

# MAJOR SYNDICATE TRANSACTIONS BYELAW

---

## Commencement

This byelaw came into force on 15 May 1997.

## Amendment

This byelaw was amended by

Major Syndicate Transactions (Amendment) Byelaw (No. 30 of 1997)  
Major Syndicate Transactions (Amendment No. 2) Byelaw (No. 4 of 1998)  
Conversion and Related Arrangements (Amendment No. 2) Byelaw (No. 12 of 1998)  
Major Syndicate Transactions (Amendment No. 3) Byelaw (No. 13 of 1998)  
Mandatory Offer Byelaw (No. 5 of 1999)  
Underwriting Agents (Amendment No. 16) Byelaw (No. 15 of 1999)  
Assignment of Syndicate Participations (Second Nomination) Byelaw (No. 6 of 2000)  
Major Syndicate Transactions (Amendment No. 4) Byelaw (No. 2 of 2008)  
Amendments to the Major Syndicate Transactions Byelaw (4 February 2016)

## Explanatory Note

(This note is not part of the byelaw)

This byelaw provides, for the avoidance of doubt, an explicit framework governing the termination of the managing agent's appointments under relevant managing agent's agreements, and for the imposition of appropriate conditions or requirements in connection therewith, in circumstances where:-

- (a) a managing agent wishes to merge different syndicates; or
- (b) an invitation by a managing agent or a connected company to enter into a surrender arrangement or a share swap arrangement has been accepted by members whose members' syndicate premium limits are in aggregate not less than 90 per cent of the prospective syndicate allocated capacity of a syndicate and that managing agent or connected company wishes to buy out the remaining members; or
- (c) a managing agent intends for any other reason to cease to accept new or renewal business on behalf of a syndicate managed by it.

The byelaw also requires any person whose prospective members' syndicate premium limit is not less than 90 per cent of the prospective syndicate allocated capacity of a syndicate to invite all those entitled to participate in the next following year of account to enter into surrender arrangements or share swap arrangements.

Schedules 1, 2 and 4 of the byelaw lay down procedural requirements to be followed concurrently with requisite applications for permission to terminate managing agents' agreements under paragraph 11B of the Agency Agreements Byelaw (No. 8 of 1988) in connection with syndicate mergers, buy-outs and syndicate cessations respectively, and authorise the Council to impose conditions and requirements on the granting of any consent. Minority buy-outs are required to be conducted in accordance with any conditions and requirements made under the Conversion and Related Arrangements Byelaw (No. 22 of 1996) for the time being in force, as modified under this byelaw.

Schedule 5 sets out general Statements of Principle to be followed in relation to any transaction effecting any general change of participation in the syndicates.

## Arrangement of Paragraphs

---

1. Syndicate mergers
2. Minority buy-outs
3. Mandatory offers
4. Syndicate cessation
5. Statements of Principle
6. Conversion and Related Arrangements Byelaw (No. 22 of 1996)
7. Appeal
8. Powers cumulative
9. Miscellaneous and consequential amendments
10. Interpretation
11. Commencement

Schedule 1. Syndicate mergers

Schedule 2. Minority buy-outs

Schedule 3. Mandatory offers

Schedule 4. Syndicate cessation

Schedule 5. Statements of Principle

The Council of Lloyd's in exercise of its powers under section 6(2) of, and paragraph (13) of Schedule 2 to, Lloyd's Act 1982 by special resolution hereby makes the following byelaw.

1. Syndicate mergers

- (1) No syndicate merger shall be effected without the written consent of the Council.
- (2) In this byelaw "syndicate merger" means a transaction by which:
  - (a) a managing agent ceases or is to cease to accept new business or renewal business on behalf of the syndicate (a "ceasing syndicate");
  - (b) reinsurance to close is placed on behalf of the ceasing syndicate for its final year of account with another syndicate (the "successor syndicate");
  - (c) the managing agent of the successor syndicate is to accept renewals of business previously accepted by the ceasing syndicate; and
  - (d) members of the ceasing syndicate and members of the successor syndicate are offered participation in the successor syndicate for the next following year of account.
- (3) Schedule 1 to this byelaw shall have effect in relation to syndicate mergers.

2. Minority buy-outs

- (1) If:
  - (a) a managing agent or any connected company which is an underwriting member or candidate or prospective candidate has made an invitation in accordance with Schedule 2 to this byelaw to every member of a syndicate for the current year of account other than
    - (i) a connected company of the managing agent; or
    - (ii) any member specified by the Council as a person who by reason of the law of any foreign jurisdiction where he is resident or domiciled should not receive such invitation,to participate in a surrender arrangement or share swap arrangement in relation to all of his entitlement to participate in the syndicate for the next following year of account; and
  - (b) that invitation has been accepted by members of the syndicate whose member's syndicate premium limits, taken together with the member's syndicate premium limit of any connected company of that managing agent, for the current year of

account in aggregate are not less than 90 per cent (or such other proportion as the Council may specify, either generally or in relation to a particular case) of the syndicate allocated capacity for that year of account, the Council may permit the managing agent to give to all of those members of the syndicate who have not accepted the invitation notice of termination of the standard managing agent's agreement in relation to that syndicate under clause 11.6 thereof.

- (2) Where, under any approval granted under Part H of the Membership and Underwriting Requirements (Corporate Member), the same individual is permitted to act as underwriter for two or more syndicates managed by the same managing agent, one of which consists only of a single corporate member (the "parallel syndicate") and the other or others of which (the "ongoing natural syndicates") include individual members, this paragraph and Schedule 2 shall apply as if all the syndicates were the same syndicate.
- (3) In this byelaw "minority buy-out" means a transaction permitted by the Council under sub-paragraph (1).
- (4) Schedule 2 to this byelaw shall have effect in relation to minority buy-outs.

### 3. Mandatory offers

This paragraph was deleted with effect from 14 April 1999 by the Mandatory Offer Byelaw (No. 5 of 1999).

### 4. Syndicate cessation

- (1) Where a managing agent intends to cease accepting new or renewal business on behalf of a syndicate managed by it without either:
  - (a) the express consent of:
    - (i) every member of the syndicate for the current year of account (other than a member who is a member of the syndicate by virtue only of his participation in a MAPA) who has not given notice terminating the managing agent's appointment under a managing agent's agreement in relation to the syndicate or by auction or nomination of a successor under clause 11A.2 of a managing agent's agreement or a second nomination wholly surrendered his right to participate in the syndicate for the next following year of account; and

- (ii) every members' agent which operates a MAPA through which members participate in the syndicate; or
- (b) the consent of the Council to a syndicate merger granted under Schedule 1 to this byelaw;

the provisions of Schedule 4 shall apply.

- (2) In this byelaw "syndicate cessation" means a cessation of acceptance of new or renewal business by the managing agent of a syndicate in circumstances to which Schedule 4 applies by virtue of sub-paragraph (1).

#### 5. Statements of Principle

Subject to any other provision of this byelaw, the Statements of Principle set out in Schedule 5 to this byelaw shall apply to all transactions effecting any change of participation in syndicates.

#### 6. Conversion and Related Arrangements Byelaw (No. 22 of 1996)

The Council may for the purposes of this byelaw modify any conditions and requirements made under paragraph 5(1) of the Conversion and Related Arrangements Byelaw (No. 22 of 1996).

#### 7. Appeal

The Appeal Tribunal Byelaw (No. 32 of 1996) is amended in Schedule 3 thereto as follows:

*This amendment was made on the original byelaw.*

#### 8. Powers cumulative

- (1) Except in so far as it is expressly otherwise provided, any power conferred on the Council by any provision of this byelaw, and any duty 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 power of the Council, or any other duty of any managing agent, members' agent or any director, officer or employee of, or partner in, any managing agent or members' agent, whether conferred or imposed by any other provision of this byelaw or otherwise; and in particular any requirement to make any

application under any provision of this byelaw shall not be taken to affect any requirement to apply under paragraph 11B of the Agency Agreements Byelaw (No. 8 of 1988) for the Council's permission to terminate any managing agent's agreement.

- (2) Except in so far as it is expressly otherwise provided in such agreement, no power, right, entitlement or privilege conferred on any member by the provisions of any agreement in the form of the standard managing agent's agreement or under the Agency Agreements Byelaw (No. 8 of 1988) shall be construed as being limited by any provision of this byelaw.

9. Miscellaneous and consequential amendments

*All these amendments have been carried out on the original byelaws.*

10. Interpretation

In this byelaw, unless the context otherwise requires:

“associate” means, in relation to a person:

- (a) any director or employee of, or partner in, that person or any connected company;
- (b) any close relative of any such director, partner or employee; or
- (c) any connected company;

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

“capacity ‘swap’” means an arrangement under which it is proposed that a member of a ceasing syndicate exchanges its entitlement to participate in the ceasing syndicate and accepts an entitlement to participate for the following year of account in another syndicate managed either by the same managing agent as the ceasing syndicate or by a managing agent that is controlled by any other person or body corporate that also controls the managing agent of the ceasing syndicate (regardless of whether the new and renewal business of the ceasing syndicate is being transferred to the syndicate on which an entitlement to participate is being offered or it is being transferred elsewhere) and where the entitlement to participate that is surrendered for exchange on the successor syndicate is owned or controlled by the managing agent for the current year of account;

“connected company” means, in relation to any person, any body corporate which controls or is controlled by that person or is controlled by any other person (or any group of persons) who also controls that person, and any reference to a company being “connected with” a person shall be construed accordingly;

“control” has the meaning given in the Schedule to the Membership Byelaw (No. 17 of 1993);

“close relative” means an individual’s spouse, his children and step-children, his parents and step-parents, his brothers and sisters and his step-brothers and step-sisters;

“direct member” means a member of a syndicate (other than a person who is a member of the syndicate by virtue only of his participation in a MAPA) for whom the managing agent acts also as members’ agent in relation to that syndicate or (being a corporate member) a member for whom no person acts as members’ agent in relation to that syndicate;

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

“managing agent’s agreement” means an agreement in the form of the standard managing agent’s agreement (general) or of the standard managing agent’s agreement (corporate member) as for the time being prescribed by the Agency Agreements Byelaw (No. 8 of 1988);

“majority of members on a syndicate” means members whose member’s syndicate premium limits and MAPA participations in aggregate exceed not less than one half of the syndicate’s allocated capacity;

“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” and “surrender arrangement” have the meaning given in the Schedule to the Conversion and Related Arrangements Byelaw (No. 22 of 1996);

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

## 11. Commencement

This byelaw shall come into force on 15 May 1997.



## Schedule 1—Syndicate Mergers Paragraph 1

### 1. Notice of intention to effect a syndicate merger

In the event that a managing agent intends to effect a syndicate merger it must, by no later than 30 April in the year in which it is intended the ceasing syndicate will cease underwriting (or such later date as the Council may permit), send a written notice to the Council copied to every direct member of the syndicates in question and to every members' agent. The notice must –

- (a) specify the syndicates in question; and
- (b) explain why the managing agent intends to effect the syndicate merger.

### 2. Application for consent to effect a syndicate merger

(1) In the event that a managing agent intends to proceed to effect a syndicate merger it must, by no later than 20 June in the same year as notice of intention to effect a syndicate merger was given (or such later date as the Council may permit), send a written application to the Council copied to every direct member of the syndicates in question and to every members' agent. The application must include –

- (a) a detailed explanation of why the managing agent intends to effect the syndicate merger;
- (b) an explanation of the basis on which, and the amounts in which (stated, by reference to an illustrative share in the ceasing syndicate, as a share in the syndicate allocated capacity and also as a monetary amount), rights to participate in the successor syndicate for the following year of account are to be allocated among the members of the ceasing syndicate and (if any) the members of the successor syndicate for the current year of account and any other persons;
- (c) particulars of plans for participation in the successor syndicate by members who are associates of the managing agent of the successor syndicate;
- (d) confirmation by the managing agent of the successor syndicate that it intends to effect a reinsurance to close of the ceasing syndicate by the successor syndicate;
- (e) a copy of the syndicate annual report required to be prepared in the current year for each syndicate concerned;

- (f) either –
    - (i) a copy of the proposed business plan for the successor syndicate for the following year of account including the identity of the active underwriter and particulars of his contract of employment; or
    - (ii) a summary thereof specifying the person from whom copies of such proposed business plan can be obtained free of charge;
  - (g) particulars of the managing agent’s plans in the event that the Council refuses its consent to the proposal in respect of which the application is made;
  - (h) a declaration signed by two directors of the managing agent in the following form: “The directors of the managing agent have taken all reasonable care to ensure that the facts stated herein are true and accurate in all material respects and that there are no other material facts the omission of which would make misleading any statement herein, whether of fact or opinion. All the directors accept responsibility accordingly.”;
  - (i) an invitation to all of the members of all of the syndicates in question to send any representations they may wish to make on the syndicate merger to the Council within 60 days (or such other period as the Council may prescribe) of the date of the application;
  - (j) copies of the ballot papers to be used for the purposes of conducting the ballots in accordance with paragraph 3(1) of Schedule 1; and
  - (k) any other document or information the Council may prescribe or require.
- (2) If at any time after an application has been sent to the Council under paragraph 2(1) of this Schedule 1 but prior to the ballots referred to in paragraph 3(1) having been concluded –
- (a) there is a significant change affecting any material matter contained in the application; or
  - (b) a material new matter arises which would have been required to be included in the application if it had arisen before the application was prepared,

the managing agent shall forthwith prepare a supplementary document giving particulars of the change or new matters and send that document to the Council copied to every direct member of the syndicates in question and to every members’ agent.

- (3) Every members’ agent which receives information or documents from a managing agent under paragraphs 1, 2(1) or 2(2) of Schedule 1 must, within seven days of receipt, forward the information or documents to every member of any of the syndicates in question for the current year of account for whom it acts as members’ agent (otherwise than by virtue of that member’s participation in MAPA).

3. Ballot

- (1) The managing agent shall, at its own expense, conduct separate postal ballots in respect of the members (or in the case of MAPA members, the MAPA operator) of –
  - (a) each ceasing syndicate; and
  - (b) the successor syndicate

in order to determine the extent of support for, or objections to, the proposed syndicate merger.

- (2) The managing agent shall, no later than 60 days after the date of an application sent to the Council under paragraph 2(1) of Schedule 1, provide to the Council certificates from the syndicate auditor of the ceasing syndicate confirming the result of each ballot conducted under paragraph 3(1) of Schedule 1.

4. Determination of application

- (1) The Council may, subject to paragraph 4(2) of Schedule 1, grant or refuse consent to effect a syndicate merger or grant consent subject to such modification of the proposed syndicate merger as it thinks fit.
- (2) The Council shall not grant consent to a syndicate merger unless –
  - (a) in each separate ballot held under paragraph 3(1) of Schedule 1, of the aggregate of member's syndicate premium limits and MAPA participations attributable to members or MAPA operators voting in the ballot, not less than 75 per cent was attributable to those voting in favour; or
  - (b) notwithstanding that the conditions in paragraph 4(2)(a) of Schedule 1 have not been met the Council (or where the Council acts by a committee, each of the members of the committee participating in the committee's decision with regard to the syndicate merger) is satisfied that there exist exceptional circumstances such that if consent was not granted the interests of the majority of members on a syndicate in question would be materially damaged.
- (3) The Council may from time to time make and publish guidance which it shall take into account when deciding whether or not to exercise its discretion under paragraph 4(2)(b) of Schedule 1.

- (4) In considering whether to grant consent to a syndicate merger, the Council may take into account any or all of the following matters –
- (a) the reasons why the syndicate merger is proposed;
  - (b) the extent to which the proposal for the syndicate merger has the approval or disapproval of the members of each syndicate in question;
  - (c) the basis on which, and the amounts in which (stated as a share in the syndicate allocated capacity and also as a monetary amount), rights to participate in the successor syndicate for the next following year of account are to be allocated among the members of the ceasing syndicate and of the successor syndicate (if any) for the current year of account and any other persons;
  - (d) the terms on which members of the ceasing syndicate will be invited to subscribe for shares in, or otherwise participate in, any corporate member which is to participate as a member of the successor syndicate for the next following year of account;
  - (e) plans for participation in the syndicate by members which are associates of the managing agent of the successor syndicate;
  - (f) whether the information provided to the members of the syndicates concerned (other than members participating by virtue only of their participation in a MAPA) is sufficient, and has been provided in sufficient time, to enable them to make an informed assessment of the proposed syndicate merger and its effect on them; and
  - (g) any other matter (whether or not similar to any of the other matters mentioned in this paragraph) which in the opinion of the Council should be taken into account in deciding whether its consent should be granted.

5. General powers in connection with syndicate mergers

The Council may at any time give such directions or impose such conditions and requirements on the managing agent in connection with an application to effect a syndicate merger or the grant or refusal of such an application as it thinks necessary or appropriate. A direction, condition or requirement given or imposed under this paragraph may include, but shall not be limited to, a direction, condition or requirement for the purposes of –

- (a) protecting the interests of members of the syndicates in question;
- (b) holding syndicate meetings for the purposes of discussing the proposed syndicate merger;
- (c) conducting ballots under paragraph 3(1) of Schedule 1; and
- (d) dealing with an application made under paragraph 2(1) of Schedule 1 made by more than one managing agent.

6. Permission of Council for notice to terminate standard managing agent's agreement

Where the Council gives consent to a syndicate merger that consent shall also be deemed to be the prior approval of the Council for the managing agent to terminate the standard managing agent's agreements with each of the members of each ceasing syndicate under clause 11.6 of the agreements such that permission under paragraph 11B of the Agency Agreements Byelaw is not required.

## Schedule 2 - Minority Buy-Outs Paragraph 2

1. Terms of invitation
  - (1) Any minority buy-out shall comply with the conditions and requirements made under paragraph 5(1) of the Conversion and Related Arrangements Byelaw (No. 22 of 1996) for the time being in force and applicable to surrender arrangements or share swap arrangements, as modified for the purposes of this byelaw.
  - (2) Where a proposed minority buy-out comprises an invitation to participate in a share swap arrangement that invitation shall permit members to whom it is made to receive cash instead of shares in the successor vehicle or connected company (as respectively defined in any conditions and requirements made under paragraph 5(1) of the Conversion and Related Arrangements Byelaw (No. 22 of 1996) and for the time being in force) of the successor vehicle.
2. Applications for permission
  - (1) An application for permission shall be made in writing by the managing agent of the syndicate concerned.
  - (2) Where the invitation to participate in the surrender arrangement or share swap arrangement is to be made by a connected company of the managing agent the application shall be made jointly by the managing agent and that connected company.
  - (3) An application shall:
    - (a) specify the syndicate concerned;
    - (b) give particulars of the proposed surrender arrangement or share swap arrangement;
    - (c) explain why the managing agent is proposing the minority buy-out;
    - (d) be made by 30 April in the year in which the invitation to enter into the surrender arrangement or share swap arrangement is to be made.
  - (4) The Council may at any time require a managing agent or connected company which has made an application under this paragraph to provide such additional information or explanations to the Council in respect of the proposed minority buy-out as the Council thinks fit.

- (5) An application under this paragraph shall be made in the same document as an application under paragraph 11B of the Agency Agreements Byelaw (No. 8 of 1988) for permission to terminate the managing agent's agreements in relation to the syndicate.
3. Provision of information about proposal
    - (1) A managing agent which makes an application under paragraph 2 shall at the same time send written notice that the application has been made:
      - (a) to every direct member of the syndicate concerned for the current year of account;
      - (b) to every members' agent under arrangements made by which any member participates in the syndicate for the current year of account;
      - (c) to every members' agent of any corporate member of the syndicate for the current year of account, other than a corporate member which is a member of that syndicate by virtue only of its participation in a MAPA.
    - (2) Where under paragraph 11B of the Agency Agreements Byelaw (No. 8 of 1988) the Council has granted conditional permission to terminate the managing agent's agreements in relation to the syndicate the managing agent shall, unless the Council otherwise allows, give notice of termination, together with particulars of the conditions imposed, no later than 30 June, or such later date as the Council may permit:
      - (a) to every direct member of the syndicate;
      - (b) to every other member of the syndicate by service on the members' agent acting as such on his behalf in relation to that syndicate; and
      - (c) to every members' agent of any corporate member of the syndicate for the current year of account, other than a corporate member which is a member of that syndicate by virtue only of its participation in a MAPA.
    - (3) Copies of any capacity advertisement (as defined in the conditions and requirements made under the Conversion and Related Arrangements Byelaw (No. 22 of 1996) and for the time being in force) shall be sent to the Council for the purposes of the application under paragraph 2 at the same time as they are sent to the Conversion Official.

4. Determination of application

- (1) Forthwith after the date on which the invitation concerned is expressed to lapse or, if there is no such date, 31 August the Council shall consider any application duly made for its permission for a minority buy-out and, subject to paragraphs 5 and 6, may grant or refuse permission for that minority buy-out.
- (2) If the Council is minded to refuse an application, or to grant the application subject to conditions, it shall by notice in writing so inform the managing agent and shall permit that managing agent to make representations within such period as the Council may require.
- (3) The Council shall inform the managing agent of its decision as soon as practicable, except during an auction.
- (4) The managing agent of the syndicate shall, within seven days after receiving notice of the Council's decision whether or not to grant permission, give written notice of that decision to every person to whom it was required by paragraph 3(1) to give notice of the application.

5. Criteria for consent

- (1) In considering whether to grant permission the Council shall take into account the level of support of members of the syndicate for the proposed surrender arrangement or share swap arrangement and, in particular whether the invitation to enter into the surrender arrangement or share swap arrangement has been accepted by members of the syndicate whose member's syndicate premium limits, taken together with the member's syndicate premium limit of any connected company of the managing agent, for that year of account in aggregate are not less than 90 per cent of the syndicate allocated capacity for that year of account.
- (2) For the purpose of sub-paragraph (1) there shall be disregarded (and the syndicate allocated capacity shall be deemed to be reduced accordingly) the member's syndicate premium limit of:
  - (a) any member specified by the Council, on the application of the managing agent, as a person who by the law of any foreign jurisdiction where he is resident or domiciled should not receive any invitation to participate in the surrender arrangement or share swap arrangement; and



- (b) any member who by auction or by nomination of a successor under clause 11A.2 of the managing agent's agreement has wholly surrendered his right to participate in the syndicate for the next following year of account.
- (3) In considering whether to grant permission for a minority buy-out the Council may take into account any or all of the following matters:
- (a) the reasons why the minority buy-out is proposed;
  - (b) the adequacy of the consideration offered to members of the syndicate under the surrender arrangement or share swap arrangement;
  - (c) any other matter (whether or not similar to any of the other matters mentioned in this sub-paragraph) which in the opinion of the Council should be taken into account in deciding whether permission should be granted.

6. Conditions and undertakings

- (1) Where the Council grants permission for a minority buy-out the managing agent or connected company making the invitation shall pay or transfer to:
- (a) those members of the syndicates of the current year of account:
    - (i) to whom the invitation was made but who did not accept it; or
    - (ii) to whom, being resident or domiciled in a foreign jurisdiction, the invitation was not made lest any law of that foreign jurisdiction be infringed; and
  - (b) to persons to whom capacity on the syndicate for the next following year of account has been allocated in an auction in the current year of account, such cash or securities in the successor member as they would have received if the invitation had been made to them in respect of their entitlement to participate in the syndicate for the next following year of account and they had accepted it.
- (2) In granting permission for a minority buy-out the Council may impose such conditions or require such undertakings as it thinks fit.

### Schedule 3 - Mandatory Offers Paragraph 3

This Schedule was deleted with effect from 14 April 1999 by the Mandatory Offer Byelaw (No. 5 of 1999)

## Schedule 4 - Syndicate Cessation Paragraph 4

1. Notification to Council
  - (1) As soon as a managing agent has a firm intention of ceasing to accept new or renewal business on behalf of a syndicate managed by it in circumstances such as to constitute a syndicate cessation the managing agent shall give written notice to the Council of that intention:
    - (a) specifying the syndicate concerned;
    - (b) giving the name of the active underwriter and particulars of the terms and conditions of his contract of service or contract for services;
    - (c) explaining the reasons why the managing agent intends to cease to accept business on behalf of the syndicate;
    - (d) giving particulars of any proposed transfer of new or renewal business of the syndicate to any other syndicate or other person; and
    - (e) pursuant to paragraph 1(5) below, giving particulars of any compensation to be offered to members of the syndicate for such cessation.
  - (2) Notice must be given to the Council no later than 31 August (or such later date as the Council may permit) in the year during which, or at the end of which, it is intended to cease accepting new or renewal business on behalf of the syndicate.
  - (3) Notice shall be given under this paragraph in the same document as an application under paragraph 11B of the Agency Agreements Byelaw (No. 8 of 1988) to terminate the managing agent's agreements in relation to the syndicate.
  - (4) The Council may at any time require a managing agent which has given notice under this paragraph to provide to the Council such additional information or explanations in respect of the proposed cessation as the Council thinks fit.
  - (5) If any compensation is to be offered for the cessation of the syndicate to members of the syndicate, the managing agent of the ceasing syndicate shall have the option of making an offer:
    - (a) comprising exclusively of cash; or
    - (b) comprising a capacity 'swap' and which must also include a cash alternative; or
    - (c) comprising an offer of shares and which must also include a cash alternative.

Where a capacity 'swap' is offered by the managing agent of the ceasing syndicate, details are required to be included in the notification to the Council under paragraph (1) above about the valuation of the capacity 'swap', the syndicate on which participation is being offered and the basis on which the allocation of the entitlement to participate in the successor syndicate for the following year of account is to be made.

Where an offer of shares is made by the managing agent of the ceasing syndicate, details are required to be included in the notification to the Council under paragraph (1) above about the valuation of the shares, the body corporate in which the shares are being offered and the basis on which, and the amounts in which, shares in that body corporate are to be allocated.

Where the Council gives consent to a syndicate cessation application that includes a capacity 'swap', the implementation of the capacity 'swap' by the managing agent of the ceasing syndicate will be undertaken outside of the Lloyd's capacity auction process and will not be subject to the Auction Byelaw.

## 2. Provision of information

A managing agent which gives notice to the Council under paragraph 1 shall at the same time send:

- (a) to every person who is a direct member of the syndicate for the current year of account other than a member who by auction or by nomination of a successor under clause 11A.2 of a managing agent's agreement or by second nomination has wholly surrendered his right to participate in the syndicate for the next following year of account;
- (b) to every members' agent under arrangements made by which any member participates in the syndicate for the current year of account;
- (c) to every members' agent of any corporate member of the syndicate for the current year of account, other than a corporate member which is a member of that syndicate by virtue only of its participation in a MAPA; and
- (d) to every person who by auction or by nomination as successor under clause 11A.2 of the managing agent's agreement or by second nomination has become entitled to participate in the syndicate for the next following year of account (otherwise than by virtue of his participation in a MAPA), a copy of that notice, together with a written notice that members, other than members who are members of the syndicate by virtue only of their participation in a MAPA, and members' agents are entitled to make written representations to the Council about the intended cessation within 21 days after the despatch of notices by the managing agent under this paragraph.

3. Representations by members and members' agents

Where a managing agent has given notice to the Council under paragraph 1, every member of the syndicate for the current year of account, other than a member who is a member of the syndicate by virtue only of his participation in a MAPA, and every members' agent under arrangements made by which any member participates in the syndicate for the current year of account shall be entitled to make representations to the Council about the intended cessation within 21 days after the despatch of notices by the managing agent under paragraph 1.

4. Determination of application under paragraph 11B of Agency Agreements Byelaw (No. 8 of 1988)

(1) In considering an application by a managing agent under paragraph 11B of the Agency Agreements Byelaw (No. 8 of 1988) for permission to terminate managing agent's agreements with members of the syndicate where the agent intends to cease accepting new or renewal business on behalf of the syndicate, the Council shall have regard to:

- (a) the reasons for the intended cessation;
- (b) representations made by members of the syndicate or by members' agents under paragraph 3 of this Schedule and any representations made by existing members of the successor syndicate in which an entitlement to participate is being offered under a capacity 'swap';
- (c) whether compensation which is adequate in the circumstances of the intended cessation is offered or is to be offered to members of the syndicate for the current year of account and to persons to whom capacity on the syndicate for the next following year of account has been allocated in an auction;
- (d) whether new or renewal business which might reasonably have been expected to be underwritten by the syndicate for the next following year of account is expected to be underwritten by any other person, and if so, by whom; and
- (e) any other matter, whether or not similar to any of the other matters mentioned in this sub-paragraph, which in the opinion of the Council should be taken into account in deciding whether its permission should be granted.

(2) Conditions imposed under paragraph 11B(8) of the Agency Agreement Byelaw (No. 8 of 1988) may, in relation to any syndicate cessation, (without limiting the generality of that sub-paragraph) include conditions:

- (a) for the protection of interests of members of the syndicate for the current year of account in connection with new or renewal business which might reasonably have

- been expected to be underwritten by them as members of the syndicate for the next following year of account; and
- (b) providing for their compensation for the loss of the opportunity to underwrite such business.
- (3) Where the Council decides to impose any conditions under paragraph 11B of the Agency Agreement Byelaw (No. 8 of 1988) in relation to a syndicate cessation, it shall:
- (a) forthwith give written notice of those conditions to the managing agent; and
  - (b) direct that the syndicate be suspended from the auctions.
- (4) A managing agent shall, within seven days after receipt of any notice of conditions given under sub-paragraph (3), give written notice of those conditions:
- (a) to every person who is a direct member of the syndicate for the current year of account other than a member who by auction or nomination of a successor under clause 11A.2 of a managing agent's agreement or second nomination has wholly surrendered his right to participate in the syndicate for the next following year of account;
  - (b) to every members' agent under arrangements made by which any member participates in the syndicate for the current year of account;
  - (c) to every members' agent of any corporate member of the syndicate for the current year of account, other than a corporate member which is a member of that syndicate by virtue of its participation in a MAPA; and
  - (d) to every person who by auction or by nomination as successor under clause 11A.2 of the managing agent's agreement or by second nomination has become entitled to participate in the syndicate for the next following year of account (otherwise than by virtue of his participation in a MAPA).

## Schedule 5 - Statements Of Principle Paragraph 5

- (i) Managing agents and members' agents have a duty to act in the best interests of their members.
- (ii) All members of the same syndicate for the same year of account must be treated similarly.
- (iii) Information must not be furnished to some members of an affected syndicate which is not made available to all members of the same syndicate.
- (iv) The information must be sufficient to enable the members to reach a properly informed decision and they must be allowed adequate time to reach a decision. No relevant information should be withheld from them.
- (v) All information must be prepared with the highest standards of care and accuracy and must not be misleading.
- (vi) A proposal or offer should only be announced after the most careful and responsible consideration. It should only be made when the offeror has every reason to believe that it can, and will continue to be able to, implement the proposal or offer.
- (vii) At no time after a proposal or offer has been made or there is reason to believe one will be made imminently, may any action be taken by a members' agent, without the approval of members, which could result in the proposal or offer being frustrated or in members being denied an opportunity to decide on its merits.
- (viii) The rights attributable to a member of a members' agent pooling arrangement (MAPA member) are exercisable by the MAPA operator, including the right to vote. The members' agent must not, however, act on behalf of any bespoke member unless specifically instructed by the member concerned to do so.
- (ix) Directors or partners of a managing agent or members' agent must always, in advising their members, act only in the interests of those members and must not have any regard to their personal interests or to those of any connected persons.
- (x) Any relevant interests held by any managing agent or members' agent and its directors or partners must be disclosed to members as part of the documentation which is sent to members.
- (xi) All parties to a transaction must use every endeavour to prevent the creation of a false market in participations on any syndicate affected by that transaction and must take care that statements are not made which may mislead syndicate members or the market.
- (xii) Rights of control must be exercised in good faith.
- (xiii) Where control of a syndicate is acquired by a person or persons acting in concert, a general offer to all participants may be required. Where an acquisition is contemplated as a result of which a person may incur such an obligation, he must, before making the acquisition, ensure that he can and will continue to be able to implement such an offer.