

SCHEDULE

(Article 5)

PART E

PART 1 - CERTIFICATE BY DIRECTORS

1. (1) Subject to paragraph 3 of this Part of this Schedule, the certificate by directors required by article 5(1)(a) of Insurance Rule 12 of 2007 shall state –

- (a) that the business of insurance statements have been properly prepared in accordance with the requirements of Insurance Rule 12 of 2007; and
- (b) that the directors are satisfied that:
 - (i) throughout the reporting year in question, the company has complied in all material respects with the provisions of the Insurance Business Act (Cap. 403) (“the Act”), any regulations made thereunder, any Insurance Rules made for the purposes of any provisions of the Act and the regulations and any direction and condition either generally or specifically made by the Authority; and
 - (ii) it is reasonable to believe that the company has continued so to comply subsequently, and will continue so to comply in future.

(2) A company does not comply in all material respects with the requirements specified in paragraph 1(b) of this Part of this Schedule if it commits a breach of any of those requirements which is significant, having regard to the potential financial loss to policyholders or to the company, frequency of the breach, implications for the company’s systems and controls and if there were any delays in identifying or rectifying the breach.

2. Subject to paragraph 3 of this Part of this Schedule, if the company carries on long-term insurance business the report of the directors shall also state that –

- (a) in the directors’ opinion, premiums for contracts entered into during the reporting year and the resulting income earned are sufficient, under reasonable actuarial methods and assumptions, and taking into account the other financial resources of the company that are available for the purpose, to enable the company to meet its obligations in respect of those contracts and, in particular, to establish adequate mathematical reserves;
- (b) the sum of the mathematical reserves and the deposits received from reinsurers as shown in Form 12B Part C of this Schedule constitute proper provision at the end of the reporting year in question for the long-term insurance liabilities

(including all liabilities arising from deposit back arrangements, but excluding other liabilities which had fallen due before the end of the reporting year) including any increase in those liabilities arising from a distribution of surplus as a result of an actuarial investigation as at that date into the financial condition of the long-term insurance business;

- (c) the directors have, in preparing the business of insurance statements, taken and paid due regard to advice from the actuary appointed by the company in terms of article 22 of the Act to perform the actuarial investigation in accordance with articles 23 and 24 of the Act.

3. (1) Where, in the opinion of those signing the report, the circumstances are such that any of the statements required by paragraphs 1 and 2 of this Part of this Schedule cannot truthfully be made, the relevant statements must be omitted.

(2) Where, by virtue of subparagraph (1), any statements have been omitted from the report, this fact, and the reasons for omission, must be stated in a note to the certificate.

4. The report of the directors shall be signed by at least two directors of the company.

PART 2 - CERTIFICATE BY APPOINTED ACTUARY

5. The certificate required by Insurance Rule 12 of 2007 to be signed by the appointed actuary:

- (1) Shall state -
 - (a) if such be the case that in the appointed actuary's opinion proper records have been kept by the company adequate for the purpose of the valuation of the liabilities of its long-term business; and
 - (b) if such be the case, that the sum of the mathematical reserves and the deposits received from reinsurers as shown in Form 12B Part C, together if the case so requires, with an amount specified in the report (being part of the excess of the value of the admissible assets representing the long term business funds over the amount of those funds shown in Form 12B Part C), constitute proper provision at the end of the reporting year in question for the long term liabilities (including all liabilities arising from deposit back arrangements, but excluding other liabilities which had fallen due before the end of the reporting year) including an increase in those liabilities arising from a distribution of surplus as a result of an investigation as at that date into the financial condition of the long term business; and

- (c) if such be the case, that, for the purposes of (b), the liabilities have been assessed in accordance with Part X of of the Insurance Business (Assets and Liabilities) Regulations, 2007 in the context of assets valued in accordance with Part IX of those Regulations, as shown in Form 6 B or Form 6 D in Part C; and
- (d) if such be the case, that in the appointed actuary's opinion premiums for contracts entered into during the reporting year and the income earned thereon are sufficient, on reasonable actuarial assumptions, and taking into account the other financial resources of the insurer that are available for the purpose, to enable the insurer to meet its commitments in respect of those contracts and, in particular, to establish adequate mathematical reserves.

(2) Shall state the amount of the required margin of solvency, required EEA margin of solvency or required Malta margin of solvency, as the case may be, applicable to the company's long term business immediately following the end of the reporting year in question (including any amounts resulting from any increase in liabilities arising from a distribution of surplus as a result of the investigation into the financial condition of the long term business).

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

PART 3 - AUDITORS' REPORT

7. The report required under article 5(1)(b) of Insurance Rule 12 of 2007 shall state -

- (a) whether, in the auditor's opinion:
 - (i) the Forms in Part C, which deal with the solvency and capital adequacy, and Forms 1-6, 9, 10, 17 and 19 in Part D Part 2, have been properly prepared in accordance with the requirements of Insurance Rule 12 of 2007; and
 - (ii) for the purposes of, to the extent that any form to be audited under (i) contains amounts or information abstracted from the actuarial investigation performed pursuant to article 23 of the Act, the auditor has obtained and paid due regard to advice from a suitably qualified actuary who is independent of the insurer.

8. Where the auditors refer in their report or in any note attached to it to any uncertainty, the report must state whether, in the auditor's opinion, that uncertainty is material to determining whether the insurer has available assets in excess of its required margin of solvency, required Malta margin of solvency or required EEA margin of solvency as the case may be.