

# FOLLOWING YEAR UNDERWRITING REGULATION

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## Commencement

This regulation commenced on 27 July 1989.

## Amendments

This regulation was amended by

- Following Year Underwriting (Amendment) Regulation (No. 1 of 1990)
- Following Year Underwriting (Amendment No. 2) Regulation (No. 1 of 1992)
- Following Year Underwriting (Amendment No. 3) Regulation (No. 1 of 1993)
- Miscellaneous Administrative Provisions Regulation (No. 2 of 1993)
- Corporate Members (Consequential Amendments) Regulation (No. 5 of 1993)
- Following Year Underwriting (Amendment No. 4) Regulation (No. 1 of 1997)
- Captive Corporate Members Byelaw (No. 19 of 1998)

## Explanatory Note

(This note is not part of the regulation)

This regulation supplements provisions in the standard managing agent's agreement set out in Schedule 3 to the Agency Agreements Byelaw (No. 8 of 1988) which deal with contracts made in one year for the account of the following year's syndicate.

In the case of new syndicates contracts of this type, whenever made, must be made only by provisional insurers. In the case of existing syndicates, these contracts made on or after 1st September in any year (or for 1989 only, 1st November) must be made only by provisional insurers.

The regulation also provides that, before making these contracts, the provisional insurers must be members of a provisional syndicate for which the managing agent has prepared a provisional syndicate stamp. This stamp will not need to be submitted to Lloyd's but it must be available for inspection by specified parties.

The regulation further states that the provisional insurers' rights and obligations under these contracts must, once the following year's syndicate has been constituted, be novated to the members of the following year's syndicate.

The Committee of Lloyd's in exercise of the powers delegated to it by the Council of Lloyd's under section 6(6)(a)(i) of Lloyd's Act 1982 hereby makes the following regulation.

1. Interpretation

The provisions of the Schedule to this regulation shall have effect.

2. Provisional insurers

A person who has been elected an underwriting member of the Society may not be a provisional insurer until the date on which his underwriting membership begins.

3. Relevant contracts and provisional syndicates

- (1) A managing agent may not make a relevant contract on behalf of a provisional insurer unless:
  - (a) the provisional insurer is a member of a provisional syndicate; and
  - (b) his name and the amount of his overall premium limit allocated to the provisional syndicate appear on a provisional syndicate stamp prepared for the provisional syndicate.
- (2) In sub-paragraph (1)(b), the reference to “overall premium limit” means the overall premium limit applicable to the year of account to which are to be allocated the liabilities under relevant contracts made on behalf of the provisional insurer.
- (3) A provisional insurer who is for the time being subject to a direction of administrative suspension or otherwise suspended from underwriting at Lloyd’s may not be a member of a provisional syndicate.
- (4) In the case of a new syndicate, a managing agent shall make relevant contracts only on behalf of a provisional syndicate.
- (5) In the case of a syndicate which is not a new syndicate, a managing agent shall, during the qualifying period, make relevant contracts only on behalf of a provisional syndicate.

4. Provisional syndicate stamps

- (1) A managing agent may not make relevant contracts on behalf of a provisional syndicate unless the managing agent has prepared a provisional syndicate stamp for that provisional syndicate.

- (2) A provisional syndicate stamp shall:
- (a) bear the date of its preparation;
  - (b) be signed on behalf of the managing agent of the provisional syndicate; and
  - (c) be available for inspection at all reasonable times by:
    - (i) the syndicate auditor appointed to report on the year of account of the syndicate to which the liabilities of the provisional syndicate have been, or are intended to be, transferred and the syndicate auditor of such a syndicate appointed in the year preceding that year of account;
    - (ii) the assured (or his agent or representative) under a contract of insurance made by the members of the provisional syndicate;
    - (iii) an employee of the Society authorised for the purpose of this sub-paragraph by the Director, Regulatory Services of the Society or by such other person as he may from time to time appoint to exercise in his absence the power conferred on him by this sub-paragraph; and
    - (iv) such other person or persons as the Council may from time to time specify in writing.
- (3) A managing agent shall, not later than 1st November in every year, in respect of each syndicate on behalf of which insurance business is to be underwritten by the managing agent in the following year:
- (a) form a provisional syndicate; and
  - (b) prepare a provisional syndicate stamp for the provisional syndicate.
- (4) If a provisional insurer is already a member of a provisional syndicate when he becomes subject to a direction of administrative suspension or otherwise suspended from underwriting at Lloyd's, the managing agent shall, as soon as practicable after receiving notice of such direction or suspension, prepare a new provisional syndicate stamp which omits that provisional insurer.

## 5. Transfer of liabilities

The managing agent shall make such contracts of novation of the type referred to in clauses 8.3 and 8.3A of the standard managing agent's agreement as may be necessary fully to carry those clauses into effect.

6. Commencement

This regulation shall come into force on 27 July 1989.

## Schedule – Interpretation

In this regulation, unless the context otherwise requires:

“direction of administrative suspension” has the meaning given to it in the Administrative Suspension Byelaw (No. 7 of 1987);

“managing agent” means 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);

“new syndicate” means a syndicate where the year of account to which liabilities under relevant contracts are to be allocated is the first year of account of the syndicate;

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

“provisional insurer” has the meaning given to it in clause 8.2 of the standard managing agent’s agreement;

“provisional syndicate” means a syndicate that comprises only provisional insurers;

“provisional syndicate stamp” means a document setting out the names of the members of the provisional syndicate and the amount of each such member’s overall premium limit allocated to the provisional syndicate;

“qualifying period” means

- (a) in relation to 1989, from 1 November until 31 December inclusive; and
- (b) in relation to 1990 and a subsequent year, from 1 September until 31 December inclusive;
- (c) in relation to 1997 and a subsequent year, from 1 October until 31 December inclusive.

“syndicate” means an underwriting member or group of underwriting members of Lloyd’s underwriting insurance business at Lloyd’s through the agency of a Lloyd’s underwriting agent to which member or group a particular syndicate number is assigned by the Council;

“syndicate auditor” has the meaning given to it in the Syndicate Audit Arrangements Byelaw (No. 10 of 1984) and

‘‘year’’ means a calendar year, except when used to refer to a year of account.