

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM(86) 764 final

Brussels, 8 April 1987.

Proposal for a  
COUNCIL DIRECTIVE

on the annual accounts and consolidated accounts  
of insurance undertakings

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(presented by the Commission)

COM(86) 764 final

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EXPLANATORY MEMORANDUM

1. Introduction

The Fourth Council Directive of 25 July 1978 on the annual accounts of certain types of companies (78/660/EEC)<sup>(1)</sup> lays down in Article 1 (2) that "pending subsequent coordination, the Member States need not apply the provisions of this Directive to banks and other financial institutions or to insurance companies". A Proposal for a Council Directive concerning the annual accounts of banks and other financial institutions<sup>(2)</sup> was submitted by the Commission to the Council on 19 March 1981 and has been the subject of intensive debate; it is hoped that the Council will adopt it in the very near future. The present Proposal represents the complementary work in the field of insurance.

According to the explanatory comments supplied by the Commission on Article 1 of the Fourth Directive when it was submitted as a Proposal, the justification for the exclusion of banks and insurance companies was that it would be impossible to apply the Directive to them as it stood. The special nature of the undertakings in question would require a series of specific rules, as was indeed already the case in most Member States. The information to be presented in the accounts of these companies must however be at least equivalent to that required under the Fourth Directive itself.

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(1) O.J. No. L 222 of 14.8.1978, p.11

(2) O.J. No. C 130 of 1.6.1981, p.1

It is indeed true that the accounts of insurance undertakings have certain features which distinguish them sharply from those of other types of business. All kinds of insurance, whether direct life or non-life insurance or reinsurance, involve the collection of money in the form of premiums and its investment until it is needed to meet future claims, the date and amount of which cannot be known with certainty in advance. The liabilities appearing in the balance sheet will therefore consist mostly of so-called technical provisions, representing the calculation of amounts set aside to satisfy present and future claims. Much the greater part of the assets will be investments of one kind or another, their amount being sufficient not only to match the technical provisions but also to provide a margin above them. The profit and loss account will disclose two quite different kinds of income, one being the premiums which flow directly from the insurance contracts whilst the other is the return on the investments.

There is furthermore a social aspect to the accounts of insurance undertakings which has been recognized by national legislations. Insurance is a desirable form of protection against risk and may also through life insurance be a provision for old age. But members of the public are invited to pay premiums well before the possible benefits materialize and must be able to have confidence in the insurer. This has led not only to the establishment of supervisory systems, the first purpose of which is to ensure the ability of insurers to meet their commitments, but also to a form of control through publicity, in that insurance undertakings in almost all Member States are required to make a considerable amount of financial information available to the public in a standard form.

In most Member States this need for financial disclosure is reflected in detailed requirements as to the contents and layout of the annual accounts. In some, however, it finds expression in the publication of the detailed statements required by the supervisory authority in the exercise of its functions. It must be stressed that the supervisory returns are very different in nature and purpose from the commercial annual accounts, but it is nevertheless not surprising that in those States where supervisory returns are published, the requirements regarding the commercial annual accounts may be very limited and permit considerable freedom as to content and presentation.

Rules for the provision of financial information laid down at Community level must take account of the factors which influence national legislators. But to fit in with the scheme of the Fourth Directive and other Directives in this area,

this information must be published in the annual accounts. A Community measure will thus inevitably require a higher level of disclosure in the annual accounts than is customary in countries where the supervisory returns are published, and the rules will be tighter. It must be understood, however, that in such circumstances the accounts will be performing a role at present largely fulfilled by the publication of the supervisory returns (which may of course nevertheless continue if the State concerned so wishes).

In framing rules for the standard contents and presentation of insurance accounts the Commission has taken account of the fact that there already exists a considerable convergence of practice in the conduct of non-life insurance. In life insurance, however, national practices and legislations in such matters as the mortality tables and interest rates to be used, the participation of policyholders in profits, the surrender values of policies and the taxation treatment of various aspects of the business have produced divergent situations which it is largely beyond the scope of this Directive to eliminate.

Like the proposed Directive on the annual accounts of banks and other financial institutions, and for the same reasons, the present Proposal does not set out to be self-sufficient but only to deal with matters where the nature of insurance makes it necessary to diverge from the Fourth Directive, the provisions of which will apply except where otherwise expressly stated.

Again like the Banks Directive, the present proposal has a wider scope than the Fourth Directive in that it covers all insurance undertakings, regardless of their legal form, which are companies or firms within the scope of the two First Insurance Coordination Directives or are reinsurance undertakings. All these bodies are potential competitors in the Community's internal market.

Other divergences from the Fourth Directive result from the specific nature of insurance business to which reference has already been made. Most of the assets of insurance undertakings are investments which do not fit readily into the categories of either fixed assets or current assets. Those categories have therefore been abandoned in favour of the single concept of investments. Moreover the investments of insurance undertakings are held almost exclusively for the purpose of meeting future liabilities to policyholders. Considerable interest therefore attaches to the question of their valuation, with that object in mind. Doubts are cast by some on the suitability of historical cost for this purpose. Whilst it is true that historical cost is something that can be ascertained with certainty, its usefulness as a measure of the ability of an insurance undertaking to meet present and future obligations may be less than that of current value. Moreover sole reliance upon it may blur comparisons between the financial situations of different undertakings. A company which, having bought a batch of securities ten years ago at one price, sold and rebought them at a quite different

price just before the balance sheet date would show a financial situation quite different from that of a competing company which bought an exactly similar batch of securities on the same original date but held them throughout; yet their true positions would be exactly alike. Those who argue in favour of historical cost will say that current value can never be so certain, is less prudent (because values which have gone up may come down), and offers scope for manipulation. The supporters of current value would reply that most investments of insurance undertakings, being quoted investments, have a precisely ascertainable value at any given date, that certain investments held by insurance undertakings (in particular bonds having a fixed redeemable value) may have a lower current value than the figure resulting from application of the historical cost method, and that the scope for manipulation can be reduced to an insignificant level. Above all they would argue that historical cost is of historic interest only and irrelevant to the measurement of the ability of an insurance undertaking to meet its present and future commitments to policyholders, which depends on present and future realizable values. The special additional point can be made that in certain life insurance situations it is in fact the current value of those assets that is the measure which determines the liabilities.

The present proposal does not seek to choose between the rival merits of these points of view. It lays down instead that both methods shall be used, the results of one appearing in the balance sheet while the figures provided by the other must be given in the notes on the accounts. It also lays down rules for the determination of current value.

In the rules relating to the definition and valuation of the technical provisions the text draws upon the valuable work carried out by a group chaired by Dr A. Angerer under the auspices of the Permanent Conference of the Insurance Supervisory Authorities of the Member States.

Many of the provisions of the Proposal are closely modelled on those which have emerged in discussions in the Council on the Proposal for a Directive on the annual accounts of banks and other financial institutions, referred to above.

Finally, the opportunity has been taken in the present proposal to dovetail the provisions relating to the annual accounts of insurance undertakings with the requirements of the Seventh Council Directive of 13 June 1983 on consolidated accounts (83/349/EEC)<sup>(1)</sup>.

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(1) OJ No. L 193 of 18.7.1983, p.1.



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Explanatory Memorandum

2. COMMENTARY ON INDIVIDUAL ARTICLES AND GROUPS OF ARTICLES

Article 1

This Article sets out the principle that the Directive on the annual accounts of insurance undertakings is not self-sufficient. It is to be regarded as an adjunct to Council Directive 78/660/EEC (the Fourth Directive) except where the present Directive provides otherwise.

Article 2

It is proposed that the Directive shall apply to all insurance undertakings within the scope of the First Non-Life and Life Coordination Directives (the First Directive) and to specialist reinsurance undertakings. It will therefore apply to undertakings which are not companies within the scope of the Fourth Directive, in particular mutuals and cooperatives. In this it resembles the proposed Directive on the annual accounts of banks and other financial institutions. It is proposed that it shall apply to certain institutions or organisations specifically excluded from the scope of the First Directives but that it shall not apply at all to the small mutual associations excluded from the First Directives. Moreover, it is proposed that where the Directive applies it shall apply fully, with no special provisions for small undertakings ; on the other hand, the small mutuals will be completely excluded from the scope of directives on annual accounts.

The First Directives bring within the scope of supervision by the national authorities all the insurance undertakings to which they apply, no distinction being made as regards supervision requirements between large and small concerns. Such undertakings must all therefore already be equipped to supply detailed financial and other information to the supervisory authorities and it does not appear that the obligations of the present Directive will represent an unreasonable burden. On the other hand, there appears no need to impose any Community accounting requirements on those small mutual associations which it was considered appropriate to leave outside the scope of the First Directives.

Most direct insurance undertakings, to which alone the First Directives apply, accept reinsurance as well as direct insurance. They are thus in competition with specialist reinsurance undertakings. From an accountancy point of view the business carried on by specialist reinsurance undertakings is moreover very similar to that conducted by direct insurers. It therefore seemed entirely appropriate to include specialist reinsurance undertakings in the scope of this Directive.

Article 3

Lloyd's is treated in the two First Coordination Directives as an insurance undertaking capable of exercising the right of establishment and it is proper that it should fall within the scope of a Directive dealing with the annual accounts of insurance undertakings. But its structure is very different from that of an orthodox insurance undertaking. In strict law, insurance contracts are not concluded "by" Lloyd's but "at" Lloyd's by the more than 26,000 members or "names", each of whom is an underwriter in his own right but who group together in syndicates, which have several but not joint liability, for the purpose of doing business. The syndicates are in competition with each other as well as with insurance undertakings in the world outside Lloyd's, but the arrangements under which the members make capital available, and the existence of a Lloyd's central fund, have the effect that Lloyd's as a whole provides security for the insurance contracts concluded by its members through the syndicates.

It is evident that although the principles of the Directive must apply to Lloyd's, considerable adjustments will be necessary to take account of the peculiarities of its nature and structure. It will in particular be necessary to provide for the publication of profit and loss accounts in respect of each of the syndicates, which number well over four hundred, although much of the information about assets and liabilities can only be given by reference to Lloyd's as a whole.

It would have been impossible to list in the Proposal all the adaptations that will be necessary in the case of Lloyd's. To do so will take lengthy and detailed examination of the circumstances of Lloyd's in consultation with qualified persons once the Proposal itself has been published. It is therefore proposed that the Commission shall in due course report to the Council on the adaptations that have been made in applying the Directive. The Council will thus have the opportunity of saying whether it is satisfied and indicating what further steps are necessary if it is not.

It should be mentioned that great changes have been taking place recently in the accounting arrangements at Lloyd's. For example, syndicate accounts are now available to any member of the public who wishes to see them, which was not the case a few years ago. Application of this Directive can thus be integrated into a process of development that is already under way.

### Article 5 : layout of the Balance Sheet

In an endeavour to facilitate comparisons between the accounts of undertakings engaged in the insurance sector of economic activity it is proposed that only the horizontal form of the balance sheet, corresponding to Article 9 of the Fourth Directive, shall be used.

As compared with the Fourth Directive, the assets side of the balance sheet has been substantially modified to take account of the fact that by far the greater part of the assets of insurance undertakings consists of investments which cannot be readily or appropriately separated between fixed assets and current assets. The categories of fixed assets and current assets found in the Fourth Directive are therefore entirely dispensed with and a new main heading, investments, is introduced.

A particular problem was presented by land and buildings which at the balance sheet date are occupied by the insurance undertaking for its own office accommodation. The text follows the majority view of those consulted in including them under investments but requiring them to be separately distinguished.

On the liabilities side of the balance sheet by far the most important group of items for any insurance undertaking will be the technical provisions, which broadly speaking represent the amount set aside by the undertaking to enable it to meet its future obligations to policyholders, which cannot be known with accuracy at the balance sheet date. The main point of principle to be decided here was the treatment to be given to the share of reinsurers in the gross obligations of direct insurers (or where appropriate the share of other reinsurers to whom business is retroceded in the gross obligations of first reinsurers.

At one extreme the view is held by some that a gross technical provision should be shown on the liabilities side of the balance sheet whilst the reinsurers' share should be disclosed as a completely separate item on the assets side, no link being made between the two. At the other extreme there are those who consider that the only way to give an economically correct picture is to show only the net amount

- that is the gross amount less the reinsurer's share - on the liabilities side. The text of the present proposal seeks to do justice to the reasoning behind both points of view by disclosing the gross amount, the re-insurance share and the net amount.

The Fourth Directive provides for both debtors and creditors that amounts becoming due and payable after more than one year must be shown separately. This distinction seems irrelevant as far as insurance undertakings are concerned. It is generally of use only in relation to time limits on finance. Owing to the nature of their business, however, insurance undertakings always have considerable financial resources at their disposal, the majority of which may be regarded in practice as realisable, so that a distinction would be of only limited interest.

#### Article 6

Article 6 provides that those Articles of the Fourth Directive which provide that only restricted information need be given in the case of small companies shall not apply to insurance undertakings.

Article 7

The business of insurance undertakings includes meeting commitments to policyholders of a kind which might be thought to be covered by Article 14 of the Fourth Directive. Since these insurance commitments are taken into account in arriving at the amounts of the various technical provisions the requirements of Article 14 of the Fourth Directive are to this extent superfluous.

Article 8

This provision is necessary because the distinction made in the Fourth Directive between fixed and current assets is not found in the present proposal.

Article 9

The wording of this Article is modelled on the corresponding text in a recent version of the proposed Directive on the annual accounts of banks.

Article 10

In many Member States loans are made to life insurance policyholders on the security of the policy. Since the amount lent does not exceed the surrender value of the policy, such loans are particularly secure.

Article 12

This Article covers the case of investments held in respect of unit-linked life insurance contracts, an essential feature of which is that the value of the benefits to which the policyholder is entitled varies in accordance with the current value at any given time of the assets to which the contract is linked. Such contracts exist in different forms and with a widely varying degree of economic importance in a number of Member States, whilst in others they are at present unknown. In view of the considerable variations and of the developments which are currently taking place it appears desirable to allow a measure of flexibility in the accountancy treatment.

See also Articles 39, 42(2) and 43(2)



Articles 13 and 27

When a direct insurance undertaking takes out reinsurance it may require a deposit from the reinsurer. There may be various reasons for this : the provision of security for the direct insurer in the event that the reinsurer encounters financial difficulties, the compliance with national regulations imposed upon the direct insurer or the supply of finance and financial income for the direct insurer.

Reinsurance deposits take two forms : cash and securities. Where the arrangement is for a cash deposit to be made, the direct insurer will deduct the amount from the premium which is to be passed to the reinsurer. The deposited (retained) cash belongs to the direct insurer and will be invested by him or used for whatever purpose he likes ; it will not be shown separately in the accounts. At the moment at which the direct insurer becomes entitled to the deposit, however, he becomes indebted to the reinsurer for the amount in question, which must appear as a separate creditor item in his balance sheet. The state of other cash transactions between the direct insurer and the reinsurer, which will be dealt with through a general account, is immaterial for this purpose. The creditor item in the balance sheet of the direct insurer is exactly balanced by a debtor item of the same amount in the balance sheet of the reinsurer. Interest paid on the deposit is merged in the accounts of both the direct insurer and the reinsurer with other interest payments and is not distinguished in any way.

Where the deposit takes the form of securities, what normally happens is that the reinsurer in principle receives the premium income in full and as a separate operation deposits with the direct insurer certain securities (for example, bonds). The reinsurer is the legal owner of the securities and of the income derived from them, but the securities are physically deposited with the direct insurer or his bank (and the reinsurer evidently cannot freely dispose of them for so long as the deposit arrangement lasts). Since the securities belong to the reinsurer, they appear in his balance sheet and do not appear in the balance sheet of the direct insurer.

In some cases, the procedure described in the preceding paragraph will be varied to enable the direct insurer to comply with the terms of rules imposed by the supervisory authority. In such cases the reinsurer may transfer the formal ownership of the securities in question to the direct insurer. The reinsurer continues to be entitled to receive the income arising on the securities and the direct insurer will be obliged to return them to the reinsurer when the arrangement comes to an end. In such a situation, since the direct insurer becomes the legal owner of the securities they must appear among the assets in his balance sheet and must not appear among the assets of the reinsurer. On the other hand, from the moment at which the securities are transferred to the direct insurer up to the time when they are returned to the reinsurer, their value must appear as a creditor item in the direct insurer's balance sheet and as a debtor item in the reinsurer's balance sheet. These creditor and debtor items will be under the same heading as those for cash reinsurance deposits.

#### Article 14

Accrued interest and rent are shown as a separate item because they may assume considerable importance in the accounts of insurance undertakings.

Articles 15 and 50

By acquisition costs is meant all expenses that vary with and are primarily related to the acquisition of direct insurance and reinsurance contracts, whether new contracts or renewals, in both non-life and life business, and of premiums arising under those contracts. The largest such item will no doubt usually be commissions paid to agents and brokers.

Deferred acquisition costs means that part of the acquisition costs relating to retained business that is treated in the accounts as relating to a year or years later than that in which it is incurred. Such deferral takes place in accordance with the rule laid down in Article 18 of the Fourth Directive, which says : "Expenditure incurred during the financial year but relating to a subsequent financial year ... must be shown under "Prepayments and accrued income".... " Acquisition costs will normally be incurred for the acquisition of premium income which, in accordance with the terms of the contract, extends over a defined period. Under the principles of Article 18 of the Fourth Directive the acquisition costs must be spread over this period.

In non-life insurance the treatment of acquisition costs is closely bound up with that of the provision for unearned premiums ; that is, the amount of premiums which, although receivable in a given year, are regarded as relating to a part of the total period covered the contract which falls into a later year or years. As explained in the comments on Article 53, the provision for unearned premiums is usually computed on a pro rata temporis basis, but there are exceptional cases where another basis is appropriate. Article 50 thus has the effect of providing that deferred acquisition costs may, in exceptional cases, also be deferred on a basis other than pro rata temporis.

In life insurance the treatment of acquisition costs is closely linked to the calculation of the mathematical provision and also to the surrender value of the policy. The following practices appear to exist in the Member States, some being prescribed by law whilst others result from the free choice of the insurance undertakings.

- a) Acquisition costs are written of as they are incurred (in other words, they are not deferred). They are accordingly not taken into account in the calculation of the mathematical reserve and it is possible, from a

purely accounting point of view, for a policy to have a surrender value from the moment when the first premium is paid (although the policy conditions, and perhaps national law, may prescribe otherwise).

- b) Acquisition costs are taken into account in the computation of the mathematical reserve itself by the process known as zillmerising. The effect is that acquisition costs are deferred but the deferred amount does not appear separately. Since in life insurance the acquisition costs may exceed the total premiums of the first two or three years, the application of zillmerising may result in a negative provision on particular contracts. Article 15 says how this is to be treated in the accounts.
- c) A calculation may be made of deferred acquisition costs separately from the computation of the mathematical reserve. These deferred costs, which should be shown as a separate asset and not be deducted from the mathematical reserve, must be progressively written off.

In life insurance, the treatment of acquisition costs is only one item which has to be taken into account in the computation of mathematical provisions. Others include the mortality tables and rates of interest used and the allowance made for expenses. These may be laid down by national law or left to the discretion of individual insurance undertakings (subject to general supervision). They are not coordinated at Community level and it is beyond the scope of the present Directive to bring about such a coordination. Since it does not seem reasonable or practical to lay down rules for one of these items, namely acquisition costs, in isolation from the others, the present Directive allows flexibility linked to disclosure.

Articles 16, 17 and 18

These Articles are based on the corresponding Articles in the proposed Directive on the annual accounts of banks.

Article 19

Article 20 of the Fourth Directive lays down general rules for provisions which are superseded in the case of the technical provisions of insurance undertakings by a number of specific rules.

Articles 21 and 22

Unearned premiums are really a prepayment, coming precisely within the definition in Article 21 of the Fourth Directive : "income receivable before the balance sheet date but relating to a subsequent financial year". Unexpired risks are on the other hand a genuine provision of the kind envisaged in Article 20 of the Fourth Directive : "provisions for liabilities ... intended to cover losses ... the nature of which is clearly defined and which at the date of the balance sheet are ... likely to be incurred" (in the light of recent claims experience). The provision for unexpired risk relates to claims which have not yet been incurred but are likely to be incurred and for which the carry-over of unearned premiums is expected to be insufficient. This provision is to be distinguished from the claims provision, which relates to claims which have already been incurred by the balance sheet date, even though some of them - in some cases a very high proportion - have not been notified by that date (claims incurred but not reported). In most Member States unearned premiums and unexpired risks, although separately calculated, are at present disclosed in a single sum in the balance sheet. In certain Member States the two amounts are frequently not calculated separately : an adjustable percentage of premiums is taken to cover both or some other method is adopted. In order that the principles of Articles 20 and 21 of the Fourth Directive may be

respected and in order that unexpired risks shall not be taken into account in the computation of earned premiums, it is important that the amounts should be separately calculated. (See comment on Article 32).

#### Article 23

As regards the reference to negative amounts resulting from the zillmirisation of life insurance provisions, see the comment on Article 15.

#### Article 24

For a full understanding of the treatment of claims it is necessary to see also Articles 33 and 56.

In non-life insurance the provision for claims outstanding must include an appropriate amount for claims which, although arising out of events which have occurred before the balance sheet date, have not by then been reported to the insurance undertaking. In certain classes of business, in particular transport insurance and certain liability insurances, such amounts may form a substantial part of the total, and the reporting of claims may not occur in some cases until many years after the balance sheet date.

The provision referred to in paragraph 2 of Article 24 is commonly known as a "combined provision". Since it relates mainly to claims outstanding it is customarily included in the provision for claims outstanding.

Article 25

As indicated in the comment on Article 34, the treatment of bonuses and rebates is subject to great variations. The importance of the provision for bonuses and rebates will correspondingly vary greatly from case to case. The provision is essentially a staging post through which amounts transit after being charged to the profit and loss account of a financial year before being specifically allocated or possibly written back.

Article 26

Equalization provisions or reserves have been the subject of much debate in various working groups concerned for the most part with matters relating to insurance supervision. The matter remains controversial. The objective pursued in this Directive is not to secure identity of treatment but rather to ensure that whatever is done shall be adequately disclosed.

The idea of an equalization provision or reserve is that it evens out results over a number of years in classes of insurance where the claims experience is likely to be much better in some years than in others. Well-known examples are the risk of hail and credit insurance.

Some Member States (and insurance undertakings) are strongly in favour of equalization provisions ; others are not. Where they do exist at all, three treatments are found. Firstly, there may be a legal requirement to constitute an equalization provision (where there is this legal requirement the term "provision" will almost certainly be used in preference to "reserve"), contributions to which are tax-deductible. Secondly, the insurance undertaking may voluntarily create an equalization provision which may be regarded as tax-deductible. Thirdly, the undertaking voluntarily (or perhaps with the encouragement of the supervisory authority) sets aside an amount which is not tax-deductible and which will generally be known as a reserve. The treatment proposed here reflects this reality.

Article 28 : layout of the profit and loss account

For the sake of greater ease of comparison it is proposed that there shall be only one form of layout for the profit and loss account, as for the balance sheet. In the case of the profit and loss account it appears that the vertical format is the one generally preferred and it therefore adopted here.

The Fourth Directive offers a choice between a profit and loss account in which the charges are classified by reference to their nature and one in which the classification is based upon the purpose for which the expenditure is incurred. Such a division does not appear appropriate in the case of insurance undertakings and is indeed not generally followed in the Member States. On the other hand, the view is widely held that it is appropriate to divide the profit and loss account of an insurance undertaking into two parts, namely a so-called technical account, reflecting the results of insurance activities in the narrower sense, and a non-technical account. Furthermore, in the case of those undertakings which carry on both non-life and life insurance (including reinsurance) separate technical accounts should be required for the two categories. Moreover, there are important differences in the content of the non-life and life technical accounts.

In the case of non-life insurance the technical account is regarded as reflecting the result of the underwriting activity before taking into account investment income. The investment income appears in the non-technical part of the profit and loss account. This in no way denies or diminishes the importance of the return on investments as part of the total business of non-life insurance undertakings but it recognises the fact that the results of underwriting and of investment activity may vary in accordance with quite different factors and may follow different cycles. A better appreciation of an insurance undertaking's performance is possible if the two are kept separate in the accounts.

It is nevertheless recognised that there is a school of thought which maintains that part of the investment return - it is usually considered to be the part of the total amount which represents the return on the investments representing the technical provisions - is properly included



in the technical account. To accommodate this point of view whilst yet maintaining strict comparability of the technical results, the proposed layout provides that a first technical result excluding investment income shall be arrived at on a strictly comparable basis for all undertakings carrying on non-life insurance business. After that, a transfer of investment income may be made from the non-life account to the technical account to produce a second result, which will not be comparable. Similarly, because practices with regard to equalization provisions and reserves vary so much (see comment on Article 26), it is also proposed that amounts set aside for this purpose shall be charged after the first technical result.

In the case of life insurance, different considerations apply. Most kinds of life insurance involve a substantial investment element and most of the investment return achieved by a life insurance undertaking is used for the benefit of policyholders. Since the investment return is used in the calculation of the surplus in which policyholders usually have a right to participate (typically to the extent of 90% or more of the total surplus) it appears appropriate to include the investment income in the technical account. It follows that the life insurance technical account will include all those elements which are taken into account in the calculation of the participation of policyholders in the surplus and will also show as a charge the amount of the surplus which has been allocated to them.

It must nevertheless be stressed that whereas it is possible to obtain a high degree of comparability in the results shown by the technical account for non-life insurance, the widely differing nature of life insurance contracts and in particular of the arrangements for participating in profits make it impossible to achieve a very high degree of comparability in the case of life insurance.

Article 30

Insurance is not at present subject to value-added tax but most Member States have specific taxes charged by reference to the amount of the individual premium and disclosed to the payer of the premium. There may rarely also be taxes charged by reference to the total premium income of the insurance undertaking in a particular class and not disclosed to the policyholder. In addition, there exist a large number of para-fiscal contributions which are either charged on a regular continuing basis (examples are the contributions à la Croix-Rouge et au Fonds des Handicapés on Belgium compulsory motor insurance premiums) or ad hoc (as when, under an arrangement set up by the State, all insurance undertakings in a particular country have to pay a proportion of their premium income to help to rescue one of their members which is in financial trouble). It must be borne in mind that charges and levies of this kind exist not only in Member States but in other countries all over the world where Community insurers have branches or agencies.

Article 32

The question of unearned premiums and unexpired risks has already been mentioned in the note on Articles 21 and 22. It is important that the figure for unearned premiums, taken into account in arriving at the figure for earned premiums in the profit and loss account, shall be a straightforward prepayment and nothing else. If this is not the case, earned premiums will not be what the name implies. The figure for earned premiums is particularly important because it is used in ratios (claims ratio, expenses ratio, combined ratio, etc.) which are significant in judging the performance of individual insurers and are also extensively used in national and other statistics.

In life insurance, where complete comparability is at present unattainable, these considerations are less important.

Article 33

The concept of claims incurred is sufficiently wide to include all expenses associated with the settlement of claims. Such expenses comprise two elements, direct and indirect. Direct expenses are those which are readily attributable to a particular claim (such as legal, medical, surveying and engineering fees) and are frequently paid to a person or organisation external to the insurance undertaking. Indirect expenses are all the other expenses of handling and settling claims which are not readily attributable to specific claims. Such expenses will typically include part of the staff and accommodation expenses of the insurance undertaking itself.

Paragraph 3 takes account in particular of the fact that it is occasionally discovered that provisions for claims outstanding need to be revised sharply upwards, sometimes many years after the provision (perhaps relating to claims incurred but not reported) was first created. Certain liability claims in the United States in connection for example with asbestosis provide much publicised illustrations of this. Such revisions of the claims provision may have an important effect upon the total results of an insurance undertaking and it is therefore considered important to draw attention to them.

Article 34

A distinction is made here between bonuses and rebates. Bonuses as here defined are more usually found in life insurance, whereas rebates, where they exist, are more common in non-life insurance ; but this distinction is indicative rather than absolute. It will be noted that neither category includes the reduction of a future year's premium, not involving any element of repayment, which results from the application of bonus-malus systems of the kind widely found in motor insurance.

Application of the Article results in all amounts borne by the undertaking in respect of bonuses or rebates appearing as a charge under one separate heading instead of, as is frequently the case at present, being partly hidden for example in the charge for the variation of the life insurance provisions.

Bonuses may take many different forms but what matters for the purpose of this Article is the amount which is borne by the insurance undertaking in the sense that in one way or another it is attributed to the benefit of the policyholders.

Article 35

Some insurance companies acquire business mainly through their own direct sales force whilst others rely only or mainly upon legally separate agents and brokers working on a commission basis. Analysts of insurance company accounts are often interested in comparing the results of the different methods of operation and it seems desirable that the extent to which an insurance undertaking pays commissions to outside parties should be revealed. The wording of the definition article must however be precise enough to exclude commissions paid to the directly employed staff in the ordinary course of their activities as employees. A complication arises from the fact that many employees are also part-time agents, in which capacity they are not acting as employees.

Article 37

The reasons for the possible allocation of part of the investment return to the non-life technical account have already been mentioned in the general remarks on the profit and loss account. This Article merely provides the mechanism and requires disclosure in the notes of the reasons for the allocation and the basis on which the amount is determined.

Article 38

With one or two special exceptions in other Member States, it is only in Belgium, Spain, Luxemburg and the United Kingdom that insurance undertakings are allowed to carry on direct non-life insurance and direct life insurance at the same time. Moreover the number of such composite companies is prevented from increasing by the provisions of the 1979 First Life Insurance Coordination Directive. It must not be overlooked, however, that this Accounts Directive covers reinsurance as well as direct insurance. Specialist reinsurers commonly deal with life insurance as well as non-life business and in some Member States direct non-life insurance undertakings are allowed to accept life reinsurance business.

As regards paragraph 3 of this Article, it follows that if all investment income relating to life business is shown in the life insurance technical account, where most of it will be passed out to policyholders through their participation in the profits (bonuses), then the remaining part, belonging to the proprietors of the undertaking, will contribute to the technical profit which is passed down into the non-technical account. In some cases, however, it may be preferred to carry down such interest as a separate item, perhaps for example because it arises on assets in which the policyholders do not have an interest.

Article 39

This Article is drafted on the basis that unrealised gains on investments (that is, the difference between the higher current value of investments and their value arrived at on the historical cost basis), to the extent that they appear in the accounts at all - and they will not, of course, where the historical cost basis is used - must normally be carried straight to the revaluation reserve (see Article 43 (1) ). In life insurance an exception to this general rule is necessary in two cases. One is that of the so-called unit-linked contracts (see Article 12), where the policyholder bears the investment risk because the value of the contracts to him depends directly at any given time on the value of certain specified assets held by the insurance undertaking. The other case is that of with-profits life insurance as carried on in Ireland and the United Kingdom, where the current value of investments is taken into account in the actuarial calculation of the amount of the life insurance provisions. In both these cases an amount representing unrealised gains (as defined above) is brought into the life insurance technical account to balance the corresponding amount included in the increase in the life insurance provisions.

Article 41

Article 32 of the Fourth Directive states that the items shown in the annual accounts shall be valued in accordance with the principle of purchase price or production cost. Article 41 therefore announces the variations on this basic rule, as regards the investments of insurance undertakings, which are set out in Articles 42 to 45.

Article 42

This Article gives expression to the idea already outlined in the introduction to this explanatory memorandum, that it is appropriate for the reader of the accounts of an insurance undertaking to have access to two different valuations of the investments which form a very large part of the total assets. One valuation results from the application of the principle of purchase price or production cost, which is the normal method prescribed in the Fourth Directive. The other reflects the current value of the investments.

Article 42 gives a choice which is to be exercised either by the Member States themselves or, if they so wish, by the insurance undertakings whose head offices are situated in their territory. The figure at which investments appear in the balance sheet must be either the current value or the figure arrived at in accordance with the historical cost principle. The choice may be exercised either for all investments taken together or for categories of investments. However the choice is exercised, the value of the investments arrived at in accordance with the other method must be shown in the notes on the accounts. The reader will thus be able to ascertain the figures arrived at by either method and comparability between the accounts of insurance undertakings will be maintained whatever choice is made.

Only in one special situation is no choice given. This concerns those investments the current value of which is reflected in the life insurance

technical provisions for the reasons already explained in the note on Article 39. Paragraph 2 of Article 42 provides that in such cases the investments concerned must be shown in the balance sheet at current value, because if this were not done there would be nothing to balance the amount included in the life insurance provisions which represents the difference between the historical cost and current value of the investments in question.

#### Article 43

Article 43 lays down how the difference between current value and historical cost is to be dealt with in the accounts in those cases where current value is applied to the investments appearing in the balance sheet.

Paragraph 1 lays down the basic rule, found already in Article 33 of the Fourth Directive. The value difference is to be carried directly to the revaluation reserve which appears in the balance sheet at item A III. The amount of the difference does not transit through the profit and loss account.

Paragraph 2 sets out the exception to this which has already been referred to in the comment on Article 39. Where the amount of the difference, owing to the techniques applied to the kind of life insurance in question, has to be shown not in the revaluation reserve but as an adjustment to the life insurance provisions, it appears first in the life insurance technical account, where it balances an equivalent amount included in the charge for the variation in life insurance provisions and is thus carried to the life insurance provisions themselves.

#### Article 44

Article 44 sets out detailed rules for arriving at the current value of investments other than land and buildings. In practice, in the majority of



cases most of these investments will be securities quoted on a stock exchange, to which paragraph 2 will apply.

#### Article 45

It is generally recognized that particular prudence is required in applying the concept of current value to land and buildings. Article 45 takes account of this need.

It is provided that full valuations shall take place at least every five years by persons considered by the Member State concerned to be qualified for the purpose. It is not necessary for all land and buildings to be thus valued in the same year ; if there is a large stock of properties it may be considered appropriate that every year some of them should be valued in accordance with a continuing programme. If the value of a property is considered to have increase between the valuations, no account of the increase may be taken in the accounts. On the other hand, if a decrease has taken place, even if it is believed to be only temporary, it must at once registered in the accounts and no increase above the lower figure thus arrived at may be taken into account until the next full valuation.

In those cases, likely to be very rare in the case of properties owned by insurance undertakings, where it is impossible by means of a valuation to arrive at a market value in the normal way, the historical cost method must be used and, exceptionally, treated as providing the current value.

#### Articles 46, 47, 48 and 49

These articles provide the necessary concordance between the terminology used in the Fourth Directive and that employed in the accounts of insurance undertakings.

Article 51

This Article corresponds to a text which has emerged in the discussions on the proposed Directive on the Annual Accounts of Banks. It deals with the application of the historical cost principle to bonds and other securities which mature at a stated date and at a known value which will not necessarily be the cost at which they were acquired. It is provided that where the historical cost principle applies the difference between acquisition price and redeemable value may be amortised by instalments over the period elapsing between the dates of purchase and maturity. It will be noted that the current value, which at any intermediate date may be substantially different from the figure resulting from the application of Article 51, will also have to be disclosed, even if only in the notes on the accounts, in accordance with the principles of Article 42.

In some Member States a high proportion of the investments of insurance undertakings, particularly those carrying on life insurance business, consist of assets of this type. In the case of life insurance where the amount and due date of liabilities can frequently be calculated with considerable accuracy through the use of actuarial techniques, the maturity dates and values of such assets can be closely matched with known commitments and there is a strong likelihood that the securities in question will be held until maturity. In the case of non-life insurance, on the other hand, it is much more likely that such investments will be bought and sold as seems advantageous in accordance with the state of the market and the intention to hold the securities to the maturity date will be much less strongly marked.

Article 52

This short Article expresses an important principle : the amount of the technical provisions is to be fixed with regard to what is necessary to enable the insurance undertaking to meet all liabilities arising out of

insurance contracts. They are not to be used for other purposes and by implication deliberate overprovision is as much to be avoided as underprovision. Over and above the technical provisions insurance undertakings have to maintain a solvency margin which in essence consists of the free reserves and own capital.

#### Article 53

The provision for unearned premiums has already been referred to in the comment on Article 21. In the majority of cases it is appropriately computed on a pro rata temporis basis. There are however cases where it is known from experience or from the very nature of the risk covered by the contract that the risk, and hence the likelihood of claims, will increase or diminish over the period of the contract. Where this is so it should be taken into account in the calculation of the provision for unearned premiums so that the proportion of the total amount allocated to a particular period reflects the proportion of claims likely to arise in that period.

#### Article 54

See the comment on Article 22.

#### Article 57

See the comment on Article 26.

Article 59

The application of the Seventh Directive to insurance undertakings covered by the present Directive is achieved through a general reference back to the Seventh Directive, this reference being valid wherever the present Directive does not specifically provide otherwise.

Where the parent undertaking of a group which is mainly or exclusively composed of insurance undertakings is a financial holding company the consolidated accounts must be drawn up in accordance with the provisions of this Directive. This requirement does not apply if a Member State has made use of the possibility in Article 5 of the Seventh Directive to exempt financial holding companies from the obligation to draw up consolidated accounts.

Article 60

1. A number of the provisions of the Seventh Directive do not apply to insurance undertakings. These are :
  - Article 4, which defines the forms of undertaking that are required to produce consolidated accounts. In the case of insurance companies, this requirement must have the same field of application as for annual accounts.
  - Article 6, which stipulates that Member States may provide for an exemption from the consolidation requirement if the undertakings to be consolidated do not together exceed certain limits as to size : in the case of the annual accounts of insurance undertakings, no differentiated systems are laid down on the basis of the size.
  - Article 15, which concerns a derogation covering a very specific situation and which there would be no point in extending to insurance undertakings.
  - Article 40, which lays down transitional provisions pending the entry into force of the present Directive.
  
2. Article 9 of the Seventh Directive provides that the Member States may make exemption from subconsolidation dependent upon the disclosure of certain information concerning the sub-group exempted. However, two of these items of information are not relevant in the case of insurance undertakings, namely the amount of the fixed assets (since the distinction between fixed assets and current assets was not introduced in the layout of insurance undertakings' accounts) and the net turnover (since this concept is not used by insurance undertakings).

These two items of information have therefore been replaced by an item which, in the case of insurance undertakings, can be considered to correspond more closely to the turnover of industrial and commercial undertakings, namely the total amount of gross premiums written.

3. and 4. As far as the layout of consolidated accounts and the valuation methods are concerned, the Seventh Directive refers back to the corresponding provisions in the Fourth Directive.

Since those provisions are amended in the case of insurance undertakings by the present Directive, paragraphs 3 and 4 are intended to adjust the reference made by the Seventh Directive, so that it relates to the specific provisions applicable to insurance undertakings.

5. As to the notes on the consolidated accounts, Article 34 of the Seventh Directive applies. The only changes concern the breakdown of the consolidated net turnover by categories of activity and into geographical markets for which a more appropriate breakdown for insurance undertakings (breakdown of gross premiums written) is provided for in Article 58 of this Directive and the reference to the Articles of the Fourth Directive concerning the valuation rules which has to be construed as a reference to those Articles as modified for the purpose of their application to insurance undertakings by the provisions of this Directive.

SECTION 10 : PUBLICATION

Article 61

The rules in Council Directives 78/660/EEC and 83/349/EEC concerning the publication of accounting documents also apply to insurance undertakings. However, where an insurance undertaking 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 these documents, it must make them available to the public at its registered office.

SECTION 11 : FINAL PROVISIONS

Article 62

The examination of problems which arise in connection with this Directive, notably concerning its application, requires the cooperation of representatives of the Member States and the Commission in the form of a contact committee. In order to avoid the proliferation of such committees it is desirable that this cooperation also in the area of accounting by insurance undertakings, is achieved by means of the existing committee on the accounting directives provided for in Article 52 of Council Directive 78/660/EEC. When examining problems concerning insurance undertakings the committee will be appropriately constituted as well as regards the representatives of Member States as for the representatives of the Commission.

Article 63

Accounting by insurance undertakings is a very complex matter. It is therefore appropriate that the insurance undertakings covered by this Directive be allowed a longer period than usual to implement the provisions of this Directive.



## II

(Preparatory Acts)

## COMMISSION

Proposal for a Council Directive on the annual accounts and consolidated accounts of insurance undertakings

COM(86) 764 final

(Submitted by the Commission to the Council on 21 January 1987)

(87/C 131/01)

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,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas Article 54 (3) (g) of the Treaty requires the coordination to the necessary extent of the safeguards which, for the protection of the interests of members and others, are required by Member States for companies or 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 the Fourth 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>(1)</sup>, as last amended by the Act of Accession of Spain and Portugal, need not be applied to insurance companies, hereinafter referred to as 'insurance undertakings', pending subsequent coordination; whereas, in view of the importance of insurance undertakings in the Community, such coordination cannot be delayed any longer following implementation of Directive 78/660/EEC;

Whereas the Seventh Council Directive 83/349/EEC of 13 June 1983 based on Article 54 (3) (g) of the Treaty on consolidated accounts<sup>(2)</sup> provides for derogations for insurance undertakings only until expiry of the deadline imposed for the application of this Directive; whereas this Directive must therefore also contain provisions specific to insurance undertakings in respect of consolidated accounts;

Whereas such coordination is also urgently required owing to the Community-wide operations of insurance undertakings; whereas, for creditors, debtors, members, policy-holders and their advisers and for the general public, improved comparability of the annual accounts and consolidated accounts of these undertakings is therefore 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 also in the business of reinsurance 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 which is in line with the First 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 insurance<sup>(3)</sup> and the First Council Directive 79/267/EEC of 5 March 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>(4)</sup>, both

<sup>(1)</sup> OJ No L 222, 14. 8. 1978, p. 11.

<sup>(2)</sup> OJ No L 193, 18. 7. 1983, p. 1.

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

<sup>(4)</sup> OJ No L 63, 13. 3. 1979.

as last amended by the Act of Accession of Spain and Portugal, but which also includes certain undertakings that are excluded from the scope of those Directives and companies and firms which are specialist reinsurance undertakings;

Whereas although, in view of the specific characteristics of insurance undertakings, it appears appropriate to propose a separate Directive on annual accounts and consolidated accounts for such undertakings, this must not result in a set of standards being established which is separate from those of Directives 78/660/EEC and 83/349/EEC; whereas such separate standards would be neither appropriate nor consistent with the basic principles underlying the coordination of company law since, given the important place they occupy in the economy of the Community, insurance undertakings cannot be excluded from the framework of standards devised for undertakings generally; whereas for this reason only the particular characteristics of insurance undertakings are taken into account, and this Directive therefore deals only with exceptions to the rules contained in Directives 78/660/EEC and 83/349/EEC;

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

Whereas, if the annual accounts and consolidated accounts are to be comparable, a number of basic questions regarding the presentation 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 certain balance sheet items be determined precisely;

Whereas the same also applies to the composition and definition of certain items in the profit and loss account;

Whereas the comparability of figures in the balance sheet and profit and loss account also depends crucially on the values at which assets and liabilities are entered in the balance sheet; whereas for a proper understanding of the financial situation of insurance undertakings it is necessary to disclose the current value of investments as well as their value based upon the principle of purchase price or production costs;

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

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

Whereas for the same reasons, the scope allowed Member States under Directive 83/349/EEC to exempt parent undertakings from the consolidation requirements 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 should also apply to the consolidated accounts drawn up by a parent undertaking which is a financial holding company and where its subsidiary undertakings are either exclusively or mainly insurance undertakings;

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

Whereas, in view of the complexity of the matter, the insurance undertakings covered by this Directive must be allowed a longer period than usual to implement the provisions thereof,

HAS ADOPTED THIS DIRECTIVE:

## SECTION 1

### Preliminary provisions and scope

#### Article 1

1. The provisions of Directive 78/660/EEC shall apply to insurance undertakings within the meaning of Article 2 of this Directive, except where this Directive provides otherwise.

2. Where reference is made in Directive 78/660/EEC to Articles 9 and 10 (balance sheet) or to Articles 23 to 26 (profit and loss account) of that Directive, such references shall be construed as references to Article 5 (balance sheet) or to Article 29 (profit and loss account) of this Directive.

3. Where reference is made in Directive 78/660/EEC to balance sheet items for which this Directive makes no equivalent provision, such references shall be deemed to be references to the items in Article 5 of this Directive which include the assets and liabilities in question.

#### Article 2

The coordination measures prescribed by this Directive shall apply to companies or 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 institutions referred to in Article 4 thereof except where their activity does not consist wholly or mainly of the carrying-on of insurance business;

or

(b) undertakings within the meaning of Article 1 of Directive 79/267/EEC, excluding those institutions, organizations and mutual associations referred to in Article 2 (2) and (3) and Article 3 of that Directive;

or

(c) undertakings whose whole or main activity consists of reinsurance operations.

Such undertakings are referred to in this Directive as insurance undertakings.

#### Article 3

1. This Directive shall apply to the association of underwriters known as Lloyd's with such adaptations as are necessary to take account of the particular nature and structure of Lloyd's.

2. The Commission shall submit to the Council, not later than ..., a report on the adaptations made under paragraph 1.

## SECTION 2

### General provisions concerning the balance sheet and the profit and loss account

#### Article 4

Article 4 (2) of Directive 78/660/EEC shall not apply to insurance undertakings.

## SECTION 3

### Layout of the balance sheet

#### Article 5

The Member States shall prescribe the following layout for the balance sheet.

#### Assets

##### A. *Subscribed capital unpaid*

of which there has been called (unless national law provides that called-up capital be shown under 'Liabilities'. In that case, the part of the capital called but not yet paid must appear as an asset either under A or under D.4)

##### B. *Intangible assets*

as described under assets headings 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 the insurance undertaking for its own activities

#### 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 the insurance undertaking is linked by virtue of a participating interest

#### III. Other financial investments:

1. Shares and other variable-yield securities
2. Debt securities (Article 9)
3. Loans guaranteed by mortgage (Article 10)
4. Other loans (Article 10)
5. Deposits with credit institutions (Article 11)

#### IV. Investments for the benefit of life insurance policy holders who bear the investment risk (Article 12)

#### V. 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

#### VI. Deposits with cedant undertakings (Article 13)

### D. *Debtors*

1. Debtors arising out of direct insurance operations, with a separate indication of amounts owed by:
  - (a) affiliated undertakings
  - (b) undertakings with which the insurance undertaking is linked by virtue of a participating interest
2. Debtors arising out of reinsurance operations, with a separate indication of amounts owed by:
  - (a) affiliated undertakings
  - (b) undertakings with which the insurance undertaking is linked by virtue of a participating interest
3. Other debtors, with a separate indication of amounts owed by:
  - (a) affiliated undertakings
  - (b) undertakings with which the insurance undertaking is linked by virtue of a participating interest

4. Subscribed capital called but not paid (unless national law provides that called-up capital be shown as an asset under A)
- E. *Tangible assets and consumables*
1. Tangible assets as listed under assets heading C II of Article 9 of Directive 78/660/EEC, other than land and buildings
  2. Consumables
- F. *Cash at bank and in hand* (Article 11)
- G. *Prepayments and accrued income*
1. Accrued interest and rent (Article 14)
  2. Deferred acquisition costs (distinguishing those arising in non-life and life insurance business) (Article 15)
  3. Other prepayments and accrued income
- H. *Loss for the financial year*  
(unless national law provides for it to be shown under A.VI under 'Liabilities')

#### Liabilities

- A. *Capital and reserves*
- I. Subscribed capital (Article 16)  
(unless national law provides for 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. Reserves (Article 17)
  - V. Profit or loss brought forward
  - VI. Profit or loss for the financial year  
(unless national law requires that this item be shown under H under 'Assets' or under H under 'Liabilities')
- B. *Subordinated liabilities* (Article 18)
- C. *Technical provisions* (Articles 19 and 20)
1. Unearned premiums (and unexpired risks) (Articles 21 and 22)
    - (a) gross amount .....
    - (b) reinsurance amount (-) .....

- 
- |  |              |
|--|--------------|
| 2. Life insurance provisions   | (Article 23) |
| (a) gross amount .....   |              |
| (b) reinsurance amount (—) .....   |              |
| — showing separately the amounts in respect of contracts under which the policy holder bears the investment risk |              |
| 3. Claims outstanding  | (Article 24) |
| (a) gross amount .....   |              |
| (b) reinsurance amount (—) .....   |              |
| 4. Provision for bonuses and rebates   | (Article 25) |
| (a) gross amount .....   |              |
| (b) reinsurance amount (—) .....   |              |
| 5. Equalization provisions required by national law  | (Article 26) |
| 6. Other technical provisions  |              |
| (a) gross amount .....   |              |
| (b) reinsurance amount (—) .....   |              |
- D. *Provisions for other liabilities and charges*
1. Provisions for pensions and similar obligations
  2. Provisions for taxation
  3. Other provisions
- E. *Deposits withheld from reinsurers* (Article 27)
- F. *Creditors*  
(for each of the following items, a separate indication must be given of amounts owed to:
- (a) affiliated undertakings
  - (b) undertakings with which the insurance undertaking is linked by virtue of a participating interest
1. Debenture loans, showing convertible loans separately
  2. Amounts owed to credit institutions
  3. Creditors arising out of direct insurance operations
  4. Creditors arising out of reinsurance operations
  5. Other creditors, including tax and social security
- G. *Accruals and deferred income*
- H. *Profit for the financial year*  
(unless national law provides for it to be shown under A.VI under 'Liabilities')

*Article 6*

Articles 11, 12, 27, 44, 47 (2) and (3) and 51 (2) of Directive 78/660/EEC shall not apply to insurance undertakings.

*Article 7*

The provisions of Article 14 of Directive 78/660/EEC shall not apply to those commitments which are taken into account in determining the amount of the technical provisions.

## SECTION 4

**Special provisions relating to certain balance sheet items***Article 8*

1. Article 15 (1) and (2) of Directive 78/660/EEC shall not apply to insurance undertakings.
2. The requirements of paragraph 3 of the above-mentioned Article shall apply to each item of B, C and E. 1 under 'Assets' in the layout prescribed in Article 5.

*Article 9*

Assets: item C.III.2

Debt securities

1. This item shall comprise negotiable fixed-interest debt securities issued by credit institutions, by other undertakings or by public bodies, in so far as they are not appropriate to asset items C.II.2 and C.II.4.
2. Securities carrying interest rates that vary in line with specific factors, for example the interest rate on the inter-bank market or on the Euromarket, shall also be regarded as fixed-interest debt securities.

*Article 10*

Assets: item C.III.3 and 4

Loans guaranteed by mortgages and other loans

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

*Article 11*

Assets: items C.III.5 and F

Deposits with credit institutions

Cash at bank and in hand

'Deposits with credit institutions' comprises amounts the withdrawal of which is subject to a time restriction, whereas sums deposited with no such restriction shall appear under assets item F, even if they bear interest.

*Article 12*

Assets: item C.IV

Investments for the benefit of life insurance policy holders who bear the investment risk

Investments for the benefit of life insurance policy holders who bear the investment risk shall comprise the amount of all investments which the insurance undertaking holds by virtue of its commitment under life insurance contracts the benefits of which are expressed by reference to the value of those investments. Pending further harmonization, Member States may however require or permit insurance undertakings to include such investments under the headings where they would appear but for the provisions of this Article. Where use is made of this option the amount of such investments under each of the respective headings shall be separately disclosed.

*Article 13*

Assets: item C.VI

Deposits with cedant undertakings

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

Securities deposited with cedant undertakings which remain the property of the undertaking accepting reinsurance shall not be shown here but under the appropriate heading for the type of asset in question.

*Article 14*

Assets: item G.1

Accrued interest and rent

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

*Article 15*

Assets: item G.2

Deferred acquisition costs

Deferred acquisition costs shall comprise the amount of expenditure incurred on the acquisition of insurance business premium income which relates to a subsequent financial year or years having regard to the period to which the individual contract relates. Member States may prohibit the deferral of such amounts in life insurance business; any such prohibition must be disclosed in the notes on the accounts.

Where the zillmerization of life insurance contracts results in a negative amount in respect of particular contracts the total of such negative amounts shall be included in deferred acquisition costs and disclosed in the notes on the accounts.

*Article 16*

Liabilities: item A.I

Subscribed capital

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 proprietors.

*Article 17*

Liabilities: item A.IV

Reserves

Reserves shall comprise all the types of reserves listed in Article 9 of Directive 78/660/EEC under 'Liabilities' 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.

These reserves shall be shown separately, as sub-items to 'Liabilities' item A.IV, in the balance sheets of the insurance undertakings concerned, except for the revaluation reserve, which is shown under 'Liabilities' item A.III.

*Article 18*

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 'Liabilities' item B.

*Article 19*

Liabilities: item C

Technical provisions

Article 20 of Directive 78/660/EEC shall not apply to the technical provisions disclosed under 'Liabilities' item C.

*Article 20*

Liabilities: item C

Reinsurance amount (deduction)

The reinsurance amounts shall be determined in accordance with the stipulations of the reinsurance contracts.

*Article 21*

Liabilities: item C.1

Unearned premiums

Unearned premiums shall comprise the amount representing that part of gross premiums written which is to be allocated to a subsequent financial year or subsequent financial years. In the case of life insurance Member States may, pending further harmonization, permit or require the unearned premiums to be included in the life insurance provisions.

*Article 22*

Liabilities: item C.6 (or C.1)

Unexpired risks

Unexpired risks shall comprise 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. The amount



provided for unexpired risks shall be included in the amount for 'other technical provisions' at 'Liabilities' item C.6, unless national legislation provides that it shall be added to unearned premiums as defined in Article 21 and included in the amount disclosed at 'Liabilities' item C.1, in which case the description of that item shall be 'unearned premiums and unexpired risks'. In either case, where the amount of unexpired risks is material it shall be separately disclosed either in the balance sheet or in the notes on the accounts.

#### Article 23

Liabilities: item C.2

Life insurance provisions

The life insurance provisions shall comprise the actuarially estimated value of the liabilities net of future premiums in respect of life direct insurance and reinsurance contracts. Negative amounts resulting from the zillmerization of life insurance provisions shall be disclosed in accordance with the provisions of Article 15.

#### Article 24

Liabilities: item C.3

Claims outstanding

1. The provision for claims outstanding shall be the total estimated ultimate cost to the 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.

2. The provision created through the application of Methods 1 or 2 described in Article 40 (1) shall be included in the provision for claims outstanding. The amount so included shall be disclosed in the notes on the accounts.

#### Article 25

Liabilities: item C.4

Provision for bonuses and rebates

The provision for bonuses and rebates shall comprise amounts intended for policy holders and other insured parties by way of bonuses and rebates as defined in Article 34 to the extent that such amounts have not been attributed to individual policy holders or other insured parties through inclusion in the life insurance technical provisions shown under 'Liabilities' item C.2 or otherwise.

#### Article 26

Liabilities: item C.5

Equalization provisions required by national law

The amount shown under 'Liabilities' item C.5 shall comprise any amounts set aside in compliance with legal provisions to equalize fluctuations in loss ratios in the coming years. Amounts set aside for similar purposes other than by virtue of a legal requirement shall be separately disclosed under 'Liabilities' item A.IV. Member States may however permit or require them to be included in 'other technical provisions' at 'Liabilities' item C.6, in which event their amount shall be disclosed in the notes on the accounts if it is material.

#### Article 27

Liabilities: item E

Deposits withheld 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 the 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 cedant undertaking by virtue of the deposit.

## SECTION 5

## Layout of the profit and loss account

## Article 28

1. The Member States shall prescribe the layout provided in Article 29 for the profit and loss account.
2. The technical account for non-life-insurance business is to 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 insurance business is to 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.

## Article 29

## Profit and loss account

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

1. Premiums:
  - (a) gross premiums written (Article 30)
  - (b) outgoing reinsurance premiums (–) (Article 31)
  - (c) change in provision for unearned premiums, net of reinsurance (+ or –) (Article 32)
  - (d) earned premiums (result of (a), (b) and (c))
2. Other technical income
3. Claims incurred: (Article 33)
  - (a) gross claims paid
  - (b) amounts recoverable from reinsurers (–)
  - (c) change in provision for claims, net of reinsurance (+ or –)
  - (d) net claims incurred (result of (a), (b), and (c))
4. Changes in other technical provisions, net of reinsurance:
  - (a) change in unexpired risks provision (+ or –)
  - (b) changes in other technical provisions (not shown under other headings) (+ or –)
  - (c) result of (a) and (b) (+ or –)
5. Bonuses and rebates: (Article 34)
  - (a) gross bonuses and rebates
  - (b) amounts receivable from reinsurers (–)
  - (c) net bonuses and rebates ((a) – (b))

6. Commissions and other technical charges:
  - (a) commissions (Article 35)
  - (b) administrative expenses (Article 36)
  - (c) commissions and profit participation from other insurance undertakings (-)
  - (d) variations in deferred acquisition costs (+ or -)
  - (e) net amount of commissions and other technical charges (result of (a), (b), (c), and (d))
7. Other technical charges, net of reinsurance
8. Subtotal (first technical result)
9. Changes in equalization provisions and reserves:
  - (a) changes in legally prescribed equalization provisions (+ or -)
  - (b) changes in other equalization provisions and reserves (+ or -)
  - (c) result of (a) and (b)
10. Allocated investment return (+) (III.10) (Article 37)
11. Subtotal (second technical result (III.1))

## II. Technical account — Life insurance business

1. Premiums:
  - (a) gross premiums written (Article 30)
  - (b) outgoing reinsurance premiums (-) (Article 31)
  - (c) change in provision for unearned premiums, net of reinsurance (+ or -) (Article 32)
  - (d) earned premiums (result of (a), (b) and (c))
2. Income from participating interests, with a separate indication of that derived from affiliated undertakings
3. Income from other investments, with a separate indication of that derived from affiliated undertakings: (Article 38)
  - (a) income from land and buildings
  - (b) income from other investments
  - (c) result of (a) and (b)
4. Profit on the realization of investments
5. Value adjustments on investments
6. Unrealized gains on investments (Article 39)
7. Other technical income
8. Subtotal: total technical income

9. Claims incurred: (Article 33)
  - (a) gross claims paid
  - (b) amounts recoverable from reinsurers (-)
  - (c) net claims incurred (result of (a) and (b))
10. Changes in technical provisions, as far as not shown under 1 (c):
  - (a) life insurance provision, net of reinsurance (+ or -) (Article 32)
  - (b) other technical provisions, net of reinsurance (+ or -)
11. Bonuses and rebates: (Article 34)
  - (a) gross bonuses and rebates
  - (b) amounts receivable from reinsurers (-)
  - (c) net bonuses and rebates ((a) - (b))
12. Commissions and other technical charges:
  - (a) commissions (Article 35)
  - (b) administrative expenses (Article 36)
  - (c) commissions and profit participations from other insurance undertakings (-)
  - (d) variations in deferred acquisition costs (+ or -)
  - (e) net amount of commissions and other technical charges (result of (a), (b), (c) and (d))
13. Investment charges: (Article 38)
  - (a) charges, including interest, relating to land and buildings
  - (b) other investment management charges, including interest
14. Losses on the realization of investments
15. Value adjustments on investments
16. Unrealized losses on investments (Article 39)
17. Other technical charges
18. Subtotal: total technical charges
19. Subtotal (first technical result)
20. Allocated investment return (-) (III.9) (Article 38)
21. Subtotal (second technical result) (III.2)

### III. *Non-technical account*

1. Result of technical account — non-life-insurance business (I.11)

2. Result of technical account — life insurance business (II.21)
3. Income from participating interests, apart from that shown in the technical account, with a separate indication of that derived from affiliated undertakings
4. Income from other investments, with a separate indication of that derived from affiliated undertakings:
  - (a) income from land and buildings
  - (b) income from other investments
5. Value adjustments on investments (+ or -)
6. Investment charges:
  - (a) charges, including interest, related to land and buildings
  - (b) other investment management charges, including interest
7. Profits on the realization of investments
8. Losses on the realization of investments
9. Allocated investment return transferred from life insurance technical account (II.20) (+)
10. Allocated investment return transferred to non-life-insurance technical account (I.10) (-)
11. Non-investment income
12. Non-investment charges, including value adjustments
13. Tax on profit or loss on ordinary activities
14. Profit or loss on ordinary activities after taxation
15. Extraordinary income
16. Extraordinary charges
17. Extraordinary profit or loss
18. Tax on extraordinary profit or loss
19. Other taxes not shown under the above items
20. Profit or loss for the financial year

## SECTION 6

**Special provision relating to certain items in the profit and loss account***Article 30*

Non-life technical account item I.1 (a)

Life technical account item II.1 (a)

Gross premiums written

1. Article 28 of Directive 78/660/EEC shall not apply to insurance undertakings.
2. Gross premiums written shall comprise all amounts received and receivable in respect of insurance contracts issued by or on behalf of the insurance undertaking, including:
  - (a) single premiums, inclusive of annuity considerations;

- (b) additions to premiums in the case of semi-annual, quarterly or monthly payments and recoveries from policy holders of expenses borne by the company;
- (c) in the case of coinsurance, the insurance undertakings's portion of total premiums (excluding premiums to be allocated to coinsurance partners);
- (d) reinsurance premiums in respect of business acquired from ceding companies;

after deduction of cancellations and of taxes and parafiscal contributions or levies charged by reference to the amount of individual premiums or the volume of premiums.

#### Article 31

Non-life technical account item I.1 (b)

Life technical account item II.1 (b)

Outgoing reinsurance premiums

Outgoing reinsurance premiums shall comprise all amounts paid and payable in respect of outgoing reinsurance contracts entered into by the insurance undertaking.

#### Article 32

Non-life technical account item I.1 (c)

Life technical account item II.1 (c)

Change in provision for unearned premiums, net of reinsurance

The change in the provision for unearned premiums, net of reinsurance, shall comprise the difference between the provision for unearned premiums at the beginning of the financial year and at its end, and shall not include the change in the provision for unexpired risks. Pending further coordination, Member States may in the case of life insurance require or permit the change in unearned premiums to be included in the change in the life insurance provision.

#### Article 33

Non-life technical account: item I.3

Life technical account: item II.9

Claims incurred

1. Claims incurred shall comprise all amounts paid and payable, after taking into account provisions made in previous years, in respect of liabilities arising in relation to events occurring up to and including the balance sheet date. The amounts in question include annuities, surrenders, adjustments of claims in respect of previous years still outstanding at the balance sheet date, losses incurred but not reported, external and internal direct and indirect claims settlement costs and entries and withdrawals of loss-provisions to and from ceding insurance undertakings and reinsurers. Amounts received or receivable as a result of obtaining the legal ownership of insured property or acquiring the rights of the policy holder against third parties in connection with the settlement of a claim (salvage and subrogation) shall be deducted. Where such amounts are material they shall be disclosed in the notes on the accounts.

2. Where the amount of adjustments of claims in respect of previous years still outstanding at the balance sheet date is material, it shall be disclosed in the notes on the accounts.

#### Article 34

Non-life technical account: items I.5

Life technical account: item II.11

Bonuses and rebates

Bonuses shall comprise all amounts chargeable for the financial year which are paid or payable to policy holders 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 distinguished in the notes on the accounts.

#### Article 35

Non-life technical account: item I.6 (a)

Life technical account: item II.12 (a)

Commissions

Commissions shall comprise all amounts paid or payable in respect of insurance contracts which constitute a fee paid, otherwise than by virtue of a contract of employment, for services rendered in respect of business introduced to the insurance undertaking. They include amounts paid to agents and brokers but exclude amounts paid to employees (such as members of the direct sales force) acting in the ordinary course of their service to the undertaking.

#### Article 36

Non-life technical account: item I.6 (b)

Life technical account: item II.12 (b)

Administrative expenses

Administrative expenses shall include in particular value adjustments on tangible assets other than land and buildings and all staff costs, including commissions paid to employees acting in the ordinary course of their service to the undertaking, with the exception of staff costs incurred in connection with claims settlement and those that are properly charged under investment expenses.

#### Article 37

Non-life technical account: item I.10

Non-technical account: item III.10

Allocation of part of investment return to the non-life technical account

Where part of the investment return is allocated to the technical account for non-life-insurance business, the transfer from the non-technical account shall be deducted at item III.10 and added at item I.10. The reason for the allocation and the basis on which it is made must be disclosed in the notes on the accounts.

#### Article 38

Life technical account: item II

Investment income, etc.

1. In the case of an undertaking carrying on only life insurance business, all investment income and charges and profits and losses on the realization of investments shall be disclosed in the technical account for life insurance business.

2. In the case of an undertaking carrying on both life insurance and non-life insurance business, all investment income and charges and profits and losses on the realization of investments shall to the extent that they are directly connected with the carrying-on of the life insurance business be disclosed in the technical account for life insurance business.

3. That part of the investment income and charges and of profits and losses on the realization of investments disclosed in the technical account for life insurance business which is not used or set aside for the benefit of policy holders and insured parties may be allocated in whole or in part to the non-technical account, the amount allocated being deducted at item II.20 and added at item III.9. The reason for the allocation and the basis on which it is made must be disclosed in the notes on the accounts.

#### Article 39

Life technical account: items II.6 and 16

Unrealized gains and losses in life insurance business

Variations in the amount of the difference between the valuation of investments in accordance with current value and their valuation in accordance with the principle of purchase price or production cost shall be shown at items II.6 and 16 only to the extent that Article 43 (2) applies.

### SECTION 7

#### Valuation rules

#### Article 40

1. Pending further coordination Member States may require or permit the application of the following methods where, owing to the nature of the class or type

of insurance in question, information about premiums receivable, claims payable, or both, for the underwriting year is insufficient at the time at which the annual accounts are drawn up to enable accurate estimates to be made.

**Method 1**

The excess of the premiums received over the claims and expenses paid in respect of contracts commencing in the underwriting year forms a technical provision, which in accordance with Article 24 (2) is included in the technical provision for claims outstanding shown in the balance sheet at 'Liabilities' item C 3. The amount of this technical provision is if necessary increased to make it sufficient to meet present and future obligations. No amount in respect of the contracts in question is included in the technical provisions for unearned premiums and unexpired risks referred to respectively in Articles 21 and 22. The technical provision formed in accordance with this method is replaced by a provision for claims outstanding estimated in the usual manner at the end of the year following the underwriting year or at the end of a later year.

**Method 2**

The rules of Method 1 apply, except that the technical provision referred to in the first sentence of the description of that method is calculated as a particular percentage of the premiums receivable.

**Method 3**

The figures shown in the whole of the technical account or at certain items within it relate to a year which wholly or partly precedes the financial year.

The amount of the technical provisions shown in the annual accounts is if necessary increased to make them sufficient to meet present and future obligations.

2. Where a method referred to in paragraph 1 is adopted, it shall be applied systematically in successive years unless circumstances justify a change. The use of any such method shall be disclosed in the notes on the accounts together with an explanation of the reasons for it and a statement of its effect on the assets, liabilities, financial position and profit or loss, with particular reference to its effect on the provisions for unearned premiums and claims outstanding. Where Methods 1 or 2 are used, the length of time that elapses before a provision for claims outstanding is created on the usual basis shall be disclosed in the notes on the accounts. Where Method 3 is used, the length of time by which the year to which the figures relate precedes the financial year shall be disclosed in the notes on the accounts.

3. Where Methods 1 or 2 are used, a provision for claims outstanding shall be created on the usual basis not later than the end of the third year following the underwriting year. Where Method 3 is used, the length of time by which the year to which the figures relate precedes the financial year shall not exceed 12 months.

4. For the purposes of this Article the expression 'underwriting year' means the financial year in which

the insurance contracts in the class or type of insurance in question commenced.

**Article 41**

Article 32 of Directive 78/660/EEC, which provides that the valuation of items shown in the annual accounts shall be based on the principle of purchase price or production cost, shall in its application to investments be subject to Articles 42 to 45 of this Directive.

**Article 42**

1. As regards the valuation of investments shown in Article 5 under 'Assets' item C Member States may require or permit insurance undertakings to apply current value calculated in accordance with Articles 44 and 45.

2. Where in life insurance business the benefits provided to policy holders and insured parties are related to the current value of particular investments or investments as a whole, those investments shall be shown in the balance sheet at current value.

3. Where the principle of purchase price or production cost referred to in Article 32 of Directive 78/660/EEC is applied to investments, the current value shall be disclosed in the notes on the accounts.

4. Where investments are shown at current value, the value resulting from the application of the principle of purchase price or production cost shall be disclosed in the notes on the accounts.

5. The same basis shall be applied to all investments included in any item denoted by an arabic number.

6. The method applied to each item of investments shall be disclosed in the notes on the accounts.

**Article 43**

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

2. In the case described in Article 42 (2), the amount of the difference between valuation in accordance with current value and valuation in accordance with the principle of purchase price or production cost shall be entered in the life insurance provisions in Article 5 at 'Liabilities' item C. 2. Variations in this difference shall be disclosed in the technical account for life insurance business at Article 29, items II.6 and 16.

**Article 44**

1. In the case of investments other than land and buildings, current value shall mean market value, save as provided in paragraph 6.

2. Where investments are quoted on a recognized stock exchange, market value shall mean the middle market value on the balance sheet date or on the last day of trading preceding that date.



3. Where an active market exists for investments other than those referred to in paragraph 2, the market value shall mean the average figure at which such investments were traded on the balance sheet date or the last day of trading preceding that date.

4. Where the application of a method referred to in paragraphs 2 and 3 produces a figure for particular investments which, owing to exceptional circumstances at the date in question, is materially higher than the figure which would have been obtained in the absence of those circumstances, the latter figure shall be taken as the market value.

5. Where at the date at which the accounts are drawn up investments referred to in paragraphs 2 or 3 have been sold or there is an intention to sell them within the short term, the market value shall be reduced by the incurred or estimated realization costs.

6. 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.

7. In all cases the precise method of valuation and the reason for adopting it shall be disclosed in the notes on the accounts.

#### Article 45

1. Except as provided in paragraph 6, current value in the case of land and buildings shall mean the market value determined at the date of valuation, reduced as provided in paragraphs 4 and 5.

2. Market value shall mean the price at which the land and buildings could be sold under private contract between a willing seller and an arm's length buyer at 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 item of land and buildings carried out not less frequently than every five years by persons approved for the purpose by the Member State in which the head office of the insurance undertaking is situated.

4. Where the value of any item of land and buildings has diminished at the balance sheet date, the 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 the conditions prescribed in paragraphs 2 and 3.

5. Where at the date at which the accounts are drawn up land and buildings have been sold or there is an intention to sell them within the short term, the value arrived at in accordance with paragraphs 2 and 4 shall be reduced by the incurred or estimated realization costs.

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

7. In all cases the method by which current value has been arrived at and the year or years in which valuations were last carried out in accordance with paragraph 3 shall be disclosed in the notes on the accounts.

#### Article 46

1. Article 33 of Directive 78/660/EEC shall apply to insurance undertakings in the following manner:

- (a) references to 'tangible fixed assets' shall be construed as references to assets listed under 'Assets' C.II.2, 3 and 4 in Article 9 of Directive 78/660/EEC;
- (b) the reference to 'stocks' shall be construed as a reference to assets shown in this Directive at Article 5, 'Assets' item E.2.

2. Subject to Article 43 of this Directive, Article 33 of Directive 78/660/EEC shall not apply to investments which are financial fixed assets within the meaning of 'Assets' C.III of Article 9 of Directive 78/660/EEC.

#### Article 47

The application of Article 35 of Directive 78/660/EEC to insurance undertakings shall be subject to the following modifications:

- (a) references to 'fixed assets' shall be construed as references to assets shown in this Directive at Article 5, 'Assets' items B, C and E.1;
- (b) references to 'financial fixed assets' shall be construed as references to assets shown in this Directive at Article 5, 'Assets' items C.II, III, IV, V and VI.

#### Article 48

In Article 38 of Directive 78/660/EEC the reference to tangible fixed assets, raw materials and consumables shall, as regards insurance undertakings, be construed as a reference to assets shown in this Directive at Article 5, 'Assets' item E.

#### Article 49

For the application of Article 39 of Directive 78/660/EEC to insurance undertakings the reference to current assets shall be construed as a reference to assets shown in this Directive at Article 5, 'Assets' items D. 1, 2 and 3 and F.

## Article 50

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

In life insurance the calculation of the amount of acquisition costs to be deferred may form part of the actuarial calculation referred to in Article 55.

## Article 51

Subject to Article 42, debt securities included under Article 5, 'Assets' items C. II and III, shall be shown in the balance sheet at purchase price. The Member States may, however, permit or require debt securities to be shown in the balance sheet at the amount repayable at maturity.

Where the purchase price of such debt securities exceeds the amount repayable at maturity, the amount of the difference must be charged to the profit and loss account. The amount of the difference may however be written off in instalments so that it is completely written off no later than the time of repayment of the debt securities. The difference must be shown separately in the balance sheet or in the notes on the accounts.

Where the purchase price of such debt securities is less than the amount repayable at maturity, the Member States may permit or require the amount of the difference to be released to income in instalments during the period remaining until repayment. The difference must be shown separately in the balance sheet or in the notes on the accounts.

## Article 52

The amount of technical provisions shall be such as to ensure that all liabilities arising out of insurance contracts can be met by the insurance undertaking.

## Article 53

The provision for unearned premiums shall be computed for each individual contract and *pro rata temporis* by reference to the proportion of the period covered by the contract which extends over a period following the end of the financial year. Member States may permit the use of flat-rate methods where they are likely to give approximately the same results as the individual calculations. If the nature of risks is such that the *pro rata temporis* method does not reflect the expected risk experience, appropriate adjustments shall be made.

## Article 54

The provision for unexpired risks shall be computed on the basis of the probable claims arising from events after the end of the financial year from contracts concluded before the date, in so far as they exceed the provision for unearned premiums.

## Article 55

The life insurance provision shall be computed separately for each insurance contract. Approximate methods may however be used where they are likely to give approximately the same results as the individual calculations. A computation must be made annually under the responsibility of an actuary on the basis of recognized actuarial methods. A summary of the principal assumptions must be disclosed in the notes on the accounts.

## Article 56

1. The provisions for claims outstanding shall in principle be calculated case by case, but statistical methods may be used if they result in an adequate provision having regard to the nature of the risks. For the calculation of claims incurred but not reported, regard shall be had to past experience and all other relevant factors.

2. External and internal direct and indirect claims settlement costs shall be taken into account when calculating the provision.

3. Where in calculating the provision account is taken of estimated amounts receivable as a result of obtaining the legal ownership of insured property or acquiring the rights of the policy holder against third parties in connection with the settlement of a claim (salvage and subrogation), a prudent basis shall be adopted. Where such amounts are material they shall be disclosed in the notes on the accounts.

4. Where in non-life insurance benefits resulting from a claim have to be paid in the form of an annuity, the amounts to be provided for this purpose shall be calculated actuarially and included in the provision for claims outstanding.

5. Where, apart from cases in which the benefits have to be calculated actuarially, a deduction is exceptionally made in respect of investment income which may be attributable to the provisions for particular claims because of the expected delay in settlement, such deduction shall be calculated on an actuarial basis. Where such discounting is adopted it must be disclosed in the notes on the accounts together with an explanation of

the reasons for it and a statement of its effects on the assets, liabilities, financial position and profit or loss.

Implicit discounting, whether resulting from the placing of a present-day value on a provision for an outstanding claim which is expected to be settled later at a higher figure, or otherwise brought about, is not permissible.

#### Article 57

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

### SECTION 8

#### Contents of the notes on the accounts

##### Article 58

1. In place of the information required by Article 43 (1) (8) of Directive 78/660/EEC, insurance undertakings shall indicate, in the notes on the accounts, gross premiums within the meaning of Article 30 of this Directive, broken down by categories of activity and into geographical markets as follows:

— as regards non-life insurance, firstly as between direct insurance and acceptances of reinsurance, and then within each of those categories between:

- accident and health,
- motor,
- marine, aviation and transport,
- fire and other damage to property,
- liability,
- credits and suretyship,
- legal expenses,
- assistance,
- miscellaneous,

except that disclosure under any of these headings is not necessary if it accounts for less than 10% of the non-life gross premiums in direct insurance or in reinsurance respectively;

— as regards life insurance, firstly as between direct insurance and acceptances of reinsurance, if such acceptances amount to at least 10% of total life insurance gross premiums, and then within each of those categories to indicate:

- periodic premiums,
- single premiums, including annuity considerations,
- premiums under group contracts,
- premiums for contracts under which the policy holders bear the investment risk

except that disclosure under any of these headings is not necessary if it accounts for less than 10% of the life gross premiums in direct insurance or in reinsurance respectively;

— as regards both non-life and life insurance, the total gross premiums resulting from contracts concluded by the insurance undertaking in each Member State or other country in which it has an establishment (head office, branch or agency), except that such disclosure is not necessary where the figure for any particular Member State or other country accounts for less than 5% of the total gross premiums.

2. The reference in Article 43 (1) (10) of Directive 78/660/EEC to Articles 31 and 34 to 42 thereof shall be construed as a reference to those Articles as modified for the purposes of their application to insurance undertakings by the provisions of this Directive.

3. Insurance undertakings shall indicate, in the notes on the accounts, assets shown respectively under items C.III.1 (shares) and C.III.2 (debt securities) of Article 5 broken down between quoted and unquoted investments.

### SECTION 9

#### Provisions relating to consolidated accounts

##### Article 59

1. Insurance undertakings shall draw up consolidated accounts and a consolidated annual report in accordance with Directive 83/349/EEC, in so far as this section does not provide otherwise.

2. In so far as a Member State does not make use of Article 5 of Directive 83/349/EEC, paragraph 1 shall also apply to parent undertakings the sole object of which is to acquire holdings and turn them to profit,

where those subsidiary undertakings are either exclusively or mainly insurance undertakings.

#### Article 60

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

1. Articles 4, 6, 15 and 40 shall not apply;
2. The information referred to in the first two indents of Article 9 (2), namely:
  - the amount of the fixed assets,
  - and
  - net turnover
 shall be replaced by 'Gross premiums written' as defined in Article 30 of this Directive.

3. For the purposes of the layout of consolidated accounts, the reference in Article 17 to Articles 9 and 10 (balance sheet) and 23 to 26 (profit and loss account) of Directive 78/660/EEC shall be deemed to be a reference to Articles 5 (balance sheet) and 29 (profit and loss account) of this Directive. Articles 4, 7 to 27, 28 and 30 to 39 of this Directive shall also apply.

4. For the purposes of valuing assets and liabilities to be included in consolidated accounts, the reference in Articles 29 and 33 to Articles 31 to 42 and 60 of Directive 78/660/EEC shall be deemed to be a reference to those Articles as amended in their application by Articles 40 to 57 of this Directive.

5. Article 34 shall apply in respect of the contents of the notes on consolidated accounts, subject to Article 58 of this Directive.

### SECTION 10

#### Publication

#### Article 61

1. The duly approved annual accounts of insurance undertakings, together with the annual reports and the opinion of 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 First Council Directive 68/151/EEC of 9 March 1968 on coordination of safeguards which for the protection of the interests of members and others, are required by Member States of companies within the meaning of the second paragraph of Article 58 of the Treaty, with a view to making such safeguards equivalent throughout the Community<sup>(1)</sup>.

The laws of a Member State may, however, permit the annual report not to be published as stipulated above. In that case, it shall be made available to the public at the company's registered office 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 must not exceed its administrative cost.

2. Paragraph 1 shall also apply to the duly approved consolidated accounts, the consolidated annual reports

and the opinions submitted 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 paragraphs 1 and 2 as prescribed in Article 3 of Directive 68/151/EEC, it must at least make them available to the public at its registered office. It must be possible to obtain copies of such documents on request. The price of such copies must 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 62

The Contact Committee established in accordance with Article 52 of Directive 78/660/EEC shall, when constituted appropriately, also 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 necessary, on additions or amendments to this Directive.

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

*Article 63*

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

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

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

*Article 64*

This Directive is addressed to the Member States.

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