

NEW CENTRAL FUND AND FUNDS AND PROPERTY OF THE SOCIETY
(MISCELLANEOUS PROVISIONS) BYELAW (No.2 of 2014)

Made on 25 March 2014

The Council of Lloyd's in exercise of its powers under section 6(2) of, and paragraphs (1) and (4) of Schedule 2 to, Lloyd's Act 1982 and sections 7 and 9 of Lloyd's Act 1911 by special resolution hereby makes the following byelaw.

1. **Amendment of New Central Fund Byelaw**

The New Central Fund Byelaw (No. 23 of 1996) is amended as follows –

(a) in paragraph 4, by adding as sub-paragraphs (10) and (11) the following –

“(10) No member or former member of the Society –

(a) shall have any right to the repayment of any contribution made by him under this paragraph otherwise than in a winding-up of the Society;

(b) shall have any right to petition for the winding-up of the Society on the ground that any contribution made by him under this paragraph has not been repaid.

(11) While a determination made by the Council under paragraph 8(1A) is in force, no contribution made under this paragraph shall be repaid to any member or former member of the Society (whether in the course of a winding-up of the Society or otherwise) if or to the extent that such repayment would contravene or be inconsistent with any Regulatory Capital Requirement specified in the determination.”;

(b) by adding after paragraph 7 the following paragraph –

“**7A Derivative transactions**

(1) The Council may from time to time –

(a) provide for or permit the entering into by the Society, in the course of or in connection with the management and investment

of the Fund under paragraph 7, of transactions of any of the kinds referred to in sub-paragraph (2);

- (b) cause any moneys or other assets for the time being forming part of the Fund, or any other property of the Society, to be applied in or towards the discharge of any obligations incurred by the Society under or in connection with any transaction so entered into.
- (2) The transactions to which sub-paragraph (1) relates are options, futures, swaps, forward rate agreements and any other derivative contracts relating to securities, currencies, interest rates or yields, or other derivative instruments, financial indices or financial measures which may be settled physically or in cash.
- (3) The Council shall adopt such statements of investment principles, risk limits and other controls as appear to it to be expedient for the purpose of ensuring that transactions are entered into by the Society under paragraph (1) only for one or more of the purposes specified in sub-paragraph (5).
- (4) Any breach of or failure to observe any statements of investment principles, risk limits or other controls adopted under sub-paragraph (3) shall not cause any transaction to be regarded as falling outside sub-paragraph (1) or to be otherwise void, invalid or unenforceable; but this is without prejudice to any liability of any person for breach of any duty owed to the Society.
- (5) The purposes referred to in sub-paragraph (3) are –
 - (a) reducing risk;
 - (b) reducing cost;
 - (c) generating additional capital or income for the Fund without significantly increasing risk
 - (d) facilitating efficiency in the acquisition, holding or disposal of assets forming part of the Fund;
 - (e) otherwise facilitating efficiency in the management of the Fund.”;

(c) in paragraph 8 –

(i) by deleting the headnote and sub-paragraph (1) and substituting for them the following –

“8. Availability and application of Fund

(1) Subject to and in accordance with the following provisions of this paragraph, the Fund is available, and moneys or assets may be applied out of the Fund (including application by way of loan or on any other terms as to repayment) –

(a) for the purpose of complying with, and for any purpose required or permitted by, a Regulatory Capital Requirement (including, to the extent required or permitted by any relevant Regulatory Capital Requirement, for the purposes specified in sub-paragraph (2)(a) or (b), or both); and

(b) subject to (a), for any of the purposes specified in sub-paragraph (2).

(1A) The Council at any time may, and shall if so directed by the Prudential Regulation Authority, make a determination that the Fund, or a part of the Fund of an amount or value fixed by the Council and specified in the determination, be made available for the purpose of complying with a Regulatory Capital Requirement (and such a determination may specify different parts of the Fund as available for the purpose of complying with different Regulatory Capital Requirements).

(1B) The Council may from time to time –

(a) vary any such determination by increasing the amount of any part of the Fund specified in the determination;

(b) with the prior consent of the Prudential Regulation Authority where the Council has been directed by the Prudential Regulation Authority under paragraph 1A above, vary any such determination by reducing the amount of any part of the Fund specified in the determination, or revoke any such determination.

(1C) Where any part of the Fund is specified as available for the purpose of complying with a Regulatory Capital Requirement in a determination made under sub-paragraph (1A) and for the time being in force –

- (a) money or assets corresponding to that part of the Fund may be applied out of the Fund for any purpose required or permitted by the relevant Regulatory Capital Requirement (including, if applicable, the purposes specified in sub-paragraph (2)(a) or (b), or both), and for no other purpose;
 - (b) if the part or parts of the Fund so specified comprise less than the whole of the Fund, moneys or assets corresponding to the excess may be applied out of the Fund for any of the purposes specified in sub-paragraph (2).
- (ii) by adding the following sub-paragraph (6)

“(6) In this paragraph “Regulatory Capital Requirement” means any requirement imposed by the Prudential Regulation Authority under the Financial Services and Markets Act 2000 relating to the maintenance of financial resources by the Society and includes a requirement expressed by reference to the financial resources of the Society and those of any members of the Society taken together.”;
- (d) by deleting paragraph 9;
- (e) in paragraph 11(1), by deleting “or put in trust, charges, appropriated or set apart, conditionally or otherwise under paragraph 9 with a view to such application”;
- (f) by deleting paragraph 12.

2. Application of general funds of the Society

- (1) In this paragraph and paragraph 3 “the general funds of the Society” means funds and property of the Society (including the income therefrom) other than funds or property forming part of the New Central Fund.
- (2) Subject to and in accordance with the following provisions of this paragraph, the general funds of the Society are available, and moneys or assets forming part of the general funds of the Society may be applied, for the purpose of complying with, and for any purpose required or permitted by, a Regulatory Capital Requirement.
- (3) The Council at any time may, and shall if so directed by the Prudential Regulation Authority, make a determination that the general funds of the

Society, or a part of the general funds of the Society of an amount or value fixed by the Council and specified in the determination, be made available for the purpose of complying with a Regulatory Capital Requirement (and such a determination may specify different parts of the general funds of the Society as available for the purpose of complying with different Regulatory Capital Requirements).

- (4) The Council may from time to time –
 - (a) vary any such determination by increasing the amount of any part of the general funds of the Society specified in the determination;
 - (b) with the prior consent of the Prudential Regulation Authority where the Council has been directed by the Prudential Regulation Authority under paragraph (3) above, vary any such determination by reducing the amount of any part of the general funds of the Society specified in the determination, or revoke any such determination.
- (5) Where any part of the general funds of the Society is specified as available for the purpose of complying with a Regulatory Capital Requirement in a determination made under sub-paragraph (3) and for the time being in force –
 - (a) moneys or assets corresponding to that part of the general funds of the Society may be applied for any purpose required or permitted by the relevant Regulatory Capital Requirement, and for no other purpose;
 - (b) if the part or parts of the general funds of the Society so specified comprise less than the whole of the general funds of the Society, moneys or assets corresponding to the excess may be applied for any of the purposes specified in section 7 of Lloyd’s Act 1911.
- (6) In this paragraph “Regulatory Capital Requirement” means any requirement imposed by the Prudential Regulation Authority under the Financial Services and Markets Act 2000 relating to the maintenance of financial resources by the Society and includes a requirement expressed by reference to the financial resources of the Society and those of any members of the Society taken together.

3. General funds of the Society: derivative transactions

- (1) The Council may from time to time –

- (a) provide for or permit the entering into by the Society, in the course of or in connection with the management and investment of the general funds of the Society, of transactions of any of the kinds referred to in sub-paragraph (2);
 - (b) cause any moneys or other assets for the time being forming part of the general funds of the Society to be applied in or towards the discharge of any obligations incurred by the Society under or in connection with any transaction so entered into.
- (2) The transactions to which sub-paragraph (1) relates are options, futures, swaps, forward rate agreements and any other derivative contracts relating to securities, currencies, interest rates or yields, or other derivative instruments, financial indices or financial measures which may be settled physically or in cash.
- (3) The Council shall adopt such statements of investment principles, risk limits and other controls as appear to it to be expedient for the purpose of ensuring that transactions are entered into by the Society under paragraph (1) only for one or more of the purposes specified in sub-paragraph (5).
- (4) Any breach of or failure to observe any statements of investment principles, risk limits or other controls adopted under sub-paragraph (3) shall not cause any transaction to be regarded as falling outside sub-paragraph (1) or to be otherwise void, invalid or unenforceable; but this is without prejudice to any liability of any person for breach of any duty owed to the Society.
- (5) The purposes referred to in sub-paragraph (3) are –
 - (a) reducing risk;
 - (b) reducing cost;
 - (c) generating additional capital or income for the general funds of the Society without significantly increasing risk;
 - (d) facilitating efficiency in the acquisition, holding or disposal of assets forming part of the general funds of the Society;
 - (e) otherwise facilitating efficiency in the management of the general funds of the Society.