under this regulation would merely duplicate disclosures reported under other supplementary notes (e.g. large counterparty exposures) a cross-reference to the other supplementary notes should fulfil the requirement.

Annex 6: Examples Of The Completion Of The Reconciliations At The Foot Of Forms 1 And 5.

Example one: the reconciliation on Form 5

In this example, an insurer shows the following assets in its statutory accounts.

Assets	<u>2007</u>	<u>2006</u>
Shares in Gibraltar insurance subsidiary	1000	1000
Cash at bank	2000	1500
Gold	100	-
	<hr/> 3100	<hr/> 2500

In preparing Form 5 of its Annual Return, the insurer must revalue its assets using the valuation rules in the Asset Valuations Regulations. Let us say the revised values are as follows.

Balance sheet: Assets	<u>2007</u>	<u>2006</u>
<i><u>Investment in insurance dependant</u></i>		
Basic "look through" value	900	800
Disallowed under admissibility rules	(100)	(100)
Solvency margin deduction	(200)	(200)
	<hr/> 600	<hr/> 500
<i><u>Cash at bank</u></i>		
Valuation	2000	1500
Disallowed under admissibility rules	(200)	(100)
	<hr/> 1800	<hr/> 1400
Gold	<hr/> Nil	<hr/> Nil

Form 4 should be prepared with the following entries

Form 4		<u>2007</u>	<u>2006</u>
Gibraltar insurance dependants – shares	4	600	500
Cash at bank – deposits	48	1800	1400
Grand total of admissible assets	65	<hr/> 2400	<hr/> 1900

Form 5 Reconciliation

Total - as per line 65 above	1	2400	1900
Total assets in excess of admissibility limits(1)	2	300	200
Solvency margin deduction(2)	3	200	200
Other differences(4)	4	100	200
Assets of a type not valued above(3)	5	100	-
Total assets determined in accordance with the Accounts Directive Regulations	6	<hr/> 3100	<hr/> 2500

Explanations of the above

- (1) 300 = 100 + 200; being the amounts shown above as disallowable under the admissibility limits respectively for the investment in dependant (100) and the cash at bank (200).
- (2) This the solvency margin deduction for the insurance dependant.
- (3) This is the value of the gold as per the statutory accounts. There is no valuation rule, and hence nil value, for gold under the Asset Valuation Regulations.
- (4) This the total of all other valuation differences not dealt with at lines 2, 3 or 5. In this example, there is only one such difference: that is the difference between the statutory accounts value of the insurance dependant (£1,000) and the basic "look through" value (£900).

Example two: the reconciliation on Form 1

In this example, an insurer has the same assets as in Example one above and shows the following amounts for liabilities in its statutory accounts.

Balance sheet: liabilities	<u>2007</u>	<u>2006</u>
Share capital	1000	1000
Profit and loss account	1000	700
	<hr/>	<hr/>
	2000	1700
Technical provisions	1000	700
Creditors	100	100
	<hr/>	<hr/>
	3100	2500

The insurer's Form 4 is as in Example one above and its Form 1 as follows.

Form 1⁽¹⁾		<u>2007</u>	<u>2006</u>
Admissible assets ⁽²⁾	1	2400	1900
Liabilities ⁽³⁾	2	1,000	800
Available assets	8	<hr/>	<hr/>
		1300	1100
Represented by			
Paid up share capital	11	1000	1000
Balance of net assets ⁽⁴⁾	13	300	100
Total - equal to line 8 above	14	<hr/>	<hr/>
		1300	1100
Movement of balance of net assets			
Balance brought forward	17	100	50 ⁽⁶⁾
Retained profit	18	300	50 ⁽⁶⁾
Movement in asset valuation difference ⁽⁵⁾	19	(100)	
	22	<hr/>	<hr/>
		300	100

Explanations of the above

- (1) Blank lines have been omitted.
- (2) This is taken from line 65 in Form 4 - see example one above.
- (3) This is technical provisions (1,000) plus creditors (100).



- (4) This is the balancing figure.
- (5) This is the difference for lines 2 to 5 on Form 5 between the comparative amounts. $(200 + 200 + 200)$ and the present year amounts $(300 + 200 + 100 + 100)$ - see example one above.
- (6) The comparative amounts at lines 17 and 18 are illustrative only. They cannot be derived from the other data given in this example.