

English edition

## Legislation

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## I

(Acts whose publication is obligatory)

## COUNCIL REGULATION (EEC) No 3924/91

of 19 December 1991

on the establishment of a Community survey of industrial production

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Economic Community, and in particular Article 213 thereof,

*Article 1*

**General**

Having regard to the draft Regulation submitted by the Commission,

Member States shall carry out a Community statistical survey of industrial production.

Whereas in order to carry out the tasks devolving on it from the Treaties, especially with the prospect of the internal market as provided for pursuant to Article 8a of the Treaty establishing the European Economic Community, the Commission must have full, up-to-date and reliable information on industrial production in the Community;

*Article 2*

**Survey field and characteristics**

Whereas companies need such information in order to know their markets; whereas the international dimension of these markets will favour an alignment between production statistics and external trade statistics;

1. The field covered by the survey referred to in Article 1 shall be that of the activities listed in sections C, D and E of the classification of economic activities in the European Community hereafter referred to as 'NACE (Rev. 1)' set out in Regulation (EEC) No 3037/90 <sup>(1)</sup>.

Whereas, if production statistics are to be useful and in order to make such an alignment practicable, they must be drawn up at a level of detail which is close to the first six digits of the combined nomenclature, which also corresponds to the coding used in the Harmonized System;

2. The production recorded in this field shall be defined by the list of products, hereinafter referred to as the 'Prodcom list', the headings of which shall in principle consist of articles or groups of articles from the combined nomenclature linked with other Community product nomenclatures.

Whereas the combined nomenclature is a product nomenclature with which companies are already familiar; whereas it is in their interests to refer thereto rather than create a nomenclature specific to production;

3. The survey shall cover the following information for each heading:

(a) the physical volume of production sold during the survey period;

(b) the value of production sold during the survey period.

Whereas standardized statistics cannot be drawn up with the reliability, speed, flexibility and level of detail required to manage the internal market unless the Member States use survey classification systems derived from the same product list;

4. In certain cases the information in question shall be replaced by one of the following:

(a) the physical volume of actual production during the survey period, including any which is incorporated into the manufacture of other products from the same undertaking;

Whereas, in order to meet national requirements, Member States may legitimately retain or enter in their national nomenclatures supplementary items not contained in the Community product list,

(b) the value and/or physical volume of actual production during the survey period with a view to marketing.

<sup>(1)</sup> OJ No L 293, 24. 10. 1990, p. 1.

5. In each Member State, the production surveyed shall be only that production actually carried out on its territory; it shall not include production outside its territory on behalf of some of its undertakings.

6. The Prodcom list, the information actually collected for each heading and the other implementation procedures of this Regulation shall be established in accordance with the procedure laid down in Article 10. The Prodcom list shall be updated in the same way.

### Article 3

#### Representativeness

1. The production of all undertakings in the Community must be recorded with sufficient accuracy for each NACE Rev. 1 class.

2. Member States shall adopt survey methods designed to facilitate the collection of data from undertakings representing at least 90 % of national production per NACE Rev. 1 class. A different threshold may nonetheless be adopted, in exceptional cases, in accordance with the procedure laid down in Article 10.

3. For the evaluation of production, account shall be taken of all undertakings employing at least 20 people. This threshold shall be reviewed in the light of the requirement of representativeness referred to in paragraph 2.

4. Where the production of Member State's undertakings in a NACE Rev. 1 class represents less than 1 % of the Community total, the data on the headings in that class need not be collected.

5. Detailed rules for applying this Article shall be adopted, as necessary, in accordance with the procedure laid down in Article 10.

### Article 4

#### Survey periods

The survey shall cover an annual period of one calendar year.

However, for certain headings in the Prodcom list, monthly or quarterly surveys may be decided upon in accordance with the procedure laid down in Article 10.

### Article 5

#### Collection of data

1. The required information shall be collected by the Member States using survey questionnaires the content of

which shall comply with the arrangements defined in accordance with the procedure laid down in Article 10.

2. The undertakings called upon by Member States to supply information shall be obliged to give true and complete information within the prescribed periods.

3. The survey may be waived where Member States already have information from other sources which is at least equivalent as regards precision and quality.

4. Where the Statistical Office so requests, Member States shall send it any information, in particular concerning methodology, necessary for the implementation of this Regulation.

### Article 6

#### Processing of results

Member States shall process the completed questionnaires referred to in Article 5 (1) or information from other sources referred to in Article 5 (3) in accordance with the detailed rules adopted in accordance with the procedure laid down in Article 10.

### Article 7

#### Transmission of results

1. Member States shall send the findings relating to a one-year period to the Statistical Office of the European Communities within six months after the end of the reference year. These findings shall include data which are confidential under national law; their confidential nature shall be explicitly stated.

2. Findings concerning headings with a survey period shorter than a year shall be sent under the arrangements adopted in accordance with the procedure laid down in Article 10.

3. Findings transmitted to the Statistical Office of the European Communities shall be treated as confidential as required by Regulation (Euratom, EEC) No 1588/90<sup>(1)</sup>.

4. The first survey shall cover 1993. Together with the data for 1993 the Member States shall send retrospective information relating to 1992 using national statistics which correspond as closely as possible to the Prodcom list.

<sup>(1)</sup> OJ No L 151, 15. 6. 1990, p. 1.

*Article 8***Transitional period**

Articles 1 to 7 shall be the subject of progressive implementing measures for the surveys covering 1993 and 1994.

*Article 9***The Committee**

The procedures for implementing this Regulation, including the measures for adjustment to technical progress concerning collection of data and the processing of the results shall be laid down by the Commission after consulting the Statistical Programme Committee set up by Decision 89/382/EEC, Euratom <sup>(1)</sup>, in accordance with the procedure laid down in Article 10.

*Article 10***Procedure**

1. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft, within a time limit which the chairman may lay down according to the

urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

2. (a) The Commission shall adopt measures which shall apply immediately.

(b) However, if these measures are not in accordance with the opinion of the Committee, they shall be communicated by the Commission to the Council forthwith. In that event the Commission shall defer application of the measures which it has decided for a period of three months from the date of such communication.

The Council, acting by a qualified majority, may take a different decision within the time limit referred to in the first subparagraph.

*Article 11***Entry into force**

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 19 December 1991.

*For the Council*

*The President*

P. DANKERT

(<sup>1</sup>) OJ No L 181, 28. 6. 1989, p. 47.

## COUNCIL REGULATION (EEC) No 3925/91

of 19 December 1991

concerning the elimination of controls and formalities applicable to the cabin and hold baggage of persons taking an intra-Community flight and the baggage of persons making an intra-Community sea crossing

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100a thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

In cooperation with the European Parliament <sup>(2)</sup>,

Having regard to the opinion of the Economic and Social Committee <sup>(3)</sup>,

Whereas Article 8a of the Treaty provides that the internal market shall comprise an area without internal frontiers in which the free movement, in particular, of goods is ensured; whereas in this context ports and airports stand apart as either may constitute, at the same time, an external frontier and an internal border; whereas the application of the principle of freedom of movement should nevertheless result in the elimination of controls on the cabin and hold baggage of persons taking an intra-Community flight and the baggage of persons making an intra-Community sea crossing;

Whereas a journey by air may involve several successive legs some being within Community territory and others outside it; whereas the treatment of some flights must take into account the practicalities of organizing controls and of international competition; whereas specific provision should be made to cover such special cases;

Whereas maritime transport may involve different types of voyage; whereas specific provision should be made to cover certain special cases of maritime transport;

Whereas such specific provisions must be applied without prejudice to safety and security checks,

Whereas Member States must, however, be free to take specific measures compatible with Community law for the purpose of carrying out special controls, *inter alia*, in order to prevent criminal activities linked in particular to terrorism, drugs and the traffic in works of art,

<sup>(1)</sup> OJ No C 212, 25. 8. 1990, p. 8.

<sup>(2)</sup> OJ No C 106, 22. 4. 1991, p. 80; and OJ No C 326, 16. 12. 1991.

<sup>(3)</sup> OJ No C 60, 8.3. 1991, p. 12.

HAS ADOPTED THIS REGULATION:

## Article 1

1. Subject to Articles 3, 4 and 5, no controls or formalities shall be carried out in respect of:

- the cabin and hold baggage of persons taking an intra-Community flight,
- the baggage of persons making an intra-Community sea crossing.

2. This Regulation shall apply without prejudice to:

- the safety and security checks carried out on baggage by the authorities of the Member States, port or airport authorities or carriers,
- checks linked to prohibitions or restrictions laid down by the Member States, provided they are compatible with the three Treaties establishing the European Communities.

## Article 2

For the purposes of this Regulation:

1. 'Community airport' means any airport situated in Community customs territory;
2. 'international Community airport' means any Community airport which, having been so authorized by the competent authorities, is approved for air traffic with third countries;
3. 'intra-Community flight' means the movement of an aircraft between two Community airports, without any stopovers, and which does not start from or end at a non-Community airport;
4. 'Community port' means any sea port situated in Community customs territory;
5. 'intra-Community sea crossing' means the movement between two Community ports without any intermediate calls, of a vessel plying regularly between two or more specified Community ports;
6. 'pleasure craft' means private boats intended for journeys whose itinerary depends on the wishes of the user;

7. 'tourist or business aircraft' means private aircraft intended for journeys whose itinerary depends on the wishes of the user.

#### Article 3

Any controls and any formalities applicable:

1. to the cabin and hold baggage of persons taking a flight in an aircraft which comes from a non-Community airport and which, after a stopover at a Community airport, continues to another Community airport, shall be carried out at this last airport provided it is an international Community airport;
2. to the cabin and hold baggage of persons taking a flight in a aircraft which stops over at a Community airport before continuing to a non-Community airport, shall be carried out at the airport of departure provided it is an international Community airport;
3. to the baggage of persons using a maritime service provided by the same vessel and comprising successive legs departing from, calling at or terminating in a non-Community port shall be carried out at the port at which the baggage in question is loaded or unloaded as the case may be.

#### Article 4

Any controls and any formalities applicable to the baggage of persons on board:

1. pleasure craft, shall be carried out in any Community port, whatever the origin or destination of these craft;
2. tourist or business aircraft, shall be carried out:
  - at the first airport of arrival which must be an international Community airport, for flights coming from a non-Community airport where the aircraft, after a stopover, continues to another Community airport,
  - at the last international Community airport, for flights coming from a Community airport where the aircraft, after a stopover, continues to a non-Community airport.

#### Article 5

Except in special cases to be determined in accordance with the procedure laid down in Article 8, any controls and any formalities applicable to:

1. hold baggage arriving at a Community airport on board an aircraft coming from a non-Community airport and

transferred, at that Community airport, to another aircraft proceeding on an intra-Community flight shall be carried out at the airport of arrival of the intra-Community flight, provided the latter airport is an international Community airport;

2. hold baggage loaded at a Community airport onto an aircraft proceeding on an intra-Community flight for transfer, at another Community airport to an aircraft whose destination is a non-Community airport, shall be carried out at the airport of departure of the intra-Community flight, provided that airport is an international Community airport;
3. baggage arriving at a Community airport on board a scheduled or charter flight from a non-Community airport and transferred, at that Community airport, to a tourist or business aircraft proceeding on an intra-Community flight shall be carried out at the airport of arrival of the scheduled or charter flight;
4. baggage loaded at a Community airport onto a tourist or business aircraft proceeding on an intra-Community flight for transfer, at another Community airport, to a scheduled or charter flight whose destination is a non-Community airport, shall be carried out at the airport of departure of the scheduled or charter flight.

#### Article 6

1. A Committee on the Movement of Air or Sea Passengers' Baggage (hereinafter referred to as 'the Committee') is hereby set up, composed of representatives of the Member States and chaired by a representative of the Commission.

2. The Committee shall draw up its own rules of procedure.

#### Article 7

The Committee shall have power to examine any question relating to the implementation of this Regulation, submitted to it by its chairman either on his own initiative or at the request of a representative of a Member State.

#### Article 8

1. The provisions necessary for applying this Regulation shall be adopted in accordance with the procedure laid down in paragraphs 2 and 3.

2. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft, within a

time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty.

3. (a) The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the Committee.
- (b) If the measures envisaged are not in accordance with the opinion of the Committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.
- (c) If, on the expiry of a three-month period from the date of referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission.

*Article 9*

1. This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Communities*.

It shall apply from 1 January 1993.

2. Before 1 October 1992, the Council shall review this Regulation on the basis of a progress report from the Commission on the harmonization of provisions on the achievement of the internal market which are necessary for the correct application of this Regulation, and in particular those relating to the abolition of limits on travellers' allowances in intra-Community traffic. The report shall be accompanied by proposals, should there be any, on which the Council shall decide by a qualified majority.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 19 December 1991.

*For the Council*

*The President*

P. DANKERT

## II

*(Acts whose publication is not obligatory)*

## COUNCIL

## COUNCIL DIRECTIVE

of 19 December 1991

on the annual accounts and consolidated accounts of insurance undertakings

(91/674/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 54 thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

In cooperation with the European Parliament <sup>(2)</sup>,

Having regard to the opinion of the Economic and Social Committee <sup>(3)</sup>,

Whereas Article 54 (3) (g) of the Treaty requires coordination to the necessary extent of the safeguards which, for the protection of the interests of members and others, are required by Member States of companies and firms within the meaning of the second paragraph of Article 58 of the Treaty, with a view to making such safeguards equivalent throughout the Community;

Whereas Council Directive 78/660/EEC of 25 July 1978 based on Article 54 (3) (g) of the Treaty on the annual accounts of certain types of companies <sup>(4)</sup>, as last amended by Directive 90/605/EEC <sup>(5)</sup>, need not be applied to insurance companies, hereinafter referred to as 'insurance undertakings', pending further coordination; whereas, in view of the major importance of insurance undertakings in the Community, such coordination cannot be delayed any longer following the implementation of Directive 78/660/EEC;

Whereas Council Directive 83/349/EEC of 13 June 1983 based on Article 54 (3) (g) of the Treaty on consolidated accounts <sup>(6)</sup>, as last amended by Directive 90/605/EEC, provides for derogations for insurance undertakings only until the expiry of the deadline imposed for the application of this Directive; whereas this Directive must therefore also include provisions specific to insurance undertakings in respect of consolidated accounts;

Whereas such coordination is also urgently required because insurance undertakings operate across borders; whereas for creditors, debtors, members, policyholders and their advisers and for the general public, improved comparability of the annual accounts and consolidated accounts of such undertakings is of crucial importance;

Whereas in the Member States insurance undertakings of different legal forms are in competition with each other; whereas undertakings engaged in the business of direct insurance customarily engage in the business of reinsurance as well and are therefore in competition with specialist reinsurance undertakings; whereas it is therefore appropriate not to confine coordination to the legal forms covered by Directive 78/660/EEC, but to choose a scope that corresponds to that of Council Directive 73/239/EEC of 24 July 1973 on the coordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of direct insurance other than life assurance <sup>(7)</sup>, as last amended by Directive 90/618/EEC <sup>(8)</sup>, and to that of Council Directive 79/267/EEC of 5 March

<sup>(1)</sup> OJ No C 131, 18. 4. 1987, p. 1.

<sup>(2)</sup> OJ No C 96, 17. 4. 1989, p. 93; and OJ No C 326, 16. 12. 1991.

<sup>(3)</sup> OJ No C 319, 30. 11. 1987, p. 13.

<sup>(4)</sup> OJ No L 222, 14. 8. 1978, p. 11.

<sup>(5)</sup> OJ No L 317, 16. 11. 1990, p. 60.

<sup>(6)</sup> OJ No L 193, 18. 7. 1983, p. 1.

<sup>(7)</sup> OJ No L 228, 16. 8. 1973, p. 3.

<sup>(8)</sup> OJ No L 330, 29. 11. 1990, p. 44.

1979 on the coordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of direct life assurance <sup>(1)</sup>, as last amended by Directive 90/619/EEC <sup>(2)</sup>, but which also includes certain undertakings that are excluded from the scope of those Directives and companies and firms which are reinsurance undertakings;

Whereas, although in view of the specific characteristics of insurance undertakings it would appear appropriate to propose a separate Directive on the annual accounts and consolidated accounts of such undertakings, that does not necessarily require the establishment of a set of standards different from those of Directive 78/660/EEC and 83/349/EEC; whereas such separate standards would be neither appropriate nor consistent with the principles underlying the coordination of company law since, given the important position they occupy in the Community economy, insurance undertakings cannot be excluded from a framework of rules devised for undertakings generally; whereas, for this reason, only the particular characteristics of insurance undertakings have been taken into account and this Directive deals only with derogations from the rules laid down in Directives 78/660/EEC and 83/349/EEC;

Whereas there are major differences in the structure and content of the balance sheets of insurance undertakings in different Member States; whereas this Directive must therefore lay down the same structure and the same item designations for the balance sheets of all Community insurance undertakings;

Whereas, if annual accounts and consolidated accounts are to be comparable, a number of basic questions regarding the disclosure of certain transactions in the balance sheet must be settled;

Whereas, in the interests of greater comparability, it is also necessary that the content of the various balance sheet items be determined precisely;

Whereas it may be useful to distinguish between the commitments of the insurer and those of the reinsurer by showing in the assets the reinsurer's share of technical provisions as an asset;

Whereas the structure of the profit and loss account should also be determined and certain items in it should be defined;

Whereas, given the specific nature of the insurance industry, it may be useful for unrealized gains and losses to be dealt with in the profit and loss account;

Whereas the comparability of figures in the balance sheet and profit and loss account also depends basically on the values at which assets and liabilities are shown in the balance sheet; whereas for a proper understanding of the financial situation

of an insurance undertaking the current value of investments as well as their value based upon the principle of purchase price or production cost must be disclosed; whereas, however, the compulsory disclosure of the current value of investments, at least in the notes on the accounts, is prescribed solely for purposes of comparability and transparency and is not intended to lead to changes in the tax treatment of insurance undertakings;

Whereas in the calculation of life assurance provisions use may be made of actuarial methods customarily applied on the market or accepted by the insurance-monitoring authorities; whereas those methods may be implemented by any actuary or expert in accordance with the conditions which may be laid down in national law and with due regard for the actuarial principles recognized in the framework of the present and future coordination of the fundamental rules for the prudential and financial monitoring of direct life assurance business;

Whereas, in the calculation of the provision for claims outstanding, on the one hand, any implicit discounting or deduction should be prohibited, and, on the other hand, precise conditions for recourse to explicit discounting or deduction should be defined, for the sake of prudence and transparency;

Whereas, in view of the special nature of insurance undertakings, certain changes are necessary with regard to the notes on annual accounts and on consolidated accounts;

Whereas, in line with the intention of covering all insurance undertakings that come within the scope of Directive 73/239/EEC and 79/267/EEC as well as certain others, derogations such as those for small and medium-sized insurance undertakings in Directive 78/660/EEC are not provided for, but certain small mutual associations which are excluded from the scope of Directives 73/239/EEC and 79/267/EEC should not be covered;

Whereas for the same reasons the scope allowed Member States pursuant to Directive 83/349/EEC to exempt parent undertakings of groups from compulsory consolidation if the undertakings to be consolidated do not together exceed a certain size has not been extended to insurance undertakings;

Whereas in view of its particular nature special provisions are needed for the association of underwriters known as Lloyd's;

Whereas the provisions of this Directive also apply to the consolidated accounts drawn up by a parent undertaking which is a financial holding company where its subsidiary undertakings are either exclusively or mainly insurance undertakings;

<sup>(1)</sup> OJ No L 63, 13. 3. 1979, p. 1.

<sup>(2)</sup> OJ No L 330, 29. 11. 1990, p. 50.

Whereas the examination of problems which arise in connection with this Directive, in particular regarding its application, requires cooperation by representatives of the Member States and the Commission in a contact committee; whereas, in order to avoid the proliferation of such committees, it is desirable that such cooperation take place in the committee provided for in Article 52 of Directive 78/660/EEC; whereas, however, when examining problems concerning insurance undertakings, the committee must be appropriately constituted;

Whereas, in view of the complexity of the matter, the insurance undertakings covered by this Directive must be allowed an appropriate period to implement its provisions; whereas that period must be extended to allow the necessary adjustments to be made concerning, on the one hand, the association of underwriters known as Lloyd's and, on the other, those undertakings which, when this Directive becomes applicable, show their investments at historical cost;

Whereas provision should be made for the review of certain provisions of this Directive after five years' experience of its application, in the light of the aims of greater transparency and harmonization.

HAS ADOPTED THIS DIRECTIVE:

## SECTION 1

### Preliminary provisions and scope

#### Article 1

1. Articles 2, 3, 4 (1), (3) to (5), 6, 7, 13, 14, 15 (3) and (4), 16 to 21, 29 to 35, 37 to 42, 43 (1), points 1 to 7 and 9 to 13, 45 (1), 46, 48 to 50, 51 (1), 54, 56 to 59 and 61 of Directive 78/660/EEC shall apply to the undertakings referred to in Article 2 of this Directive, except where this Directive provides otherwise.
2. Where reference is made in Directives 78/660/EEC and 83/349/EEC to Articles 9 and 10 (balance sheet) or to Articles 23 to 26 (profit and loss account) of Directive 78/660/EEC, such references shall be deemed to be references to Article 5 (balance sheet) or to Article 29 (profit and loss account) of this Directive as appropriate.
3. References in Directives 78/660/EEC and 83/349/EEC to Articles 31 to 42 of Directive 78/660/EEC shall be deemed to be references to those Articles, taking account of Articles 45 to 62 of this Directive.
4. Where the aforementioned provisions of Directive 78/660/EEC relate to balance-sheet items for which this Directive lays down no equivalent, they shall be deemed to be

references to the items in Article 6 of this Directive where the corresponding assets and liabilities items are listed.

#### Article 2

1. The coordination measures prescribed by this Directive shall apply to companies and firms within the meaning of the second paragraph of Article 58 of the Treaty which are:
  - (a) undertakings within the meaning of Article 1 of Directive 73/239/EEC, excluding those mutual associations which are excluded from the scope of that Directive by virtue of Article 3 thereof but including those bodies referred to in Article 4 (a), (b), (c) and (e) thereof except where their activity does not consist wholly or mainly in carrying on insurance business;
  - (b) undertakings within the meaning of Article 1 of Directive 79/267/EEC, excluding those bodies and mutual associations referred to in Articles 2 (2) and (3) and 3 of that Directive; or
  - (c) undertakings carrying on reinsurance business.

In this Directive, such undertakings shall be referred to as insurance undertakings.

2. Funds of a group pension fund within the meaning of Article 1 (2) (c) and (d) of Directive 79/267/EEC which an insurance undertaking administers in its own name but on behalf of third parties must be shown in the balance sheet if the undertaking acquires legal title to the assets concerned. The total amount of such assets and liabilities shall be shown separately or in the notes on the accounts, broken down according to the various assets and liabilities items. However, the Member States may permit the disclosure of such funds as off-balance-sheet items provided there are special rules whereby such funds can be excluded from the assets available for distribution in the event of the winding up of an insurance undertaking (or similar proceedings).

Assets acquired in the name of and on behalf of third parties must not be shown in the balance sheet.

#### Article 3

Those provisions of this Directive which relate to life assurance shall apply *mutatis mutandis* to insurance undertakings which underwrite only health insurance and which do so exclusively or principally according to the technical principles of life assurance.

Member States may apply the first paragraph to health insurance underwritten by joint undertakings according to the technical principles of life assurance where such activity is significant.

*Article 4*

This Directive shall apply to the association of underwriters known as Lloyd's subject to the adaptations set out in the Annex to take account of the particular nature and structure of Lloyd's.

## SECTION 2

**General provisions concerning the balance sheet and the profit and loss account***Article 5*

The combination of items under the conditions laid down in Article 4 (3) (a) or (b) of Directive 78/660/EEC shall be restricted in the case of insurance undertakings,

- as regards the balance sheet, to items preceded by arabic numerals, except for items concerning technical provisions, and
- as regards the profit and loss account, to items preceded by one or more lower-case letters, except for items I (1) and (4) and II (1), (5) and (6).

Combination shall be authorized only under the rules laid down by the Member States.

## SECTION 3

**Layout of the balance sheet***Article 6*

The Member States shall prescribe the following layout for balance sheets:

**Assets****A. *Subscribed capital unpaid***

showing separately called-up capital (unless national law requires called-up capital to be included under liabilities, in which case capital called but not yet paid must be included as an asset either under A or under E (IV)).

**B. *Intangible assets***

as described under items B and C (I) of Article 9 of Directive 78/660/EEC, showing separately:

- formation expenses, as defined by national law and in so far as national law permits their being shown as an asset (unless national law requires their disclosure in the notes on the accounts),
- goodwill, to the extent that it was acquired for valuable consideration (unless national law requires its disclosure in the notes on the accounts).

**C. *Investments*****I. Land and buildings:**

showing separately land and buildings occupied by an insurance undertaking for its own activities (unless national law requires their disclosure in the notes on the accounts).

**II. Investments in affiliated undertakings and participating interests:**

1. Shares in affiliated undertakings.
2. Debt securities issued by, and loans to, affiliated undertakings.
3. Participating interests.
4. Debt securities issued by, and loans to, undertakings with which an insurance undertaking is linked by virtue of a participating interest.

**III. Other financial investments:**

1. Shares and other variable-yield securities and units in unit trusts.
2. Debt securities and other fixed-income securities.
3. Participation in investment pools.
4. Loans guaranteed by mortgages.
5. Other loans.
6. Deposits with credit institutions.
7. Other.

**IV. Deposits with ceding undertakings.****D. *Investments for the benefit of life-assurance policyholders who bear the investment risk*****E. *Debtors***

(Amounts owed by:

- affiliated undertakings, and
- undertakings with which an insurance undertaking is linked by virtue of participating interests

shall be shown separately, as sub-items of items I, II and III).

**I. Debtors arising out of direct insurance operations**

1. policyholders;
2. intermediaries.

- |  |  |
|--|--|
| <p>II. Debtors arising out of reinsurance operations.</p> <p>III. Other debtors.</p> <p>IV. Subscribed capital called but not paid<br/>(unless national law requires that capital called but not paid be shown as an asset under A).</p> | <p>III. Own shares (with an indication of their nominal value or, in the absence of a nominal value, their accounting par value) to the extent that national law permits their being shown in the balance sheet.</p> <p>IV. Other.</p> |
|--|--|
- F. *Other assets*
- |   |  |
|---|--|
| <p>I. Tangible assets and stocks as listed under C (II) and D (I) in Article 9 of Directive 78/660/EEC, other than land and buildings, buildings under construction and deposits paid on land and buildings.</p> <p>II. Cash at bank and in hand.</p> | <p>G. <i>Prepayments and accrued income</i></p> <p>I. Accrued interest and rent.</p> <p>II. Deferred acquisition costs (distinguishing those arising in non-life insurance and life-assurance business).</p> <p>III. Other prepayments and accrued income.</p> <p>H. <i>Loss for the financial year</i><br/>(unless national law requires it to be shown as a liability under A (VI)).</p> |
|---|--|

#### Liabilities

##### A. *Capital and reserves*

- I. Subscribed capital or equivalent funds  
(unless national law requires called-up capital to be shown under this item. In that case, the amounts of subscribed capital and paid-up capital must be shown separately).
- II. Share premium account.
- III. Revaluation reserve.
- IV. Reserve.
- V. Profit or loss brought forward.
- VI. Profit or loss for the financial year  
(unless national law requires it to be shown as an asset under H or as a liability under I).

##### B. *Subordinated liabilities*

##### C. *Technical provisions*

1. Provision for unearned premiums:
- |                            |       |       |
|----------------------------|-------|-------|
| (a) gross amount           | ..... |       |
| (b) reinsurance amount (-) | ..... |       |
|                            |       | ..... |
2. Life assurance provision:
- |                            |       |       |
|----------------------------|-------|-------|
| (a) gross amount (-)       | ..... |       |
| (b) reinsurance amount (-) | ..... |       |
|                            |       | ..... |
3. Claims outstanding:
- |                            |       |       |
|----------------------------|-------|-------|
| (a) gross amount           | ..... |       |
| (b) reinsurance amount (-) | ..... |       |
|                            |       | ..... |

- 4. Provision for bonuses and rebates (unless shown under 2):
  - (a) gross amount .....
  - (b) reinsurance amount (-) .....
  
- 5. Equalization provision
  
- 6. Other technical provisions:
  - (a) gross amount .....
  - (b) reinsurance amount (-) .....

D. *Technical provisions for life-assurance policies where the investment risk is borne by the policyholders:*

- (a) gross amount .....
- (b) reinsurance amount (-) .....

E. *Provisions for other risks and charges*

*Article 7*

- 1. Provisions for pensions and similar obligations.
- 2. Provisions for taxation.
- 3. Other provisions.

Article 14 of Directive 78/660/EEC shall not apply to commitments linked to insurance activities.

F. *Deposits received from reinsurers*

SECTION 4

G. *Creditors*

**Special provisions relating to certain balance-sheet items**

(Amounts owed to:

*Article 8*

- affiliated undertakings, and
- undertakings with which an insurance undertaking is linked by virtue of a participating interest

Article 15 (3) of Directive 78/660/EEC shall apply only to assets items B and C (I) and (II) as defined in Article 6 of this Directive. Any movements in these items shall be shown on the basis of the balance-sheet value at the beginning of the financial year.

shall be shown separately, as sub-items.)

*Article 9*

- I. Creditors arising out of direct insurance operations.
- II. Creditors arising out of reinsurance operations.
- III. Debenture loans, showing convertible loans separately.
- IV. Amounts owed to credit institutions.
- V. Other creditors, including tax and social security.

**Assets: item C (III) (2)**

*Debt securities and other fixed-income securities*

1. This item shall comprise negotiable debt securities and other fixed-income securities issued by credit institutions, by other undertakings or by public bodies, in so far as they are not covered by item C (II) (2) or (4).

H. *Accruals and deferred income*

I. *Profit for the financial year*

(unless national law requires it to be shown as a liability under A (VI)).

2. Securities bearing interest the rate of which varies in line with specific factors, for example the interest rate on the inter-bank market or on the Euromarket, shall also be regarded as debt securities and other fixed-income securities.

*Article 10***Assets:** item C (III) (3)*Participation in investment pools*

This item shall comprise shares held by an undertaking in joint investments constituted by several undertakings or pension funds, the management of which has been entrusted to one of those undertakings or to one of those pension funds.

*Article 11***Assets:** items C (III) (4) and (5)*Loans guaranteed by mortgages and other loans*

Loans to policyholders for which the policy is the main security shall be included under 'Other loans' and their amount shall be disclosed in the notes on the accounts. Loans guaranteed by mortgage shall be shown as such even where they are also secured by insurance policies. Where the amount of 'Other loans' not secured by policies is material, an appropriate breakdown shall be given in the notes on the accounts.

*Article 12***Assets:** item C (III) (6)*Deposits with credit institutions*

This item shall comprise sums the withdrawal of which is subject to a time restriction. Sums deposited with no such restriction shall be shown under F (II) even if they bear interest.

*Article 13***Assets:** item C (III) (7)*Other*

This item shall comprise those investments which are not covered by items C (III) (1) to (6). Where the amount of such investments is significant, they must be disclosed in the notes on the accounts.

*Article 14***Assets:** item C (IV)*Deposits with ceding undertakings*

In the balance sheet of an undertaking which accepts reinsurance this item shall comprise amounts, owed by the

ceding undertakings and corresponding to guarantees, which are deposited with those ceding undertakings or with third parties or which are retained by those undertakings.

These amounts may not be combined with other amounts owed by the ceding insurer to the reinsurer or set off against amounts owed by the reinsurer to the ceding insurer.

Securities deposited with ceding undertakings or third parties which remain the property of the undertaking accepting reinsurance shall be entered in the latter's accounts as an investment, under the appropriate item.

*Article 15***Assets:** item D*Investments for the benefit of life assurance policyholders who bear the investment risk.*

In respect of life assurance this item shall comprise, on the one hand, investments the value of which is used to determine the value of or the return on policies relating to an investment fund and, on the other hand, investments serving as cover for liabilities which are determined by reference to an index. This item shall also comprise investments which are held on behalf of the members of a tontine and are intended for distribution among them.

*Article 16***Assets:** item F (IV)*Other*

This item shall comprise those assets which are not covered by items F (I), (II) and (III). Where such assets are material, they must be disclosed in the notes on the accounts.

*Article 17***Assets:** item G (I)*Accrued interest and rent*

This item shall comprise those items that represent interest and rent that have been earned up to the balance-sheet date but have not yet become receivable.

*Article 18***Assets:** item G (II)*Deferred acquisition costs*

1. The costs of acquiring insurance policies shall be deferred in accordance with Article 18 of Directive 78/660/EEC in so far as such deferral is not prohibited by Member States.

2. Member States may, however, permit the deduction of acquisition costs from unearned premiums in non-life-insurance business and their deduction by an actuarial method from mathematical reserves in life-assurance business. Where this method is used, the amounts deducted from the provisions must be indicated in the notes on the accounts.

#### Article 19

**Liabilities:** item A (I)

##### *Subscribed capital or equivalent funds*

This item shall comprise all amounts, irrespective of their actual designations, which, in accordance with the legal structure of an insurance undertaking, are regarded under the national law of the Member State concerned as equity capital subscribed by the shareholders or other persons.

#### Article 20

**Liabilities:** item A (IV)

##### *Reserves*

This item shall comprise all the types of reserves listed in Article 9 of Directive 78/660/EEC under liabilities item A (IV), as defined therein. The Member States may also require other types of reserves if necessary for insurance undertakings the legal structures of which are not covered by Directive 78/660/EEC.

Reserves shall be shown separately, as sub-items of liabilities item A (IV), in the balance sheets of the insurance undertakings concerned, except for the revaluation reserve, which shall be shown as a liability under A (III).

#### Article 21

**Liabilities:** item B

##### *Subordinated liabilities*

Where it has been contractually agreed that, in the event of winding up or of bankruptcy, liabilities, whether or not represented by certificates, are to be repaid only after the claims of all other creditors have been met, the liabilities in question shall be shown under this item.

#### Article 22

Where a Member States permits an undertaking's balance sheet to include funds the allocation of which either to policyholders or to shareholders has not been determined by the close of the financial year, those amounts shall be shown as liabilities under an item Ba (Fund for future appropriations).

Variations in this item shall derive from an item II (12a) (Transfers to or from the fund for future appropriations) in the profit and loss account.

#### Article 23

**Liabilities:** item C

##### *Technical provisions*

Article 20 of Directive 78/660/EEC shall apply to technical provisions, subject to Articles 24 to 30 of this Directive.

#### Article 24

**Liabilities:** items C (1) (b), (2) (b), (3) (b), (4) (b) and (6) (b) and D (b).

##### *Reinsurance amounts*

1. The reinsurance amounts shall comprise the actual or estimated amounts which, under contractual reinsurance arrangements, are deducted from the gross amounts of technical provisions.

2. As regards the provision for unearned premiums, the reinsurance amounts shall be calculated according to the methods referred to in Article 57 or in accordance with the terms of the reinsurance policy.

3. Member States may require or permit the reinsurance amounts to be shown as assets. Where this option is exercised, those amounts shall be shown as assets under an item Da (Reinsurers' share of technical provisions), subdivided as follows:

1. Provision for unearned premiums
2. Life assurance provision
3. Claims outstanding
4. Provisions for bonuses and rebates (unless shown under 2)
5. Other technical provisions
6. Technical provisions for life-assurance policies where the investment risk is borne by the policyholders.

Notwithstanding Article 5, these items shall not be combined.

## Article 25

**Liabilities:** item C (1)

*Provision for unearned premiums*

The provision for unearned premiums shall comprise the amount representing that part of gross premiums written which is to be allocated to the following financial year or to subsequent financial years. In the case of life assurance Member States may, pending further harmonization, require or permit the provision for unearned premiums to be included in item C (2).

If, pursuant to Article 26, item C (1) also includes the amount of the provision for unexpired risks, the description of the item shall be 'Provision for unearned premiums and unexpired risks'. Where the amount for unexpired risks is material, it shall be disclosed separately either in the balance sheet or in the notes on the accounts.

## Article 26

**Liabilities:** item C (6)

*Other technical provisions*

This item shall comprise, *inter alia*, the provision for unexpired risks, i.e. the amount set aside in addition to unearned premiums in respect of risks to be borne by the insurance undertaking after the end of the financial year, in order to provide for all claims and expenses in connection with insurance contracts in force in excess of the related unearned premiums and any premiums receivable on those contracts. However, if national legislation so provides, the provision for unexpired risks may be added to the provision for unearned premiums, as defined in Article 25, and included in the amount shown under item C (1).

Where the amount of unexpired risks is significant, it shall be disclosed separately either in the balance sheet or in the notes on the accounts.

Where the option provided for in the second paragraph of Article 3 is not exercised, this item shall also include the ageing reserves.

## Article 27

**Liabilities:** item C (2)

*Life assurance provision*

The life assurance provision shall comprise the actuarially estimated value of an insurance undertaking's liabilities including bonuses already declared and after deducting the actuarial value of future premiums.

## Article 28

**Liabilities:** item C (3)

*Claims outstanding*

The provision for claims outstanding shall be the total estimated ultimate cost to an insurance undertaking of settling all claims arising from events which have occurred up to the end of the financial year, whether reported or not, less amounts already paid in respect of such claims.

## Article 29

**Liabilities:** item C (4)

*Provision for bonuses and rebates*

The provision for bonuses and rebates shall comprise amounts intended for policyholders or contract beneficiaries by way of bonuses and rebates as defined in Article 39 to the extent that such amounts have not been credited to policyholders or contract beneficiaries or included in an item Ba (Fund for future appropriations), as provided for in Article 22, first paragraph, or in item C (2).

## Article 30

**Liabilities:** item C (5)

*Equalization provision*

1. The equalization provision shall comprise any amounts set aside in compliance with legal or administrative requirements to equalize fluctuations in loss ratios in future years or to provide for special risks.

2. Where, in the absence of any such legislative or administrative requirements, reserves within the meaning of Article 20 have been constituted for the same purpose, this shall be disclosed in the notes on the accounts.

## Article 31

**Liabilities:** item D

*Technical provisions for life-assurance policies where the investment risk is borne by the policyholders.*

This item shall comprise technical provisions constituted to cover liabilities relating to investment in the context of life assurance policies the value of or the return on which is determined by reference to investments for which the policyholder bears the risk, or by reference to an index.

Any additional technical provisions constituted to cover death risks, operating expenses or other risks (such as benefits payable at the maturity date or guaranteed surrender values) shall be shown under item C (2).

SECTION 5

Layout of the profit and loss account

Item D shall also comprise technical provisions representing the obligations of a tontine's organizer *vis-à-vis* its members.

Article 33

Article 32

Liabilities: item F

*Deposits received from reinsurers*

In the balance sheet of an undertaking ceding reinsurance this item shall comprise amounts deposited by or withheld from other insurance undertakings under reinsurance contracts. These amounts may not be merged with other amounts owed to or by the other undertakings in question.

Where an undertaking ceding reinsurance has received as a deposit securities which have been transferred to its ownership, this item shall comprise the amount owed by the ceding undertaking by virtue of the deposit.

1. The Member States shall prescribe the layout shown in Article 34 for profit and loss accounts.

2. The technical account for non-life-insurance business shall be used for those classes of direct insurance which are within the scope of Directive 73/239/EEC and for the corresponding classes of reinsurance business.

3. The technical account for life-assurance business shall be used for those classes of direct insurance which are within the scope of Directive 79/267/EEC and for the corresponding classes of reinsurance business.

4. Member States may require or permit undertakings the activities of which consist wholly of reinsurance to use the technical account for non-life-insurance business for all their business. This shall also apply to undertakings underwriting direct non-life-insurance and also reinsurance.

Article 34

Profit and loss account

I. *Technical account — Non-life-insurance business*

1. Earned premiums, net of reinsurance:

- (a) gross premiums written .....
- (b) outward reinsurance premiums ( - ) .....
- (c) change in the gross provision for unearned premiums and, in so far as national legislation authorizes the inclusion of this provision in liabilities item C (1), in the provision for unexpired risks (+ / -) .....
- (d) change in the provision for unearned premiums, reinsurers' share (+ / -) .....

2. Allocated investment return transferred from the non-technical account (item III (6)) .....

3. Other technical income, net of reinsurance .....

4. Claims incurred, net of reinsurance:

- (a) claims paid
  - (aa) gross amount .....
  - (bb) reinsurers' share ( - ) .....

(b) change in the provision for claims,		
(aa) gross amount	.....	
(bb) reinsurers' share (-)	.....	.....
5. Changes in other technical provisions, net of reinsurance, not shown under other headings (+ / -)		.....
6. Bonuses and rebates, net of reinsurance		.....
7. Net operating expenses:		
(a) acquisition costs	.....	
(b) change in deferred acquisition costs (+ / -)	.....	
(c) administrative expenses	.....	
(d) reinsurance commissions and profit participation (-)	.....	.....
8. Other technical charges, net of reinsurance		.....
9. Change in the equalization provision (+ / -)		.....
10. Sub-total (balance on the technical account for non-life-insurance business (item III 1)).		.....
 <b>II. Technical account — Life-assurance business</b>		
1. Earned premiums, net of reinsurance:		
(a) gross premiums written	.....	
(b) outward reinsurance premiums (-)	.....	
(c) change in the provision for unearned premiums, net of reinsurance (+ / -)	.....	.....
2. Investment income:		
(a) income from participating interests, with a separate indication of that derived from affiliated undertakings .....	.....	
(b) income from other investments, with a separate indication of that derived from affiliated undertakings .....	.....	
(aa) income from land and buildings	.....	
(bb) income from other investments	.....	
(c) value re-adjustments on investments	.....	
(d) gains on the realization of investments	.....	.....
3. Unrealized gains on investments		.....
4. Other technical income, net of reinsurance		.....
5. Claims incurred, net of reinsurance:		
(a) claims paid		
(aa) gross amount	.....	
(bb) reinsurers' share (-)	.....	.....

(b) change in the provision for claims		
(aa) gross amount	.....	
(bb) reinsurers' share (-)	.....	.....
6. Change in other technical provisions, net of reinsurance, not shown under other headings (+ / -):		
(a) life assurance provision, net of reinsurance		
(aa) gross amount	.....	
(bb) reinsurers' share (-)	.....	.....
(b) other technical provisions, net of reinsurance	.....	.....
7. Bonuses and rebates, net of reinsurance		.....
8. Net operating expenses:		
(a) acquisition costs,	.....	
(b) change in deferred acquisition costs (+ / -)	.....	
(c) administrative expenses	.....	
(d) reinsurance commissions and profit participation (-)	.....	.....
9. Investment charges:		
(a) investment management charges, including interest	.....	
(b) value adjustments on investments	.....	
(c) losses on the realization of investments	.....	.....
10. Unrealized losses on investments		.....
11. Other technical charges, net of reinsurance		.....
12. Allocated investment return transferred to the non-technical account (-) (item III 4))		.....
13. Sub-total: (balance on the technical account — life assurance business) (item III 2))		.....
<b>III. Non-technical account</b>		
1. Balance on the technical account — non-life-insurance business (item I (10))		.....
2. Balance on the technical account — life-assurance business (item II (13))		.....
3. Investment income		
(a) income from participating interests, with a separate indication of that derived from affiliated undertakings .....	.....	
(b) income from other investments, with a separate indication of that derived from affiliated undertakings .....	.....	
(aa) income from land and buildings	.....	
(bb) income from other investments	.....	.....

(c) value re-adjustments on investments	.....
(d) gains on the realization of investments	.....
4. Allocated investment return transferred from the life-assurance technical account (item II (12))	.....
5. Investment charges:	
(a) investment management charges, including interest	.....
(b) value adjustments on investments	.....
(c) losses on the realization of investments	.....
6. Allocated investment return transferred to the non-life-insurance technical account (item I 2))	.....
7. Other income	.....
8. Other charges, including value adjustments	.....
9. Tax on profit or loss on ordinary activities	.....
10. Profit or loss on ordinary activities after tax	.....
11. Extraordinary income	.....
12. Extraordinary charges	.....
13. Extraordinary profit or loss	.....
14. Tax on extraordinary profit or loss	.....
15. Other taxes not shown under the preceding items	.....
16. Profit or loss for the financial year	.....

SECTION 6

Special provisions relating to certain profit-and-loss-account items

Article 35

Non-life-insurance technical account: item I (1) (a)

Life-assurance technical account: item II (1) (a)

Gross premiums written

Gross premiums written shall comprise all amounts due during the financial year in respect of insurance contracts regardless of the fact that such amounts may relate in whole or in part to a later financial year, and shall include *inter alia*:

- (i) premiums yet to be written, where the premium calculation can be done only at the end of the year:
- (ii) — single premiums, including annuity premiums,

— in life assurance, single premiums resulting from bonus and rebate provisions in so far as they must be considered as premiums on the basis of contracts and where national legislation requires or permits their being shown under premiums;

(iii) additional premiums in the case of half-yearly, quarterly or monthly payments and additional payments from policyholders for expenses borne by the insurance undertaking;

(iv) in the case of co-insurance, the undertaking's portion of total premiums;

(v) reinsurance premiums due from ceding and retroceding insurance undertakings, including portfolio entries,

after deduction of:

— portfolio withdrawals credited to ceding and retroceding insurance undertakings, and

— cancellations.

The above amounts shall not include the amounts of taxes or charges levied with premiums.

#### Article 36

Non-life-insurance technical account: item I (1) (b)

Life-assurance technical account: item II (1) (b)

Outward reinsurance premiums

Outward reinsurance premiums shall comprise all premiums paid or payable in respect of outward reinsurance contracts entered into by an insurance undertaking. Portfolio entries payable on the conclusion or amendment of outward reinsurance contracts shall be added; portfolio withdrawals receivable must be deducted.

#### Article 37

Non-life-insurance technical account: items I (1) (c) and (d)

Life-assurance technical account: item II (1) (c)

Change in the provision for unearned premiums, net of reinsurance

Pending further coordination, Member States may, in the case of life assurance, require or permit the change in unearned premiums to be included in the change in the life assurance provision.

#### Article 38

Non-life-insurance technical account: item I (4)

Life-assurance technical account: item II (5)

Claims incurred, net of reinsurance

1. Claims incurred shall comprise all payments made in respect of the financial year plus the provision for claims but minus the provision for claims for the preceding financial year.

These amounts shall include annuities, surrenders, entries and withdrawals of loss provisions to and from ceding insurance undertakings and reinsurers, external and internal claims management costs and charges for claims incurred but not reported such as referred to in Article 60 (1) (b) and (2) (a).

Sums recoverable on the basis of subrogation and salvage within the meaning of Article 60 (1) (d) shall be deducted.

2. Where the difference between:

- the loss provision made at the beginning of the year for outstanding claims incurred in previous years, and
- the payments made during the year on account of claims incurred in previous years and the loss provision shown at the end of the year for such outstanding claims is material,

it shall be disclosed in the notes on the accounts, broken down by category and amount.

#### Article 39

Non-life-insurance technical account: item I (6)

Life-assurance technical account: item II (7)

Bonuses and rebates, net of reinsurance

Bonuses shall comprise all amounts chargeable for the financial year which are paid or payable to policyholders and other insured parties or provided for their benefit, including amounts used to increase technical provisions or applied to the reduction of future premiums, to the extent that such amounts represent an allocation of surplus or profit arising on business as a whole or a section of business, after deduction of amounts provided in previous years which are no longer required.

Rebates shall comprise such amounts to the extent that they represent a partial refund of premiums resulting from the experience of individual contracts.

Where material, the amount charged for bonuses and that charged for rebates shall be disclosed separately in the notes on the accounts.

#### Article 40

Non-life-insurance technical account: item I (7) (a)

Life-assurance technical account: item II (8) (a)

Acquisition costs

Acquisition costs shall comprise the costs arising from the conclusion of insurance contracts. They shall cover both direct costs, such as acquisition commissions or the cost of drawing up the insurance document or including the insurance contract in the portfolio, and indirect costs, such as

advertising costs or the administrative expenses connected with the processing of proposals and the issuing of policies.

Member States may require policy renewal commissions to be entered in item I (7) (c) or II (8) (c).

#### Article 41

Non-life-insurance technical account: item I (7) (c)

Life-assurance technical account: item II (8) (c)

#### Administrative expenses

Administrative expenses shall include the costs arising from premium collection, portfolio administration, handling of bonuses and rebates, and inward and outward reinsurance. They shall in particular include staff costs and depreciation provisions in respect of office furniture and equipment in so far as these need not be shown under acquisition costs, claims incurred or investment charges.

#### Article 42

Life-insurance technical account: items II (2) and (9)

Non-technical account: items III (3) and (5)

#### Investment income and charges

1. All investment income and charges relating to non-life insurance shall be disclosed in the non-technical account.

2. In the case of an undertaking carrying on life-assurance business only, investment income and charges shall be disclosed in the life-assurance technical account.

3. In the case of an undertaking carrying on both life-assurance and non-life-insurance business, investment income and charges shall, to the extent that they are directly connected with the carrying on of the life-assurance business, be disclosed in the life-assurance technical account.

4. Member States may require or permit the disclosure of investment income and charges according to the origin or attribution of the investments, if necessary by providing for further items in the non-life-insurance technical account, by analogy with the corresponding items in the life-assurance technical account.

#### Article 43

Non-life-insurance technical account: item I (2)

Life-assurance technical account: item II (2)

Non-technical account: items III (4) and (6)

#### Allocated investment return

1. Where part of the investment return is transferred to the non-life-insurance technical account, the transfer from the non-technical account shall be deducted from item III (6) and added to item I (2).

2. Where part of the investment return disclosed in the life-assurance technical account is transferred to the non-technical account, the amount transferred shall be deducted from item II (12) and added to item III (4).

3. Member States may lay down the procedures for and the amounts of transfers of allocated return from one part of the profit and loss account to another. The reasons for such transfers and the bases on which they are made shall be disclosed in the notes on the accounts in either event; where appropriate, a reference to the text of the relevant regulation shall suffice.

#### Article 44

Life-assurance technical account: items II (3) and (10)

#### Unrealized gains and losses on investments

1. In life-assurance business Member States may permit the disclosure in full or in part in items II (3) and (10) in the profit and loss account of variations in the difference between:

- the valuation of investments at their current value or by means of one of the methods referred to in Article 33 (1) of Directive 78/660/EEC, and
- their valuation at purchase price.

In any event, Member States shall require that the amounts referred to in the first paragraph be disclosed in the aforementioned items where they relate to investments shown as assets under D.

2. Member States which require or permit the valuation of the investments shown as assets under C at their current value may, in respect of non-life-insurance, permit the disclosure in full or in part in an item III (3a) and in an item III (5a) in the profit and loss account of the variation in the difference between the valuation of those investments at their current value and their valuation at purchase price.

## SECTION 7

## Valuation rules

*Article 45*

Article 32 of Directive 78/660/EEC, under which the valuation of items shown in the annual accounts must be based on the principle of purchase price or production cost, shall apply to investment subject to Articles 46 to 49 of this Directive.

*Article 46*

1. Member States may require or permit the valuation of investments shown as assets under C on the basis of their current value calculated in accordance with Articles 48 and 49.
2. The investments shown as assets under D shall be shown at their current value.
3. Where investments are shown at their purchase price, their current value shall be disclosed in the notes on the accounts.

However, Member States in which, on the date of the notification of this Directive, investments are shown at their purchase price may give undertakings the option of initially disclosing in the notes on the account the current value of investment shown as assets under C (I) no later than five years after the date referred to in Article 70 (1) and the current value of other investments no later than three years after the same date.

4. Where investments are shown at their current value, their purchase price shall be disclosed in the notes on the accounts.
5. The same valuation method shall be applied to all investments included in any item denoted by an arabic numeral or shown as assets under C (I).
6. The method applied to each investment item shall be stated in the notes on the accounts.

*Article 47*

Where current value is applied to investments, Article 33 (2) and (3) of Directive 78/660/EEC shall apply, except as provided in Articles 37 and 44 of this Directive.

*Article 48*

1. In the case of investments other than land and buildings, current value shall mean market value, save as provided in paragraph 5.
2. Where investments are officially listed on an official stock exchange, market value shall mean the value on the

balance-sheet date or, when the balance-sheet date is not a stock-exchange trading day, on the last stock-exchange trading day before that date.

3. Where a market exists for investments other than those referred to in paragraph 2, market value shall mean the average price at which such investments were traded on the balance-sheet date or, when the balance-sheet date is not a trading day, on the last trading day before that date.
4. Where on the date on which the accounts are drawn up investments such as referred to in paragraphs 2 or 3 have been sold or are to be sold within the short term, the market value shall be reduced by the actual or estimated realization costs.
5. Except where the equity method is applied in accordance with Article 59 of Directive 78/660/EEC, all other investments shall be valued on a basis which has prudent regard to the likely realizable value.
6. In all cases the method of valuation shall be precisely described and the reason for adopting it stated in the notes on the accounts.

*Article 49*

1. In the case of land and buildings current value shall mean the market value on the date of valuation, where relevant reduced as provided in paragraphs 4 and 5.
2. Market value shall mean the price at which land and buildings could be sold under private contract between a willing seller and an arm's length buyer on the date of valuation, it being assumed that the property is publicly exposed to the market, that market conditions permit orderly disposal and that a normal period, having regard to the nature of the property, is available for the negotiation of the sale.
3. The market value shall be determined through the separate valuation of each land and buildings item, carried out at least every five years according to methods generally recognized or recognized by the insurance supervisory authorities. Article 35 (1)(b) of Directive 78/660/EEC shall not apply.
4. Where the value of any land and buildings item has diminished since the preceding valuation under paragraph 3, an appropriate value adjustment shall be made. The lower value thus arrived at shall not be increased in subsequent balance sheets unless such increase results from a new determination of market value arrived at in accordance with paragraphs 2 and 3.
5. Where on the date on which the accounts are drawn up land and buildings have been sold or are to be sold within the short term, the value arrived at in accordance with paragraphs 2 and 4 shall be reduced by the actual or estimated realization costs.

6. Where it is impossible to determine the market value of a land and buildings item, the value arrived at on the basis of the principle of purchase price or production cost shall be deemed to be the current value.

7. The method by which the current value of land and buildings has been arrived at and their breakdown by financial year of valuation shall be disclosed in the notes on the accounts.

#### Article 50

Where Article 33 of Directive 78/660/EEC is applied to insurance undertakings, it shall be so in the following manner:

- (a) paragraph 1 (a) shall apply to assets shown under F (I) as defined in Article 6 of this Directive;
- (b) paragraph 1 (c) shall apply to assets shown under C (I), (II), (III) and (IV) and F (I) (except for stocks) and (III) as defined in Article 6 of this Directive.

#### Article 51

Article 35 of Directive 78/660/EEC shall apply to insurance undertakings subject to the following provisions:

- (a) it shall apply to assets shown under B and C and to fixed assets shown under F (I) as defined in Article 6 of this Directive;
- (b) paragraph 1 (c) (aa) shall apply to assets shown under C (II), (III) and (IV) and F (III) as defined in Article 6 of this Directive.

Member States may require that value adjustments be made in respect of transferable securities shown as investments, so that they are shown at the lower value to be attributed to them at the balance-sheet date.

#### Article 52

Article 38 of Directive 78/660/EEC shall apply to assets shown under F (I) as defined in Article 6 of this Directive.

#### Article 53

Article 39 of Directive 78/660/EEC shall apply to assets shown under E (I), (II) and (III) and F (II) as defined in Article 6 of this Directive.

#### Article 54

In non-life insurance the amount of any deferred acquisition costs shall be established on a basis compatible with that used for unearned premiums.

In life assurance the calculation of the amount of any acquisition costs to be deferred may be taken into the actuarial calculation referred to in Article 59.

#### Article 55

1. (a) If they have not been valued at market value, debt securities and other fixed-income securities shown as assets under C (II) and (III) shall be shown in the balance sheet at purchase price. Member States may, however, require or permit such debt securities to be shown in the balance sheet at the amount repayable at maturity.
  - (b) Where the purchase price of the securities referred to in point (a) exceeds the amount repayable at maturity, the amount of the difference shall be charged to the profit and loss account. Member States may, however, require or permit the amount of the difference to be written off in instalments so that it is completely written off when the securities are repaid. That difference must be shown separately in the balance sheet or in the notes on the accounts.
  - (c) Where the purchase price of the securities referred to in point (a) is less than the amount repayable at maturity, Member States may require or permit the amount of the difference to be released to income in instalments over the period remaining until repayment. That difference must be shown separately in the balance sheet or in the notes on the accounts.
2. Where debt securities or other fixed-income securities that are not valued at market value are sold before maturity and the proceeds are used to purchase other debt securities or fixed-income securities, Member States may permit the difference between the proceeds of sale and their book value to be spread uniformly over the period remaining until the maturity of the original investment.

#### Article 56

##### Technical provisions

The amount of technical provisions must at all times be such that an undertaking can meet any liabilities arising out of insurance contracts as far as can reasonably be foreseen.

#### Article 57

##### Provision for unearned premiums

1. The provision for unearned premiums shall in principle be computed separately for each insurance contract. Member States may, however, permit the use of statistical methods, and in particular proportional and flat-rate methods, where they may be expected to give approximately the same results as individual calculations.

2. In classes of insurance where the assumption of a temporal correlation between risk experience and premium is not appropriate, calculation methods shall be applied that take account of the differing pattern of risk over time.

#### Article 58

##### *Provision for unexpired risks*

The provision for unexpired risks referred to in Article 26 shall be computed on the basis of claims and administrative expenses likely to arise after the end of the financial year from contracts concluded before that date, in so far as their estimated value exceeds the provision for unearned premiums and any premiums receivable under those contracts.

#### Article 59

##### *Life assurance provision*

1. The life assurance provision shall in principle be computed separately for each life assurance contract. Member States may, however, permit the use of statistical or mathematical methods where they may be expected to give approximately the same results as individual calculations. A summary of the principal assumptions made shall be given in the notes on the accounts.

2. The computation shall be made annually by an actuary or other specialist in this field on the basis of recognized actuarial methods.

#### Article 60

##### *Provisions for claims outstanding*

##### 1. Non-life insurance

(a) A provision shall in principle be computed separately for each case on the basis of the costs still expected to arise. Statistical methods may be used if they result in an adequate provision having regard to the nature of the risks; Member States may, however, make the application of such methods subject to prior approval.

(b) This provision shall also allow for claims incurred but not reported by the balance-sheet date; its amount shall be determined having regard to past experience as to the number and magnitude of claims reported after the balance-sheet date.

- (c) Claims settlement costs shall be included in the calculation of the provision irrespective of their origin.
- (d) Recoverable amounts arising out of the acquisition of the rights of policyholders with respect to third parties (subrogation) or of the legal ownership of insured property (salvage) shall be deducted from the provision for claims outstanding; they shall be estimated on a prudent basis. Where such amounts are material, they shall be disclosed in the notes on the accounts.
- (e) By way of derogation from subparagraph (d), Member States may require or permit the disclosure of recoverable amounts as assets.
- (f) Where benefits resulting from a claim must be paid in the form of annuity, the amounts to be set aside for that purpose shall be calculated by recognized actuarial methods.
- (g) Implicit discounting or deductions, whether resulting from the placing of a present value on a provision for an outstanding claim which is expected to be settled later at a higher figure or otherwise effected, shall be prohibited.

Member States may permit explicit discounting or deductions to take account of investment income. No such discounting or deductions shall be permissible unless:

- (i) the expected average date for the settlement of claims is at least four years after the accounting date;
- (ii) the discounting or deduction is effected on a recognized prudential basis; the competent authority must be given advance notification of any change in method;
- (iii) when calculating the total cost of settling claims, an undertaking takes account of all factors that could cause increases in that cost;
- (iv) an undertaking has adequate data at its disposal to construct a reliable model of the rate of claims settlements;
- (v) the rate of interest used for the calculation of present values does not exceed a prudent estimate of the investment income from assets invested as a provision for claims during the period necessary for the payment of such claims. Moreover, it must not exceed either of the following:
  - the investment income from such assets over the preceding five years,
  - the investment income from such assets during the year preceding the balance-sheet date.

When discounting or effecting deductions, an undertaking shall, in the notes on its accounts, disclose

the total amount of provisions before discounting or deduction, the categories of claims which are discounted or from which deductions have been made and, for each category of claims, the methods used, in particular the rates used for the estimates referred to in the preceding subparagraph, points (iii) and (v), and the criteria adopted for estimating the period that will elapse before the claims are settled.

## 2. Life insurance

- (a) The amount of the provision for claims shall be equal to the sums due to beneficiaries, plus the costs of settling claims. It shall include the provision for claims incurred but not reported.
- (b) Member States may require the disclosure in liabilities item C (2) of the amounts referred to in (a).

### Article 61

1. Pending further coordination, Member States may require or permit the application of the following methods where, because of the nature of the class or type of insurance in question, information about premiums receivable, claims payable or both for the underwriting years is insufficient when the annual accounts are drawn up for accurate estimates to be made.

#### Method 1

The excess of the premiums written over the claims and expenses paid in respect of contracts commencing in the underwriting year shall form a technical provision which is included in the technical provision for claims outstanding shown in the balance sheet in liabilities item C (3). The provision may also be computed on the basis of a given percentage of the premiums written where such a method is appropriate for the type of risk insured. Should the need arise, the amount of this technical provision shall be increased to make it sufficient to meet present and future obligations. The technical provision constituted by this method shall be replaced by a provision for claims outstanding estimated in the usual manner as soon as sufficient information has been gathered and not later than the end of the third year following the underwriting year.

#### Method 2

The figures shown in the technical account or in certain items within it shall relate to a year which wholly or partly precedes the financial year. It must not do so by more than 12 months. The amounts of the technical provisions shown in the annual accounts shall if necessary be increased to make them sufficient to meet present and future obligations.

2. Where one of the methods described in paragraph 1 is adopted, it shall be applied systematically in successive years unless circumstances justify a change. The use of either method shall be disclosed in the notes on the accounts and the reasons given; in the event of a change in the method applied, the effect on the assets, liabilities, financial position and profit or loss shall be indicated in the notes on the accounts. Where Method 1 is used, the length of time that elapses before a provision for claims outstanding is constituted on the usual basis shall be disclosed in the notes on the accounts. Where Method 2 is used, the length of time by which the earlier year to which the figures relate precedes the financial year and the magnitude of the transactions concerned shall be disclosed in the notes on the accounts.

3. For the purposes of this Article, 'underwriting year' shall mean the financial year in which the insurance contracts in the class or type of insurance in question commenced.

### Article 62

Pending further coordination, those Member States which require the constitution of equalization provisions shall prescribe the valuation rules to be applied to them.

## SECTION 8

### Contents of the notes on the accounts

#### Article 63

In place of the information provided for in Article 43 (1) (8) of Directive 78/660/EEC, insurance undertakings shall provide the following particulars:

- I. As regards non-life insurance, the notes on the accounts shall disclose:
  1. gross premiums written;
  2. gross premiums earned;
  3. gross claims charges;
  4. gross operating expenses;
  5. the reinsurance balance.

These amounts shall be shown broken down between direct insurance and reinsurance acceptances, if reinsurance acceptances amount to 10% or more of gross premiums written, and then within direct insurance into the following groups of classes:

- accident and health,
- motor, third-party liability,

- motor, other classes,
- marine, aviation and transport,
- fire and other damage to property,
- third-party liability,
- credit and suretyship,
- legal expenses,
- assistance,
- miscellaneous.

The breakdown into groups of classes within direct insurance shall not be required where the amount of the gross premiums written in direct insurance for the group in question does not exceed ECU 10 million. However, undertakings shall in any case disclose the amounts relating to the three largest groups of classes in their business.

II. As regards life assurance, the notes on the accounts shall disclose:

1. gross premiums written, broken down between direct insurance and reinsurance acceptances, if reinsurance acceptances amount to 10 % or more of gross premiums written, and then within direct insurance to indicate:
  - (a) (i) individual premiums;
  - (ii) premiums under group contracts;
  - (b) (i) periodic premiums;
  - (ii) single premiums;
  - (c) (i) premiums from non-bonus contracts;
  - (ii) premiums from bonus contracts;
  - (iii) premiums from contracts where the investment risk is borne by policyholders.

Disclosure of the figure relating to (a), (b) or (c) shall not be required where it does not exceed 10 % of the gross premiums written in direct insurance;

2. the reinsurance balance;

III. In the case covered by Article 33 (4), gross premiums broken down between life assurance and non-life insurance.

IV. In all cases, the total gross direct insurance premiums resulting from contracts concluded by the insurance undertaking

- in the Member State of its head office,
- in the other Member States, and
- in other countries,

except that disclosure of the figure relating to the above shall not be required if they do not exceed 5 % of total gross premiums.

*Article 64*

In the notes on their accounts insurance undertakings shall disclose the total amount of commissions for direct insurance business taken into the accounts for the financial year. This requirement shall cover commissions of any kind, and in particular acquisition, renewal, collection and portfolio management commissions.

SECTION 9

**Provisions relating to consolidated accounts**

*Article 65*

1. Insurance undertakings shall draw up consolidated accounts and consolidated annual reports in accordance with Directive 83/349/EEC, save as otherwise provided in this section.
2. In so far as a Member State does not have recourse to Article 5 of Directive 83/349/EEC, paragraph 1 shall also apply to parent undertakings, the sole or essential object of which is to acquire holdings in subsidiary undertakings and turn them to profit, where those subsidiary undertakings are either exclusively or mainly insurance undertakings.

*Article 66*

Directive 83/349/EEC shall apply subject to the following provisions:

1. Articles 4, 6, and 40 shall not apply;
2. the information referred to in the first and second indents of Article 9 (2), namely:
  - the amount of the fixed assets, and
  - the net turnover,
 shall be replaced by particulars of the gross premiums written as defined in Article 35 of this Directive;
3. a Member State may also apply Article 12 of Directive 83/349/EEC to two or more insurance undertakings which are not connected as described in Article 1 (1) or (2) of the same Directive but are managed on a unified basis other than pursuant to a contract or provisions of their memoranda or articles of association. Unified

management may also consist of important and durable reinsurance links;

4. Member States may permit derogations from Article 26 (1)(c) of Directive 83/349/EEC where a transaction has been concluded according to normal market conditions and has established policyholder rights. Any such derogation shall be disclosed and where they have a material effect on the assets, liabilities, financial position and profit or loss of all the undertakings included in the consolidation that fact shall be disclosed in the notes on the consolidated accounts;
5. Article 27 (3) of Directive 83/349/EEC shall apply provided that the balance-sheet date of an undertaking included in a consolidation does not precede the consolidated balance-sheet date by more than six months;
6. Article 29 of Directive 83/349/EEC shall not apply to those liabilities items, the valuation of which by the undertakings included in a consolidation is based on the application of provisions specific to insurance undertakings or to those assets items changes in the values of which also affect or establish policyholders' rights. Where recourse is had to this derogation, the fact shall be disclosed in the notes on the consolidated accounts.

#### Article 67

In consolidated accounts alone Member States may require or permit all investment income and charges to be disclosed in the non-technical account, even when such income and charges are connected with life-assurance business.

Furthermore, Member States may in such cases require or permit the allocation of part of the investment return to the life-assurance technical account.

#### SECTION 10

##### Publication

#### Article 68

1. The duly approved annual accounts of insurance undertakings, together with the annual reports and the reports by the persons responsible for auditing the accounts, shall be published as laid down by the laws of each Member State in accordance with Article 3 of Directive 68/151/EEC <sup>(1)</sup>.

<sup>(1)</sup> OJ No L 65, 14. 3. 1968, p. 8.

The laws of a Member State may, however, provide that annual reports need not be published as provided in the first subparagraph. In that event, they shall be made available to the public at the undertakings' head offices in the Member State concerned. It must be possible to obtain a copy of all or part of any such report upon request. The price of such a copy shall not exceed its administrative cost.

2. Paragraph 1 shall also apply to the duly approved consolidated accounts, the consolidated annual report and the reports by the persons responsible for auditing the accounts.
3. Where an insurance undertaking which has drawn up annual accounts or consolidated accounts is not established as one of the types of company listed in Article 1 (1) of Directive 78/660/EEC and is not required by its national law to publish the documents referred to in paragraph 1 and 2 of this Article as prescribed in Article 3 of Directive 68/151/EEC, it shall at least make them available to the public at its head office. It must be possible to obtain copies of such documents on request. The price of such copies shall not exceed their administrative cost.
4. Member States shall provide for appropriate sanctions for failure to comply with the publication rules laid down in this Article.

#### SECTION 11

##### Final provisions

#### Article 69

The contact committee set up pursuant to Article 52 of Directive 78/660/EEC shall also, when constituted appropriately, have the following functions:

- (a) to facilitate, without prejudice to Articles 169 and 170 of the Treaty, harmonized application of this Directive through regular meetings dealing in particular with practical problems arising in connection with its application;
- (b) to advise the Commission, if the need arises, on additions or amendments to this Directive.

#### Article 70

1. Member States shall adopt the laws, regulations and administrative provisions necessary for them to comply with this Directive before 1 January 1994. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, they shall include a reference to this Directive or be accompanied by

such reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

2. Member States may provide that the provisions referred to in paragraph 1 shall first apply to annual accounts and consolidated accounts for financial years beginning on 1 January 1995 or during the calendar year 1995.

3. Member States shall communicate to the Commission the texts of the main provisions of national law which they adopt in the field governed by this Directive.

*Article 71*

Five years after the date referred to in Article 70 (2) the Council, acting on a proposal from the Commission, shall

examine and if need be revise all those provisions of this Directive which provide for Member State options in the light of the experience acquired in applying this Directive and in particular of the aims of greater transparency and harmonization of the provisions referred to by this Directive.

*Article 72*

This Directive is addressed to the Member States.

Done at Brussels, 19 December 1991.

*For the Council*  
*The President*  
P. DANKERT

## ANNEX

## PROVISIONS RELATING TO LLOYD'S

## A. General

For the purposes of this Directive, both Lloyd's and Lloyd's syndicates shall be deemed to be insurance undertakings.

Subject to the necessary adaptations set out in section B:

- Lloyd's syndicates shall prepare annual accounts ('syndicate accounts'), and
- Lloyd's shall prepare aggregate accounts ('aggregate accounts') in place of the consolidated accounts prescribed in Directive 83/349/EEC.

In this Annex, 'Lloyd's accounts' shall mean both types of accounts referred to above.

## B. Special provisions

1. *Contents of syndicate accounts*

Subject to paragraph 9, syndicate accounts shall be prepared on a cumulative basis for three underwriting years of account at a time and shall comprise a separate underwriting years of account for each such year and a balance sheet for all such years taken together. Accounts prepared after 12 and 24 months respectively shall be known as open years. The underwriting account shall be prepared by analogy with the provisions governing the preparation of the profit and loss account; it shall show, in addition:

- (a) for each entry, the change in the figures since the preceding accounting date;
- (b) the allocated capacity of the syndicate for the relevant underwriting year of account.

2. *Contents of aggregate accounts*

Aggregate accounts shall be prepared by cumulation of the accounts of all Lloyd's syndicates. They shall include a note giving details of:

- (a) inter-syndicate business including premiums written and claims paid;
- (b) the method by which run-off years of account, referred to in paragraph 9, are taken into account;
- (c) the method by which the premium income limit for individual members of Lloyd's syndicates is calculated.

3. *Capital*

Lloyd's and Lloyd's syndicates shall not be required to disclose, in the aggregate accounts and syndicate accounts respectively, figures for liabilities items A (I) (Subscribed capital or equivalent fund), A (II) (Share premium account) and A (IV) (Reserves). Instead, Lloyd's shall attach a note to the aggregate accounts disclosing the following:

- (a) Members' personal resources
  - 1. Lloyd's deposits
  - 2. The Personal Reserve Fund
  - 3. The Special Reserve Fund
  - 4. Other disclosed means
- (b) Central resources of Lloyd's
  - 1. The net assets of the Central Fund
  - 2. The net assets of the Corporation of Lloyd's.

4. *Taxation*

- (a) Lloyd's and Lloyd's syndicates shall not be required to disclose, in the aggregate accounts and syndicate accounts respectively, figures for liabilities items E (2) (Provisions for taxation) and G (V) (Other creditors, including tax and social security), as far as tax alone is concerned, and items III (9) (Tax on profit or loss on ordinary activities) and III (14) (Tax on extraordinary profit or loss) in the profit and loss account as with the exception of amounts deducted at source.

- (b) However, a note to all Lloyd's accounts shall state why a tax charge is not shown and the basic rate of tax applicable for the amounts deducted at source.

5. *Accounting principles*

(a) *Going concern*

The going concern principle set out in Article 31 (1) (a) of Directive 78/660/EEC shall not apply to Lloyd's accounts.

(b) *Accruals*

The accruals principle set out in Article 31 (1) (d) of Directive 78/660/EEC shall not apply to Lloyd's accounts.

(c) *Allocation of income*

Not more than three years after the date referred to in Article 70 (1), Lloyd's and Lloyd's syndicates shall allocate income which derives from insurance contracts to syndicate years of account on an inception date basis.

(d) *Other accounting principles*

In all Lloyd's accounts:

- like items shall receive uniform treatment,
- reinsurance recoveries shall be taken into account in respect of open years where a syndicate has paid a claim,
- operating expenses shall be allocated to the underwriting year of account for which they are incurred.

6. *Technical provisions*

Subject to paragraph 9 and by way of derogation from Articles 56 and 60, technical provisions shall not appear in Lloyd's accounts.

However:

- (a) the underwriting accounts for open years shall show the excess of the premiums collected over the claims and expenses paid, by analogy with Article 61;
- (b) a provision for claims outstanding shall be calculated when the underwriting year of account is closed and shall be shown in accordance with paragraph 8.

7. *Open years*

Syndicates shall prepare accounts for open years on a cash receipts and payments basis.

8. *Reinsurance to close*

Subject to paragraph 9, syndicates shall close their accounts at the end of a three-year period by payment of a premium ('Reinsurance to close') and shall disclose at least the following information:

— Gross notified outstanding claims	.....
— Reinsurance recoveries anticipated (—)	.....
— Net notified outstanding claims	.....
— Provision for gross claims incurred but not reported	.....
— Reinsurance recoveries anticipated (—)	.....
— Provision for net claims incurred but not reported	.....
— Net premium for 'reinsurance to close' the year of account (net total)	.....

9. *Run-off years of account*

- (a) For the purposes of this paragraph a run-off year of account shall be one in respect of which, on the date on which it would normally be closed in accordance with paragraph 8, uncertainty prevents the determination of the 'reinsurance to close', and which accordingly is left open until that uncertainty is resolved.

(b) In respect of each run-off year of account, syndicate accounts shall include an underwriting account showing the amount retained to meet all known and unknown outstanding liabilities, which represents a provision for claims outstanding estimated in the usual manner.

10. *Disclosure of deposits with cedants*

For up to three years after the date referred to in Article 70 (1) Lloyd's and Lloyd's syndicates shall not be required to disclose the figures for assets item C (IV) (Deposits with ceding undertakings).

11. *Life business*

By way of derogation from Article 33 (3), Lloyd's life-assurance business (pure term life assurance for a period of not more than 10 years) may be shown in Lloyd's accounts in the format provided for in Article 34 (1) for non-life-insurance business.

12. *Gross premiums*

By way of derogation from Article 35, gross premiums may be stated net of brokerage. By way of addition to the requirements of Article 35 in relation to profit and loss account items I(1)(a) and II(1)(a) (Gross premiums written, net of reinsurance) a note shall be included:

- in each syndicate's accounts explaining the basis upon which commission and brokerage are charged and giving the estimated average rate of commission and brokerage for each of the main lines of business written by the syndicate,
- in the aggregate accounts giving the estimated average rate of commission and brokerage across the market.

13. *Contents of the notes on Lloyd's accounts*

In the notes on Lloyd's accounts the meaning of gross premiums shall be as set out in paragraph 12.

## COUNCIL DIRECTIVE

of 19 December 1991

setting up an Insurance Committee

(91/675/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular the third sentence of Article 57 (2) thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

In cooperation with the European Parliament <sup>(2)</sup>,

Having regard to the opinion of the Economic and Social Committee <sup>(3)</sup>,

Whereas the Council shall confer on the Commission powers for the implementation of the rules which the Council lays down;

Whereas implementing measures are necessary for the application of Council directives on non-life insurance and life assurance; whereas, in particular, technical adaptations may from time to time be necessary to take account of developments in the insurance sector; whereas it is appropriate that these measures shall be taken in accordance with the procedure laid down in Article 2, procedure III, variant (b), of Council Decision 87/373/EEC of 13 July 1987 laying down the procedures for the exercise of implementing powers conferred on the Commission <sup>(4)</sup>;

Whereas it is necessary for this purpose to set up an Insurance Committee;

Whereas the establishment of an Insurance Committee does not rule out other forms of cooperation between authorities which supervise the taking up and pursuit of the business of insurance undertakings, and in particular cooperation within the Conference on Insurance Supervisory Authorities, which is in particular competent for the drafting of protocols implementing Community directives; whereas close cooperation between the Committee and the Conference would be particularly useful;

Whereas the examination of problems arising in non-life insurance and life assurance makes cooperation desirable

<sup>(1)</sup> OJ No C 230, 15. 9. 1990, p. 5.

<sup>(2)</sup> OJ No C 240, 16. 9. 1991, p. 117 and OJ No C 305, 25. 11. 1991.

<sup>(3)</sup> OJ No C 102, 18. 4. 1991, p. 11.

<sup>(4)</sup> OJ No L 197, 18. 7. 1987, p. 33.

between the competent authorities and the Commission; whereas it is appropriate to confer this task on the Insurance Committee; whereas it should furthermore be ensured that there is smooth coordination of the activities of this Committee with those of other committees of a similar nature set up by Community acts,

HAS ADOPTED THIS REGULATION:

*Article 1*

1. The Commission shall be assisted by a committee called the 'Insurance Committee', hereinafter referred to as the 'Committee', composed of representatives of Member States and chaired by the representative of the Commission.

2. The Committee shall adopt its own rules of procedure.

*Article 2*

1. Where the Council, in the acts which it adopts in the field of direct non-life insurance and direct life assurance, confers on the Commission powers for the implementation of the rules which it lays down, the procedure set out in paragraph 2 shall apply.

2. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the Committee.

If the measures envisaged are not in accordance with the opinion of the Committee, or if no opinion is delivered, the Commission shall without delay submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If, on the expiry of a period of three months from the date of referral to the Council, the Council has not acted, the

proposed measures shall be adopted by the Commission, save where the Commission has decided against the said measures by a simple majority.

*Article 3*

1. The Committee shall examine any question relating to the application of Community provisions concerning the insurance sector, and in particular Directives on direct insurance.

The Commission may also consult the Committee on new proposals it intends to submit to the Council as regards further coordination in the sphere of direct life assurance and direct non-life insurance.

2. The Committee shall not consider specific problems relating to individual insurance undertakings.

*Article 4*

The Committee shall assume its functions on 1 January 1992.

*Article 5*

This Directive is addressed to the Member States.

Done at Brussels, 19 December 1991.

*For the Council*

*The President*

P. DANKERT

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