

MEMBERSHIP BYELAW

Purpose

The purpose of this byelaw is to make provision for the admission of members to membership of the Society and to regulate the grant of permission for members to underwrite insurance business at Lloyd's.

Notes

The byelaw also revokes the Membership Byelaw (No. 17 of 1993) and the Register of Members Byelaw (No. 22 of 1983).

Words and terms shown in italics (other than headings) have the meaning set out in the Definitions Byelaw (No. 7 of 2005).

This byelaw was made by the Council on 7 December 2005 in exercise of its powers under section 6(2) of, and paragraphs (1), (2), (4), (24) and (27) of schedule 2 to, Lloyd's Act 1982 and may be referred to as the Membership Byelaw (No. 5 of 2005).

These notes, the note setting out the purpose of this byelaw and the headings are for guidance only and do not form part of the Membership Byelaw.

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Part A – Admission to Membership

Categories of membership

1. The categories of membership of the *Society* shall be –
 - (a) underwriting membership; and
 - (b) non-underwriting membership.
2. The *Council* may create such classes of membership within either category as it may think fit, may vary, merge or abolish any classes so created and may make such provision as it may think fit for the transfer of *members* between the two categories and between classes so created.

Eligibility for Membership

3. Subject to paragraph 4 of this Byelaw, either an individual, a body corporate (including a limited liability partnership) or a *Scottish limited partnership* shall be eligible to be a *member* of the *Society*.
4. No individual shall be eligible to be an *underwriting member* other than an individual who was admitted as an *underwriting member* on or before 6 March 2003 and who has at all times since ceasing to be an *underwriting member* been a *non-underwriting member*.

Application for Admission

5. Any person that wishes to be admitted as a *member* of the *Society* (a “*candidate*”) may apply to the *Council* for admission.
6. Applications for admission shall be made in accordance with such procedures and shall be accompanied by such documents and information as the *Council* may from time to time prescribe.

7. The *Council* may require a *candidate* to execute and deliver or otherwise become party to any form of deed, undertaking, contract or other document or instrument that it may from time to time prescribe.
8. At any time after receiving an application, the *Council* may, in connection with its consideration of the application, make enquiries of or consult with any *person* as it thinks fit. The *Council* may also require the *candidate* or any of the directors or employees of or partners in any such *candidate* to –
 - (i) provide information, documents, books, records and other materials;
 - (ii) answer questions;
 - (iii) attend before the *Council*

Admission

9. The *Council* may consider applications for admission as a *member* and grant or refuse any such application.
10. The *Council* may admit a *candidate* as a *member* either indefinitely or for such period as it may specify and subject to such conditions as the *Council* may specify.
11. The *Council* shall not admit a *candidate* as a *member* unless the person has demonstrated to the *Council's* satisfaction that it is suitable to be a *member*. In deciding whether a person is suitable to be a *member*, the *Council* shall have regard to such criteria as it may from time to time prescribe and may have regard to any other matter which, in the opinion of the *Council*, should be taken into account in deciding whether a *candidate* is suitable to be a *member*.

Ownership and control

12. No person shall, without the prior written consent of the *Council*, be a *controller* of a *corporate member*.
13. The *Council* may, at the time of admitting of a *candidate* as a *corporate member* or when a person becomes a *controller* of a *corporate member*, require a

controller of the corporate member to execute and deliver or otherwise become a party to such deeds, contracts, guarantees, undertakings and such other documents as the *Council* may reasonably prescribe.

Register of members

14. The *Council* may at any time revise the register kept by it under Schedule 1 to Lloyd's Act 1982 by adding to the register the name of a person who is admitted as, or deleting from the register the name of a person who ceases to be, a *member* of the *Society* or by transferring the name of a *member* from one part of the register to the other.
15. The consideration and determination of any objection lodged by a *member* about his or another *member's* classification in the register, and the hearing and determination of any appeal from the determination of that objection, shall be undertaken in accordance with arrangements made by the *Council*, using such procedures as the *Council* shall think fit.

Part B – Funds at Lloyd’s

Funds at Lloyd’s

16. The *Council* may prescribe conditions and requirements that *members* (or any class or group thereof) shall provide security in respect of their underwriting business at Lloyd’s in such form, in such amounts and held on such terms as the *Council* may specify (“*funds at Lloyd’s*”).
17. *Funds at Lloyd’s* may comprise –
 - (a) *Lloyd’s deposits*;
 - (b) *special reserve funds*;
 - (c) *personal reserve funds*; and
 - (d) any other items or allowances which the *Council* may approve for the purpose and being in such form and held on such terms as the *Council* may specify,and may differ in respect of different *members* or different classes of *members*.
18. No *member* shall at any time without the prior written consent of the *Council* charge, assign or agree to charge or assign or otherwise restrict, encumber or dispose of any interest in the whole or any part of a *Lloyd’s deposit*. Every *member* shall also procure that any *third party depositor* shall not at any time without the prior written consent of the *Council* charge, assign or agree to charge or assign or otherwise restrict, encumber or dispose of any interest in the whole or any part of a *Lloyd’s deposit*.
19. No asset forming part of the *Lloyd’s deposit* of a *member* shall be transferred to that *member* unless the *Council* is satisfied that his liabilities arising out of or in connection with his underwriting business at Lloyd’s have been satisfied, discharged or otherwise satisfactorily provided for or that the balance remaining of the *Lloyd’s deposit* will be sufficient to meet those liabilities.

Part C – Underwriting

Permission to underwrite

20. No *member* shall underwrite insurance business at Lloyd's unless permitted to do so by the *Council* under paragraph 21.
21. The *Council* may grant permission to any *underwriting member* to underwrite insurance business at Lloyd's either indefinitely or for such period as it may specify and such permission may be granted subject to such conditions as the *Council* may specify.

Requirement not to carry on other business

22. No *member* shall underwrite on his own account insurance business of any kind except at Lloyd's.
23. No *corporate member* shall –
 - (a) carry on any business or activity other than its underwriting business at Lloyd's and such activities as are directly ancillary to that business; or
 - (b) enter into contracts or otherwise incur any liabilities (including contingent liabilities) or acquire, hold or dispose of property other than for the purpose of its underwriting business at Lloyd's and any activities that are directly ancillary thereto.

Requirement to retain a member's agent

24. Every *member* shall appoint and at all times retain a *members' agent* to act in respect of its underwriting business and affairs at Lloyd's unless the *Council* otherwise consents.

Setting of premium limits

25. Every *member* who proposes to underwrite insurance business at Lloyd's shall set himself an *overall premium limit* and notify the *Council* of this limit. The *Council* may prescribe a lower *overall premium limit* which shall replace any limit set by the *member*.

26. Every *member* who proposes to underwrite as a member of a syndicate for a year of account shall set himself a *member's syndicate premium limit* for that *syndicate* and notify the *Council* of this limit by filing a *syndicate list*. The *Council* may prescribe a lower *member's syndicate premium limit* which shall replace any limit set by the *member*.

Part D – Consent to and notification of changes

Consent to changes

27. The *Council* may from time to time prescribe events which no *member* shall cause or permit to occur without the prior consent of the *Council*.

Advance Consents

28. The *Council* may from time to time waive any requirement of the *Council* that a *member* obtain the consent of the *Council* to any matter provided that the *member* complies with such conditions and requirements as the *Council* may prescribe in respect of that matter.

Notification of changes

29. The *Council* may from time to time prescribe events which a member shall notify to the *Council* in writing should such an event occur. The *Council* may prescribe a period in which each such prescribed event must be notified.

Part E – Corporate Members: Accounting, Audit and
Declarations of Compliance

Accounts and audit

30. Every *corporate member* which is not required to maintain accounting records and prepare accounts in accordance with –
- (a) the requirements of Part VII of the Companies Act 1985; or
 - (b) other legislation implementing the Insurance Accounts Directive (91/674/EEC)
- shall maintain accounting records and prepare accounts in respect of every financial year ending after it becomes a *member* as if Part VII of the Companies Act 1985 applied to it or prepare accounts in such other form and containing such information as the *Council* may otherwise prescribe (whether generally or in relation to a particular case).
31. Every *corporate member* which is required to prepare accounts in accordance with legislation implementing the Insurance Accounts Directive (91/674/EEC) or under paragraph 30 of this byelaw shall procure that
- (a) those accounts are examined by an auditor which is eligible to act as an auditor for a *corporate member* in accordance with such requirements as the *Council* may from time to time prescribe; and
 - (b) such auditor prepares a report which complies with the requirements of the Companies Act 1985 or, in the case of corporate members which are incorporated in a member state of the European Union other than the United Kingdom, legislation implementing Article 51(2) of Fourth Council Directive (78/660/EEC) or such other requirements as the *Council* may from time to time prescribe.
32. The *Council* may at any time require a *corporate member* to procure that its auditor executes an undertaking in the required form and accompanied by such other documents and information as the *Council* may prescribe.

33. Every year, each *corporate member* which is required to prepare accounts in accordance with legislation implementing the Insurance Accounts Directive (91/674/EEC) or under paragraph 30 shall submit those accounts to the *Council* together with the report of the auditor prepared under paragraph 31 and accompanied by such other documents and information as the *Council* may prescribe and within such period as the *Council* may prescribe.

Declaration of Compliance

34. Every year, each *corporate member* shall compile and submit to the *Council* a declaration of compliance in the required form and accompanied by such other documents and information as the *Council* may prescribe and within such period as the *Council* may prescribe (“*declaration of compliance*”).

Part F – Review

Power to conduct reviews

35. The *Council* may at any time order a review of the affairs or any aspect of the affairs of a *member* that may in any way relate to his permission to underwrite or his membership of the *Society*.
36. Any review ordered under paragraph 35 of this byelaw may be conducted by such person or persons as may be nominated by the *Council*.
37. A person conducting a review of a *member* under paragraph 35 of this byelaw may require a *member* or, in respect of any *corporate member*, any director, partner, officer, agent or employee thereof or a *managing agent* or a *members' agent*–
 - (a) to attend before him at such time and such place as he may specify;
 - (b) to answer questions or otherwise provide information to him;
 - (c) to produce or give to him all such documents and other materials in its or his possession, custody or power as the person conducting the review may reasonably require for the purposes of the review.
38. Where a person conducting a review requires the production of documents or other materials, in the case of a *corporate member*, that person may require the *corporate member* or a *managing agent* or a *members' agent* to –
 - (a) provide him with all reasonable facilities in its premises for the purposes of examining or reviewing such documents or other materials;
 - (b) permit him to copy or take extracts from them on the premises or elsewhere;
 - (c) by a director, officer, agent or employee thereof, or partner therein, provide an explanation of them and if any of such documents or materials are not produced, to state, to the best of his knowledge or belief, where such documents or other materials are.

Power to require production of reports

39. The *Council* may require any *member* to provide it with a report on any matter about which the *Council* may order a review of under paragraph 35 of this Byelaw. The *Council* may require that the report –
- (a) be undertaken by a *person* nominated or approved by the *Council* with every assistance of the *member* as that *person* may reasonably require;
 - (b) contain such information and be in such form as the *Council* may determine;
 - (c) be undertaken at the cost of the *member* in question; and
 - (d) be submitted to *Council* on such date as it may prescribe.

Part G – Directions, conditions and requirements

Directions, conditions and requirements

40. The *Council* may at any time give such directions or impose such conditions or requirements on any *member* (or any class or group thereof) as it thinks reasonably necessary or appropriate. Without prejudice to the generality of the foregoing, a direction, condition or requirement given or imposed under this paragraph may include a direction, condition or requirement for the purposes of –
- (a) ensuring that the *member* will be or will continue to be suitable to be a *member* or that the *member* should have or continue to have permission to underwrite insurance business at Lloyd’s;
 - (b) requiring that a *member* provide further security in respect of his underwriting business at Lloyd’s, including the provision of further *funds at Lloyd’s*;
 - (c) directing that the *member* cease, or reduce the level of, his underwriting business at Lloyd’s, underwriting business of a specified class or underwriting business through a specified syndicate at Lloyd’s;
 - (e) setting *overall premium limits, general business premium limits, long term business premium limits and member’s syndicate premium limits*;
 - (f) protecting –
 - (i) the name, reputation or standing of the *Society* or of its *members*;
 - (ii) the general rating or ratings of the Lloyd’s market applying to policies of insurance underwritten by *members* of the *Society*;
 - (iii) the assets of the *Society* including the assets of the *New Central Fund*; and
 - (iv) the authorisation of *members* of the *Society* to conduct insurance business in the United Kingdom and overseas; and
 - (g) ensuring compliance by that *member* with the requirements of Lloyd’s Acts 1871 to 1982 and the *requirements of the Council*; and
 - (h) ensuring compliance by that *member* with the requirements of the Financial Services Authority.

41. The *Council* may from time to time add to, amend or withdraw any direction, condition or requirement given or imposed under part G of this byelaw.
42. A *member* shall act in accordance with any direction, condition or requirement given to or imposed upon him under this byelaw.

Part H – Resignation and Termination of Membership

Resignation

43. A *member* may apply to resign from membership of the *Society* by submitting a written application to the *Society*.
44. Unless the *Council* otherwise directs or requires or the provisions of paragraph 45 apply, an *underwriting member* shall become a *non-underwriting member* at midnight on 31 December in the year in which that *member* submitted an application to resign from membership of the *Society*.
45. Unless the *Council* otherwise directs, a *member's* membership of the *Society* shall terminate at midnight on 31 December following the later of –
- (a) the date on which that *member* submitted an application to resign from membership of the *Society*; and
 - (b) the date as from which the last year of account of every syndicate of which that *member* was a member (if any) was closed by reinsurance to close.
46. Any resignation from membership of the *Society* by a *corporate member* shall not take effect without the prior written consent of the *Council*.

Termination of membership

47. The *Council* may at any time terminate a *member's* membership of the *Society* if -
- (a) the *member* is not suitable to be a *member*;
 - (b) the *member* has not underwritten insurance business at Lloyd's for a period of three or more years;
 - (c) the *member* has failed to comply with any provision of Lloyd's Acts 1871 to 1982 or with any *requirement of the Council*;
 - (d) the *member* has been convicted of a *reportable criminal offence*; or
 - (e) the *member* is bankrupt or insolvent.

48. Where a *member's* membership terminates, the *member* shall do such things as the *Council* may direct in relation to the winding up of his underwriting business at Lloyd's.

Former members and change of address

49. Any individual or any *Scottish limited partnership* who for any reason ceases to be a *member* of the *Society* shall, during any subsequent period in which that individual or *Scottish limited partnership* may be obliged to carry out any contract of insurance that it has underwritten –
- (a) in the case of an individual –
 - (i) notify the Secretary to the *Council* in writing of any change of address not later than one month after the change; and
 - (ii) make and maintain arrangements for the Secretary to the *Council* to be notified in writing in the event of his death; and
 - (b) in the case of a *Scottish limited partnership*, notify the Secretary to the *Council* in writing of any change in its principal place of business not later than one month after the change.
50. The *Council* may require a *member* to execute and deliver or otherwise become a party to any prescribed form of deed, contract, undertaking or other document or instrument so as to give effect to the requirements in paragraph 49.

Part I – Dispute Resolution

Dispute Resolution

51. The *Council* may from time to time prescribe arrangements and procedures to resolve disputes arising between a *member* and the *Council* in a timely, constructive and cost effective manner. The arrangements and procedures may include requirements that *members, underwriting agents, approved run-off companies* or *substitute agent* must follow.

Part J – Miscellaneous and Transitional Provisions

Publication

52. The *Council* may publish any decision made under this byelaw in such terms as it sees fit.

Service of notices and communications

53. The *Council* may prescribe requirements for the service of notices and other communications on a *member*.

Powers of Set-Off

54. If a *member* owes any sum or sums (including any fine or costs) to the *Society*, the *Society* may without prejudice to any other remedy available to the *Society* –
- (a) set off against such sum or sums any sums payable by the *Society* to that *member*;
 - (b) after the satisfaction of all existing underwriting liabilities of a *member*, retain any assets beneficially owned by that *member* which are under its control, sell or otherwise realise such assets and apply any sale or realisation proceeds in discharging on his behalf such sum or sums.

Restrictions regarding the use of the name of Lloyd's

55. No *member*, without the prior written consent of the *Council*, shall use the word “Lloyd’s” in any business or trading name that he may adopt or use the *Society*’s address.

Fees

56. The *Council* may, in connection with any application, submission or request made in accordance with this byelaw, charge such fee as the *Council* may from time to time prescribe.

Revocation

57. The Membership Byelaw (No. 17 of 1993) and the Register of Members Byelaw (No. 22 of 1983) are revoked.

Transitional and miscellaneous provisions

Membership Byelaw

58. The membership of the *Society* of every *member* who as at 7 December 2005 is a *member* of the *Society* shall not be affected by the revocation of the Membership Byelaw (No. 17 of 1993).
59. Every *underwriting member* who as at 7 December 2005 has permission under paragraph 22 of the Membership Byelaw (No. 17 of 1993) to underwrite insurance business at Lloyd's shall be deemed to have been granted a corresponding permission under paragraph 21 of this byelaw.
60. Every *member* who as at 7 December 2005 was subject to a condition or conditions imposed under the Membership Byelaw (No. 17 of 1993) shall from 7 December 2005 be deemed to be subject to a corresponding condition or conditions imposed under paragraph 40 of this byelaw.
61. Every undertaking, guarantee or commitment given to Lloyd's and every deed, contract, agreement or instrument entered into between a *member* or a *third party depositor* and Lloyd's in accordance with the terms of the Membership Byelaw (No. 17 of 1993) (or any earlier byelaws made by the *Council*) which subsisted as at 7 December 2005 shall remain valid and enforceable by Lloyd's notwithstanding the revocation of the Membership Byelaw (No. 17 of 1993).

62. Every reference in the *requirements of the Council* to the Membership Byelaw (No. 17 of 1993) shall, except save where the context otherwise requires, be deemed to be also a reference to this byelaw or, in the case of a definition, to the Definitions Byelaw (No. 7 of 2005).

Register of Members Byelaw

63. Every reference in the *requirements of the Council* to the Register of Members Byelaw (No. 22 of 1983) shall, except where the context otherwise requires, be deemed to be a reference to this byelaw or, in the case of a definition, to the Definitions Byelaw (No. 7 of 2005).

Council and Committee Byelaw

64. The Council and Committee Byelaw (No. 18 of 1996) shall be amended by the insertion of the following new paragraph –

[13A] Any election to the *Council* shall not be challenged or otherwise declared to be invalid by reason of any process of objection under paragraph 15 of the Membership Byelaw (No. 5 of 2005) not being determined or completed or for any other reason relating to the classification of a *member* of the *Society*.

Conversion and Related Arrangements Byelaw

65. The Conversion and Related Arrangements Byelaw (No. 22 of 1996) shall be amended by –
- (a) deleting the words “paragraphs 5(6) and 30(2) of the Membership Byelaw” in paragraph 4(3) and substituting therefor the words “paragraph 18 of the Membership Byelaw; and
 - (b) deleting the definition of “Membership Byelaw” in the Schedule and substituting therefor the words ““Membership Byelaw” means the Membership Byelaw (No. 5 of 2005)”.

Supplementary directions, conditions and requirements

66. The *Council* may at any time give such directions or impose such conditions or requirements as may be necessary in order to clarify or supplement the matters set out in paragraphs 58 to 65 of this byelaw.

Commencement

68. This byelaw shall come into force on 7 December 2005.