

# ASSIGNMENT OF SYNDICATE PARTICIPATIONS (SECOND NOMINATION) BYELAW

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## Commencement

This byelaw came into force on 5 April 2000.

## Explanatory Note

(This note is not part of the byelaw)

This byelaw enables a person who has had a participation nomination made in his favour or who has been allocated, by auction, a right to participate in a particular syndicate for the following year of account (the "nominee") to nominate someone else, by auction or otherwise, to underwrite in his place. However, such a nomination may only be made in the limited circumstances referred to in paragraphs 2(5) and 2(6), namely:

- (i) in response to a mandatory offer made under the Mandatory Offer Byelaw;
- (ii) pursuant to a conversion arrangement under the Conversion and Related Arrangements Byelaw; and
- (iii) by some of the other ways referred to in paragraph 14 of the Agency Agreements Byelaw where the nominee has died during the year in which the nomination or allocation was made in his favour.

Paragraph 2 prescribes the circumstances and manner in which a nomination can be made under this byelaw.

Paragraph 3 sets out the obligations of a managing agent if a nominee makes a nomination under this byelaw. These obligations are similar to those a managing agent has in respect of the original nomination (and which are set out in clause 11A.5 of both forms of the standard managing agent's agreement).

Paragraph 4 sets out the rights of a managing agent if a nominee makes a nomination under this byelaw. These rights are similar to those a managing agent has in respect of the original nomination (and which are set out in paragraph 15 of the Agency Agreements Byelaw).

The Council of Lloyd's in exercise of its powers under section 6(2) of, and paragraph (15) of Schedule 2 to, Lloyd's Act 1982 by special resolution hereby makes the following byelaw.

1. Interpretation

The Schedule to this byelaw (interpretation) shall have effect.

2. Second assignment of syndicate participations

(1) Subject to the provisions of this byelaw, if in any year one or more participation nominations are made in favour of a particular person in respect of a particular syndicate and/or a right or rights to participate in that syndicate are allocated to him by auction, that person may during that year nominate an underwriting member or underwriting members to underwrite as a member or members of that syndicate for the year of account corresponding to the next following year with a specified member's syndicate premium limit not exceeding, or specified member's syndicate premium limits not exceeding in the aggregate, the aggregate of:

- (a) the member's syndicate premium limits in respect of which such participation nominations and allocations were made; and
- (b) if the managing agent, in pursuance of the requirements of the Council relating to syndicate pre-emption, has offered that person, in respect of the member's syndicate premium limits referred to in sub-paragraph (1)(a), the opportunity to increase or required him to decrease such member's syndicate premium limits for the next following year of account, the amount of that increase or the amount of the decrease so required as applicable,

in substitution for that person either wholly or, as the case may be, to the extent of the member's syndicate premium limit or limits so specified.

(2) Any second nomination shall be in writing signed by the person making it or by another person duly authorised to sign it on his behalf; and any such authority may be given in favour of such person or persons as shall be nominated by or under the authority of the Council in accordance with any applicable requirements of the Council.

(3) Unless the Council shall otherwise direct or the managing agent shall otherwise allow, any second nomination shall not be effective unless on or before the date prescribed by the Council for the purposes of clause 11A.4 of the standard managing agent's agreement written notice of the second nomination, together with any such other documents and information as may be prescribed by or under any applicable requirements of the Council, has been delivered to the managing agent.

(4) Subject to sub-paragraph (5), a second nomination may only be made:

- (a) in response to an invitation made in accordance with Schedule 2 to the Mandatory Offer Byelaw (No. 5 of 1999); or
  - (b) under an approved conversion arrangement under the Conversion and Related Arrangements Byelaw (No. 22 of 1996).
- (5) Where in any year one or more participation nominations are made in favour of a particular person in respect of a particular syndicate and/or a right or rights to participate in that syndicate are allocated to him by auction, then, if that person dies during that year, his personal representatives or such other person as may be duly authorised by law to act on behalf of his estate may make one or more second nominations for the benefit of his estate under or by the arrangements or schemes referred to in paragraphs 14(1)(a), (aa), (b) and (c) of, or with the permission referred to in paragraph 14(1)(f) of, the Agency Agreements Byelaw.
3. Furtherance of second assignment of syndicate participations
- (1) Subject to sub-paragraphs (3) and (4) and paragraph 4, the managing agent shall do all such acts and things and shall execute all such documents as shall be necessary or expedient on its part:
- (a) to give effect to any second nomination; and
  - (b) where in any year a person has made a second nomination in respect of part only of the member's syndicate premium limits in respect of which participation nominations and allocations were made in his favour, to enable that person to underwrite as a member of the syndicate for the year of account corresponding to the next following year, with, in respect of such member's syndicate premium limits, a member's syndicate premium limit equal to the remaining part.
- (2) Without limiting the generality of sub-paragraph (1) but subject to sub-paragraphs (3) and (4) and paragraph 4, the managing agent shall:
- (a) enter into an agreement in the terms of the standard managing agent's agreement with the person in whose favour any second nomination has been made;
  - (b) enter into an agreement in the terms of the standard agents' agreement with the members' agent, if any, of the person in whose favour any second nomination has been made if there is no such agreement current between that managing agent and that members' agent; and
  - (c) execute an agents' syndicate list ancillary to the agreement referred to in sub-paragraph (2)(b) for the year of account corresponding to the year next following.

- (3) The Council may, on application by the managing agent, waive or vary the requirements of sub-paragraphs (2)(b) or (c) in any particular case.
  - (4) The obligations of the managing agent under this paragraph are subject to any direction for the time being in force given by the Council or by the Appeal Tribunal under the Agency Agreements Byelaw that effect shall not be given to a participation nomination made in favour of the person seeking to make the second nomination or for the benefit of whose estate the second nomination is sought to be made.
4. Rights of managing agents with respect to second assignments
- (1) Where a second nomination has been made, the Council may on the application of the managing agent direct that effect shall not be given to that second nomination.
  - (2) The Council may prescribe such conditions and requirements with respect to applications under this paragraph as it thinks fit.
  - (3) Without limiting the generality of sub-paragraph (2), any conditions and requirements under that sub-paragraph:
    - (a) may prescribe the time by which or period within which such an application must be made;
    - (b) may specify the form in which such an application must be made;
    - (c) may require that persons considered by the Council to be affected by such an application be notified of it and be afforded the opportunity to make representations to the Council.
  - (4) If the Council grants an application under this paragraph it may give such supplementary and consequential directions as appear to it to be appropriate.
5. Rights and obligations cumulative
- (1) Any right or entitlement conferred on any person by any provision of this byelaw, and any duty or obligation imposed on any person by any provision of this byelaw, is in addition to, and shall not be construed as limiting or being limited by, any other right or entitlement of any person, including the person entitled to make a second nomination, or any other duty or obligation of any person, including any managing agent, whether conferred or imposed by any other provision of this byelaw or otherwise.

- (2) Without prejudice to sub-paragraph (1), no right or entitlement of the person entitled to make a second nomination which is conferred by the provisions of any agreement in the form of the standard managing agent's agreement or under the Agency Agreements Byelaw shall be construed as being limited by any provision of this byelaw.
- (3) Without prejudice to sub-paragraph (1), no duty or obligation imposed on the managing agent by the provisions of any agreement in the form of the standard managing agent's agreement or under the Agency Agreements Byelaw shall be construed as being limited by any provision of this byelaw.
  
6. Amendment of the Agency Agreements Byelaw  
*These amendments have been made on the main byelaw.*
7. Amendment of the Conversion and Related Arrangements Byelaw  
*These amendments have been made on the main byelaw.*
8. Amendment of the Appeal Tribunal Byelaw  
*These amendments have been made on the main byelaw.*
9. Amendment of the Auction Byelaw  
*These amendments have been made on the main byelaw.*
10. Amendment of the Major Syndicate Transactions Byelaw  
*These amendments have been made on the main byelaw.*
11. Amendment of the Syndicate Pre-emption Byelaw  
*These amendments have been made on the main byelaw.*
12. Amendment of the Bilateral Arrangements Byelaw  
*These amendments have been made on the main byelaw.*
13. Amendment of the Mandatory Offer Byelaw  
*These amendments have been made on the main byelaw.*

#### Commencement

This byelaw shall come into force on 5 April 2000.

## Schedule - Interpretation Paragraph 1

In this byelaw:

“Agency Agreements Byelaw” means the Agency Agreements Byelaw (No. 8 of 1988);

“agents’ syndicate list” has the meaning given to it in the Agency Agreements Byelaw;

“approved conversion arrangement” shall be construed in accordance with paragraph 2(2) of, and the Schedule to, the Conversion and Related Arrangements Byelaw (No. 22 of 1996);

“auction” means an auction held under a capacity allocation scheme established under the Auction Byelaw (No. 14 of 1997);

“member’s syndicate premium limit” has the meaning given to it in the Membership Byelaw (No. 17 of 1993);

“participation nomination” means a nomination under clause 11A.2 of the standard managing agent’s agreement;

“second nomination” means a nomination under paragraph 2;

“standard agents’ agreement” means an agreement in the form of the standard agent’s agreement as for the time being prescribed under the Agency Agreements Byelaw; and

“standard managing agent’s agreement” means an agreement in the form of the standard managing agent’s agreement (corporate member) or of the standard managing agent’s agreement (general) as for the time being prescribed under the Agency Agreements Byelaw.