

CONVERSION AND RELATED ARRANGEMENTS BYELAW

Commencement

This byelaw came into force on 5 June 1996.

Amendments

This byelaw was amended by

Syndicate Accounting (Amendment No. 3) Byelaw (No. 8 of 1997)
Conversion and Related Arrangements (Amendment) Byelaw (No. 5 of 1998)
Conversion and Related Arrangements (Amendment No. 2) Byelaw (No. 12 of 1998)
Underwriting Agents (Amendment No. 16) Byelaw (No. 15 of 1999)
Assignment of Syndicate Participations (Second Nomination) Byelaw (No. 6 of 2000)
Membership Byelaw (No. 5 of 2005)

Explanatory Note

(This note is not part of the byelaw)

This byelaw replaces the Transitional and Conversion Arrangements (Corporate Member) Byelaw (No. 9 of 1994).

The byelaw stipulates that arrangements of the kind to which it applies may only be entered into if they have been previously approved by the Council. The byelaw applies to a number of different kinds of arrangement:

- (a) transition arrangements under which a corporate member reinsures the open years of another member;
- (b) an interavailability arrangement;
- (c) a share swap arrangement under which a member exchanges his prospective participation on a syndicate for the 1997 year of account for qualifying securities;
- (d) a surrender arrangement under which a member of a syndicate is offered consideration by a managing agent for surrendering his prospective participation.

The byelaw gives the Council power to impose conditions and requirements to which its approval of any arrangements will be subject. Those conditions and requirements may relate to such matters as the

requirement for a sponsor and the form and contents of a document containing an invitation to enter into such an agreement.

The Council of Lloyd's in exercise of its powers under sections 6(2) and 8(3) of Lloyd's Act 1982 by special resolution hereby makes the following byelaw.

1. Interpretation

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

2. Restrictions relating to relevant arrangements

- (1) No member of the Society shall enter into any relevant arrangement other than an approved arrangement.
- (2) A relevant arrangement is an approved arrangement for the purposes of sub-paragraph (1) if that arrangement either:
 - (a) has been approved by the Council for the purposes of this byelaw; or
 - (b) is being entered into pursuant to a conversion scheme which has been approved by the Council for the purposes of this byelaw.
- (3) No underwriting agent or member of the Society shall procure or advise any member of the Society to enter into or otherwise promote an unapproved arrangement.

3. Approval of relevant arrangements

- (1) The Council may approve any relevant arrangement or any conversion scheme for the purposes of this byelaw.
- (2) The Council may take into account such matters as it thinks fit in deciding whether to give its approval to a relevant arrangement or a conversion scheme.

4. Transfer agreements

- (1) A transition arrangement may be effected under a transfer agreement in the prescribed form by which a member of the Society agrees to transfer his underwriting business at Lloyd's (other than that relating to any closed year of account) to a corporate member.
- (2) For the purpose of section 8(3) of Lloyd's Act 1982, each of a transferor and transferee may respectively place and accept an approved transfer agreement through and from a members' agent which is a party to that agreement.
- (3) Paragraph 3 of the Agency Agreements Byelaw (No. 1 of 1985), paragraph 5 of the Agency Agreements Byelaw (No. 8 of 1988) and paragraph 18 of the Membership

Byelaw shall not prevent a member of the Society or an underwriting agent from entering into an approved transfer agreement.

- (4) No person who is party to an approved transfer agreement shall without the written consent of the Council vary or agree to vary any term of that approved transfer agreement.
- (5) Any agreement or arrangement (whether or not collateral to the approved transfer agreement concerned) which has the effect of varying any term of an approved transfer agreement (whether by altering the discretions, duties, rights or responsibilities of any of the parties or otherwise and including any agreement or arrangement to delay enforcing or not to enforce a term of an approved transfer agreement) shall for the purposes of sub-paragraph (1) be treated as a variation of a term of the approved transfer agreement concerned.
- (6) The Council may vary or amend any of the provisions of any approved transfer agreement by notice in writing to the parties to the agreement concerned.

4A. Fees

- (1) The Council may prescribe fees to be paid by any person in respect of any relevant arrangement or any conversion scheme.
- (2) Without prejudice to the generality of sub-paragraph (1), the Council may require the payment by any person of such costs and disbursements as the Society may incur relating to:
 - (a) the provision of advice or guidance concerning a relevant arrangement or a conversion scheme or any documentation relating thereto;
 - (b) the review or approval (whether in principle or otherwise) of a relevant arrangement or a conversion scheme or any documentation relating thereto; or
 - (c) any ongoing administration relating to a relevant arrangement or a conversion scheme.

5. Conditions and requirements

- (1) Subject to Lloyd's Acts 1871 to 1982, the Council may prescribe such conditions and requirements to be satisfied or complied with as a condition of the grant of its approval of a relevant arrangement or a conversion scheme under paragraph 3(1) as it may think fit, and may add to, alter or withdraw any condition or requirement so prescribed.

- (2) Without prejudice to the generality of sub-paragraph (1), any conditions and requirements under that sub-paragraph:
- (a) may include the requirement for a person to act as the sponsor to the relevant arrangement;
 - (b) may include requirements as to the competence and suitability of such a sponsor;
 - (c) may include requirements as to the manner in which and time by which any application for approval under paragraph 3(1) shall be made;
 - (d) may include the requirement to complete applications, notices and other documents in the prescribed form;
 - (e) may include the requirement to execute and deliver or otherwise become a party to any prescribed form of deed, trust deed, contract, assignment, undertaking, mandate, authority, power of attorney, negotiable instrument or other document or instrument whatsoever;
 - (f) may include requirements as to the preparation of documents containing invitations to enter into relevant arrangements and as to the form and contents of any such document;
 - (g) may include requirements as to the categories of persons to whom any such invitation may be extended;
 - (h) may include requirements relating to the provision of any such certificates, confirmations, declarations, information, opinions or reports relating to any person who is to participate in any relevant arrangement as the Council may prescribe or approve;
 - (i) may include requirements relating to the financial position of any such person;
 - (j) may make provision as to the assets, liabilities and other matters to be taken into account in determining the financial position of any such person, and the extent to which and the manner in which they are to be taken into account, for the purposes of such conditions and requirements;
 - (k) may require any such person to hold assets of such descriptions and in such amounts or of such value as may be specified or determined in accordance with such conditions and requirements;
 - (l) may make provision for ensuring that, in such circumstances and to such an extent as may be specified, the assets of any such person are maintained in such places and held under such terms as may be specified.
- (3) Without prejudice to the generality of sub-paragraph (1), any conditions and requirements prescribed under that sub-paragraph:
- (a) may impose requirements which are absolute or which are to vary from time to time by reference to such factors as are specified in or determined in accordance with such conditions and requirements;

- (b) may make different provision for different classes of members of the Society;
 - (c) may make different provision for corporate members and individual members;
 - (d) may specify circumstances in which a member of the Society is to be exempt from any such condition or requirement or may be excused from compliance with any such condition or requirement to such an extent as the Council may think fit;
 - (e) may contain incidental, supplementary and transitional provisions.
- (4) The Council shall have power to:
- (a) prescribe the form and contents of any document referred to in this byelaw as being in the prescribed form;
 - (b) agree any amendments or variations to the prescribed form of transfer agreement (including any change in the parties thereto);
 - (c) prescribe requirements with respect to the investment of sums received by a transferee under an approved transfer agreement (or any part of them);
 - (d) prescribe dates on which any sums which under the terms of an approved transfer agreement are expressed to be payable on a prescribed date are to be so payable;
 - (e) prescribe requirements with respect to relevant advertisements for the purposes of paragraph 7.
- (5) Any power conferred on the Council by any provision of this byelaw is in addition to, and shall not be construed as limiting or being limited by, any other power of the Council, whether conferred by any other provision of this byelaw or otherwise.

5A. Appointment of Conversion Official

- (1) The Council may appoint an officer or employee of the Society to supervise compliance with the conditions and requirements prescribed under paragraph 5 and to fulfil the functions specified in those conditions and requirements.
- (2) The person appointed pursuant to sub-paragraph (1) shall have the title of Conversion Official.
- (3) The Conversion Official shall have power:
 - (a) to delegate all, or any, of his powers or duties to one or more other persons;
 - (b) to prescribe the form and content of any document and conditions and requirements to be complied with by any person seeking approval of a relevant arrangement or conversion scheme which are additional to or which vary those prescribed by the Council under paragraph 5;

- (c) to exercise the powers expressed to be conferred on the Conversion Official pursuant to the conditions and requirements prescribed by the Council under paragraph 5.

6. Ancillary Powers

- (1) In connection with an approved conversion arrangement, the Council may effect, join in effecting or approve any variation or modification of:
 - (a) the trusts, powers and other terms and conditions on or subject to which any money or property constituting funds at Lloyd's of a member of the Society are or have been held;
 - (b) the requirements of the Council relating to the provision of funds at Lloyd's and to overall premium limits and member's syndicate premium limits.
- (2) Without limiting the generality of sub-paragraph (1) above, any variation or modification which the Council effects, joins in effecting or approves under that sub-paragraph may have the effect that:
 - (a) money or other property constituting funds at Lloyd's of a member of the Society is to be or may be applied in or towards the discharge of liabilities or expenses of a corporate member, whether or not such money or property continues to be applicable in or towards the discharge of liabilities or expenses of the first mentioned member of the Society;
 - (b) money or other property which constitutes or has constituted funds at Lloyd's of a member of the Society may be treated or taken into account as funds at Lloyd's of a corporate member for such purposes, in such manner and to such an extent as may be specified.

7. Relevant advertisements

No underwriting agent shall issue, or cause or permit to be issued, a relevant advertisement which does not comply with such conditions and requirements as the Council may prescribe for the purposes of this paragraph.

8. Repeal and Amendments

All these have been effected on the relevant byelaws.

9. Commencement

This byelaw shall come into force on 5 June 1996.

Schedule – Interpretation

1. Unless the context otherwise requires, words and expressions defined in the Membership Byelaw have the same meanings in this byelaw.
2. In this byelaw, unless the context otherwise requires:

“advertisement” has the meaning given in section 207(2) of the Financial Services Act 1986;

“approved arrangement” has the meaning given in paragraph 2(2) and “approved conversion arrangement” and “approved transfer agreement” shall be construed accordingly;

“closed year of account”, in relation to a transferor, means any year of account of a syndicate for which that transferor was a member of the syndicate which is not an open year of account;

“conversion arrangement” means an interavailability, reverse interavailability or transition arrangement;

“conversion scheme” means a scheme under which a number of members participate in the same or separate conversion arrangements with the same or different successor members in substantially the same terms and with the same person as sponsor;

“effective date”, in relation to an approved conversion arrangement, means the date specified in that arrangement as the date on which it is to take effect, which shall be 1st January in any year or such other date as the Council may permit;

“interavailable” has the meaning given in paragraph 3 below;

“interavailability arrangement” means an arrangement under which the funds at Lloyd’s of a participant are made interavailable to a corporate member;

“managing agent” means:

- (a) an underwriting agent which is listed as a managing agent on the register of underwriting agents maintained under the Underwriting Agents Byelaw (No. 4 of 1984); or
- (b) a person appointed by the Council to act as a managing agent for an underwriting member of Lloyd’s under the Substitute Agents Byelaw (No. 20 of 1983);

“members’ agent” means:

- (a) an underwriting agent which is listed as a members’ agent on the register of underwriting agents maintained under the Underwriting Agents Byelaw (No. 4 of 1984); or
- (b) a person appointed by the Council to act as a members’ agent for an underwriting member of Lloyd’s under the Substitute Agents Byelaw (No. 20 of 1983);

“Membership Byelaw” means the Membership Byelaw (No. 5 of 2005);

“open year of account”, in relation to a transferor, means any year of account of a syndicate of which that transferor was a member which has not been closed by reinsurance to close at the effective date;

“participant” means an individual member of Lloyd’s (other than the successor member) who takes part in a relevant arrangement;

“participation nomination” means a nomination such as is referred to in clause 11A.2 of an agreement in the terms of the standard managing agent’s agreement (general) or standard managing agent’s agreement (corporate member);

“prospective participation” means the amount of the members’ syndicate premium limit with which a person will be entitled to participate for the following year of account;

“qualifying securities” means securities issued by a successor member or a body corporate which is connected with the successor member in the manner specified in conditions and requirements prescribed pursuant to paragraph 5 of this byelaw;

“relevant advertisement” means any advertisement inviting a member of the Society or a candidate to enter or offer to enter into a relevant arrangement or containing information calculated to lead directly or indirectly to a member of the Society or a candidate doing so;

“relevant arrangement” means any conversion arrangement, share swap arrangement or surrender arrangement;

“reinsurance to close” has the meaning given in paragraph 1 of Schedule 1 to the Syndicate Accounting Byelaw (No. 18 of 1994);

“requirements of the Council” means any requirement imposed by any byelaw or regulation made under Lloyd’s Acts 1871 to 1982, any condition or requirement

imposed or direction given under any such byelaw or regulation, any direction given under section 6 of Lloyd's Act 1982, any requirement imposed by or under any undertaking given by a member of the Society to Lloyd's or to the Council and any other requirement imposed or direction given by the Council under Lloyd's Acts 1871 to 1982; and the phrase "required by the Council" and similar phrases shall be construed accordingly;

"reverse interavailability" means an arrangement under which the funds at Lloyd's of a successor member are made interavailable to a participant;

"second nomination" has the meaning given in the Schedule to the Assignment of Syndicate Participations (Second Nomination) Byelaw (No. 6 of 2000);

"share swap arrangement" means an arrangement under which a person makes a participation nomination and/or a second nomination in favour of a corporate member and in consideration that person receives cash and/or qualifying securities;

"successor member" means the corporate member in whose favour a participation nomination and/or a second nomination is made, the funds at Lloyd's of another member are made interavailable, the funds at Lloyd's of which are made interavailable to another member or which reinsures the open years of another member under a transition arrangement;

"surrender arrangement" means an arrangement under which a person receives cash or other consideration for surrendering the whole or any part of his prospective participation in circumstances in which:

- (a) no participation nomination or second nomination is made; and
- (b) either the arrangement is entered into with the managing agent of the syndicate to which the arrangement relates or that managing agent agrees to permit another member to underwrite in succession to that person without the requirement for a participation nomination or a second nomination being made;

"transfer agreement" has the meaning given in paragraph 4(1);

"transferee" means in relation to a transfer agreement, the corporate member to whom the transferor's business is or is to be transferred;

"transferor" means in relation to a transfer agreement, the member of the Society agreeing to transfer his business under that agreement;

"transition arrangement" means an arrangement under which a corporate member reinsures some or all of the open years of a participant;

“unapproved arrangement” means a relevant arrangement other than an approved arrangement;

“underwriting agent” means a managing agent or a members’ agent.

3. For the purposes of this byelaw, funds at Lloyd’s of a member of the Society are made “interavailable” if any arrangement is made (whether by way of variation or modification of the trusts, powers, terms, conditions and other arrangements under which those funds at Lloyd’s are held or otherwise) which has the effect that instead of providing security solely for the underwriting business at Lloyd’s of that member, those funds at Lloyd’s are held so as to provide security both for the underwriting business at Lloyd’s of that member and for the underwriting business at Lloyd’s of any other member or members of the Society.